

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ABBEVILLE COUNTY

L. Casey Manning, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MICHAEL EDWARD HOCKADAY

APPELLANT

APPELLATE CASE NO. 2009-146387

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON) THE COURT OF GENERAL SESSIONS
) 2006-GS-01-00652,00653
THE STATE OF SOUTH CAROLINA,)
))
PLAINTIFF,)
))
VERSUS)
))
MICHAEL HOCKADAY,)
))
DEFENDANT.) DATE: NOVEMBER 13, 2009
) ABBEVILLE, SOUTH CAROLINA

READING OF SEALED SENTENCE

B E F O R E:

THE HONORABLE EUGENE C. GRIFFITH

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

ELIZABETH WHITE
ATTORNEY FOR THE STATE

W. TOWNES JONES, ESQUIRE
ATTORNEY FOR THE DEFENDANT

PROVIDED FOR: W. TOWNES JONES, ESQUIRE

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OFFICIAL COURT REPORTER
SOUTH CAROLINA JUDICIAL DEPARTMENT

1 MS. WHITE: May it please the Court?

2 THE COURT: Yes, ma'am.

3 MS. WHITE: Your Honor, standing before you is Michael
4 Hockaday. He pled guilty on Indictment 2006-652 to
5 trafficking cocaine or crack cocaine on September 18, 2007
6 before The Honorable Casey Manning. He deferred sentencing
7 for thirty days in order to allow Mr. Hockaday to wrap up
8 some affairs. When it came time to have the sentencing
9 hearing, we had some issues getting Mr. Jones, myself and
10 Judge Manning all on the same page in terms of when and
11 where to do it. The sentencing hearing finally took place
12 on December 4, 2007. Mr. Hockaday did not appear at that
13 hearing. It's my understanding Mr. Jones made numerous
14 attempts to reach him and actually Mr. Hockaday was on, I
15 believe, electronic monitoring in Greenville and had
16 actually absconded from that monitor. Judge Manning went
17 ahead with the sentencing in Mr. Hockaday's absence and
18 issued a sealed sentence. Mr. Hockaday has since been
19 arrested in Greenville County and we had him brought back
20 today so we can open the sentence.

21 THE COURT: This is what we did the transport order
22 for.

23 MS. WHITE: Yes, sir.

24 THE COURT: Mr. Jones, you mentioned some family.

25 MR. JONES: His mother was here yesterday. She drove

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL HOCKADAY

1 up from Atlanta, Judge, and she visited her mother in Mr.
2 Carmel, but couldn't stay the night. She had obligations
3 at work. She had to return, but she was here, yes, Your
4 Honor. His Mama still loves him.

5 MR. HOCKADAY: Yes, she does. I want to apologize.
6 If I can say something. When I came to court, I mean, they
7 gave me thirty days to turn myself in. They did give me
8 thirty days to turn myself in, but after the thirty day
9 period, the court was in recess and so then I got arrested
10 for those tickets. Those tickets didn't get tried in the
11 case with the charges and I thought they did. I went and
12 did time for the tickets and when I got released from
13 Columbia, then the court date was like a week later after
14 that and I didn't have no driver's license, I didn't have
15 no way down here. My mother stays in Georgia and I didn't
16 have no way to get down here. I tried to make arrangements
17 so we could make a date so I could turn myself in. I
18 really had no intentions of trying to stay away from court
19 and so I just want to apologize.

20 THE COURT: Okay. Ms. McMahon, could you open that
21 for me?

22 (Clerk of Court opens sealed envelope)

23 THE COURT: For the record, I have two docket sheets,
24 two indictments and two sentencing sheets. Indictment
25 06-GS-01-652, carrying a pistol unlawfully and 653,

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL HOCKADAY

1 trafficking cocaine.

2 From the sentence sheet for carrying a pistol
3 unlawfully, Indictment '652, you are sentenced to The
4 Department of Corrections for the determinate term of one
5 year, signed by Judge Manning.

6 Regarding the trafficking cocaine, second offense, the
7 defendant is committed to The Department of Corrections for
8 a determinate term of twenty years. No special conditions,
9 signed by Judge Manning.

10 Good luck to you, Mr. Hockaday.

11 MR. JONES: Your Honor, if I could, and I realize this
12 is not -- this is simply for the record, if I could. At
13 this time, I would like to point out that Judge Manning
14 exercised the discretion that he had by veering from the
15 negotiations in the case. There was a recommended
16 sentence, I believe, Ms. White...

17 MS. WHITE: If I recall, the sentencing sheet should
18 actually -- that's right. It was a straight up plea.
19 Judge Manning indicated he would do five or whatever the
20 minimum was if Mr. Hockaday showed at the end of the thirty
21 days, but that he would not if the defendant failed to
22 show. It was a straight up plea.

23 MR. JONES: Correct, and all that I wanted to do, Your
24 Honor, is make a motion here today for a reconsideration of
25 the sentence and file it with the Clerk so that if, you

THE STATE OF SOUTH CAROLINA VERSUS MICHAEL HOCKADAY

1 know, Mr. Hockaday is able to find somebody to go forward
2 with the motion and Judge Manning would entertain the
3 motion, then he could have the motion heard.

4 THE COURT: I believe your motion has been made and
5 there is a record of it.

6 MR. JONES: Yes, sir. Thank you, Judge.

7 THE COURT: Good luck, Mr. Hockaday.

8 MS. WHITE: Thank you, Your Honor.

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

CERTIFICATE

BE IT KNOWN THAT I, THE UNDERSIGNED JO RICE, OFFICIAL COURT REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT REPRESENTS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE HEARING IN THE CAPTIONED CASE, RELATIVE TO APPEAL, BEFORE THE CIRCUIT COURT FOR ABBEVILLE COUNTY, SOUTH CAROLINA, SO GIVEN ON NOVEMBER 13, 2009 TO THE BEST OF MY SKILL AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

IN WITNESS WHEREOF I HAVE HERE UNTO SET MY HAND AND SEAL THIS 24TH DAY OF FEBRUARY, 2013.

Jo Rice

JO RICE
OFFICIAL COURT REPORTER

1 State of South Carolina

Court of General Sessions

2 County of Abbeville

3

4

5 State of South Carolina)

Reconstruction Hearing

6 vs.)

2006-GS-01-00652

7 Michael Hockaday,)

2006-GS-01-00653

8 Defendant.)

9

10

11

August 28, 2014

12

Columbia, South Carolina

B E F O R E:

13

The Honorable L. Casey Manning, Judge

14

15

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

17 Salley W. Elliott, Sr. Assistant Deputy Attorney General
Attorney for the State

18

19 Susan B. Hackett, Appellate Defender

Lara M. Caudy, Appellate Defender

Attorney for the Defendant

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Stacy S. Johnson, RPR
Circuit Court Reporter

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24

25

I N D E X

PAGE

W. TOWNES JONES, IV

Direct Examination by Ms. Hackett

4

Cross-Examination by Ms. Elliott

21

ELIZABETH WHITE

Direct Examination by Ms. Hackett

23

Cross-Examination by Ms. Elliott

30

MICHAEL HOCKADAY

Direct Examination by Ms. Hackett

33

Cross-Examination by Ms. Elliott

38

Certificate Of Reporter

E X H I B I T SNO.DESCRIPTIONID.EVD.

Court's 1 (Standard Guilty Plea Form)

3

Defendant's 1 (Letter of 9/10/2007)

8

8

Defendant's 2 (Letter of 9/11/2007)

25

25

P R O C E E D I N G S

THE COURT: All right. I probably should mark one of these for the record. This is a standard guilty plea form that we got from Court Administration years ago. And essentially it's gonna be probably 90 percent of what I say. I mean, I've always done about the same thing, and that's just -- I'm gonna mark one for the record.

And are y'all ready to proceed otherwise?

MS. ELLIOTT: Yes, Your Honor.

THE COURT: Let me mark this real quick.

(Court's Exhibit Number 1 was marked for identification.)

THE COURT: Okay. Yes, ma'am?

MS. HACKETT: Susan Hackett from Appellate Defense, representing Mr. Hockaday. Ms. Elliott and I spoke prior to the hearing regarding how to proceed. Obviously we will defer to Your Honor, but if it's okay with you, I'll call the witnesses and do direct because it is our motion to reconstruct, and Ms. Elliott will do cross-examination.

THE COURT: That's fine.

MS. HACKETT: All right. We're gonna call Mr. Jones as our first witness.

THE COURT: All right.

1 W. TOWNES JONES, IV,
2 having been duly sworn, testified as follows:

3 **THE COURT:** Have a seat.

4 **MS. HACKETT:** May it please the Court?

5 **THE COURT:** Yes, ma'am.

6 DIRECT EXAMINATION

7 BY MS. HACKETT:

8 Q. Hi, Mr. Jones. What's your current occupation?

9 A. I'm an attorney. I practice law in Greenwood,
10 South Carolina. Primarily criminal defense, but a
11 little personal injury as well.

12 Q. And have you ever represented Mr. Hockaday?

13 A. I have.

14 Q. And in what capacity did you represent him?

15 A. He was charged in Abbeville, which is in the
16 Eighth Judicial Circuit, with trafficking in cocaine,
17 possession of a firearm, and from my recollection
18 and my review of the evidence against him and his
19 criminal history suggested that it was a third offense
20 trafficking, which carried 25 to 30 years. He retained
21 me, my recollection is, through the assistance of a
22 live-in friend, a lady, a woman. He was in jail, he
23 needed me to get him out on bond, if I could, and he
24 wanted me to represent him on the charges as well, so.
25 Q. All right. So Mr. Hockaday retained you to

1 represent him on trafficking cocaine and carrying a
2 pistol charge, unlawful carrying?

3 A. Correct.

4 Q. And you were also involved in getting him a bond?

5 A. You know, I can't remember whether we had a bond
6 hearing or whether he just made bond. I just don't know
7 how we got at that point, but I believe at the time I
8 was retained he was incarcerated.

9 Q. But your recollection is that he did get out on
10 bond?

11 A. Correct.

12 Q. All right. Let's move to the guilty plea. Can you
13 tell me a little bit about what you remember in general
14 about the guilty plea hearing itself?

15 A. Well, if I could give you a little background, it
16 was my understanding that Michael was living in
17 Greenville at the time and I was communicating with him
18 primarily by telephone when I was discussing court dates
19 and receiving evidence in his case. I had a couple of
20 numbers to reach him and quite often I would call and
21 speak to the person that was in my office and retained
22 me, his friend, the woman he was living with, and she
23 would get him to call me back, but prior to the plea we
24 had had a good bit of discussion about, you know, what
25 I could do for him and, of course, the main thing we

1 were trying to do was to get him out of the mandatory
2 minimum 25 years that he was facing on the trafficking
3 in cocaine.

4 Q. All right. I'm gonna interrupt you so that we stay
5 within the confines of the order to reconstruct the
6 guilty plea.

7 A. I see. All right.

8 Q. If we can go straight to the guilty plea and then
9 I'll try to back up a little bit.

10 A. That's fine.

11 Q. Tell me how you learned that Mr. Hockaday was on a
12 guilty plea docket.

13 A. He was not on a guilty plea docket, he was on a
14 trial docket, and I informed him of that and we came
15 down and were actually in the process of drawing a
16 jury. We had reviewed the jury panel, we had gone
17 through voir dire, Judge Manning was presiding. I had
18 determined with him which jurors we would strike if we
19 went forward with the selection of the jury. Because
20 he had failed to agree to accept an offer that the
21 State had put forth and they had withdrawn it and we
22 were looking at the 25 with no option but to go to
23 trial, at the last minute he asked me to approach the
24 prosecutor and see if she would reconsider allowing us
25 to go forward on that offer and she called the

1 Solicitor, Jerry Peace, and he told her to give
2 Mr. Hockaday the offer back and give us a chance, and
3 at that time Michael told me I'll go ahead and take it
4 if you can get the judge to agree to maybe consider
5 giving us the minimum sentence in that range of five to
6 25 on a trafficking second offense.

7 Q. Okay. So Mr. Hockaday was going to trial was your
8 recollection?

9 A. She was calling it for trial. We had no option. I
10 mean, he was either going to trial or he was going to
11 be, you know --

12 Q. And you had advised Mr. Hockaday that he was on the
13 roster for trial?

14 A. Yes, he was there.

15 Q. All right. I'm gonna show you -- may I approach
16 the witness, Your Honor?

17 **THE COURT:** Yes, ma'am.

18 Q. I'm gonna show you a document. Can you identify
19 that document for us?

20 A. It was a letter that was prepared by my paralegal,
21 Laura Boyd, dated September 10, 2007.

22 Q. So do you recognize the document, Mr. Jones?

23 A. She signed it. I instructed her to send it out.
24 Do you want me to read it?

25 Q. No, sir. I don't believe that it's been admitted

1 into evidence yet; however, could you just inform the
2 Court if the letter instructs Mr. Hockaday that he's
3 going to trial or not?

4 A. It does not.

5 Q. And what does the letter instruct Mr. Hockaday that
6 he is to appear at court for?

7 A. Rollcall.

8 Q. Okay. So Mr. Hockaday had been informed in that
9 letter from your office that he was, in fact, going to
10 rollcall, not trial?

11 A. That's what the letter says.

12 Q. Okay.

13 **MS. HACKETT:** At this point we'd like to admit that
14 document.

15 **MS. ELLIOTT:** No objection.

16 **THE COURT:** Without objection.

17 (Defendant's Exhibit Number 1 was marked and
18 admitted into evidence.)

19 BY MS. HACKETT:

20 Q. Okay. Mr. Jones, to pick up on the story where
21 we were, so y'all had gotten to the courthouse, I
22 believe you had gone through some of the jury stuff
23 and Ms. White had gotten in touch with the Solicitor,
24 Mr. Peace, and some sort of plea offer had been
25 extended. Can you tell us what the terms of that plea

1 offer was?

2 A. He would plead straight up to trafficking in
3 cocaine, second offense, five to 25; possession of a
4 weapon, that carried one year. Unlawful possession of
5 a weapon.

6 Q. Do you recall anything about a no contest plea?

7 A. I recall discussing with Michael whether or not the
8 judge would accept a no contest plea and whether or not,
9 you know, he would be inclined to do it. Some judges
10 will accept a no contest plea, some judges would -- or
11 won't accept a North Carolina versus Alford plea, so you
12 just have to try to have a meeting with the prosecutor
13 and the judge and determine what kind of sentence the
14 judge might consider -- I mean, plea the judge might
15 accept or not.

16 Q. And what was the ultimate resolution of that
17 discussion? Was Michael entering a guilty plea or a
18 no contest plea?

19 A. It was my understanding that he would be entering a
20 guilty plea and it was my understanding that he would be
21 entering the guilty plea after I'd had discussions with
22 the Solicitor and Judge Manning in chamber and about
23 Judge Manning giving serious consideration to the
24 minimum sentence he could give him under that charge.

25 Q. And did such a conversation take place?

1 A. In Judge Manning's chamber?

2 Q. Yes.

3 A. Yes.

4 Q. All right. Can you tell us about that conversation,
5 please?

6 A. The best of my recollection, we met with Judge
7 Manning. We discussed to some extent, you know, what
8 I wanted to ask him to consider doing. He asked the
9 Solicitor what her position was. I think her position
10 was she wasn't gonna negotiate it and she wasn't gonna
11 recommend it, but she wouldn't necessarily vehemently
12 oppose a mandatory minimum five-year sentence under
13 that statute. And Judge Manning, and my recollection
14 is, suggested to me at that time that I couldn't promise
15 my client he would get five years, I couldn't guarantee
16 him he'd get five years, he'd have to go through the
17 process of the plea, but he was inclined to tell me
18 that he didn't see five years as being an unreasonable
19 sentence under the circumstances of the case.

20 Q. Was there any discussion of what the sentence for
21 the unlawful carrying would be?

22 A. It was a year and since the -- whatever he got
23 would be concurrent, not consecutive.

24 Q. Okay. Turning your attention to the guilty plea,
25 after you've had the discussion in chambers with

1 Judge Manning and Solicitor White and you go before
2 Judge Manning for the plea, can you tell us what
3 transpired in terms of advisement of rights, if
4 anything?

5 A. Well, actually there was something that transpired
6 just prior to the plea that involved Michael asking me
7 to ask the Solicitor if we went forward he would be
8 able to have a delay in sentencing of 30 days so that
9 he could get his personal effects in order back in
10 Greenville and have time to, you know, shut down his
11 apartment and report at later date for sentencing, and
12 my recollection is that the Solicitor was hesitant, but
13 we had a jury panel out there waiting to be brought
14 back in for trial if we didn't move forward and we'd
15 been engaged in these discussions for some 30 to
16 45 minutes as it was and she said okay, 30 days, I won't
17 oppose that if you can convince Judge Manning to do it.
18 So that was something that I explained to Michael; that
19 I thought Judge Manning would give him 30 days, and we
20 asked the judge and he agreed to, and so at that point
21 is when we went forward with the plea, but prior to
22 that I sat down with Michael and I said listen, we've
23 got to sign this paperwork, I've got to go over these
24 -- these charges with you, what you're pleading to and
25 what you're facing and what we're gonna get, and what I

1 explained to him is what I explain to every criminal
2 client facing criminal charges that I represent. I
3 explained to him that he had a right to go forward with
4 his jury trial, okay, and if he did, he did not have to
5 testify, and the judge would explain that to the jury.

6 Q. But none of this was on the record for the guilty
7 plea? This is a private communication between you and
8 Mr. Hockaday; is that right?

9 A. Correct.

10 Q. Okay. So when we get to the guilty plea, you've
11 already gotten some type of assurance that Judge Manning
12 would be inclined to do the five-year mandatory?

13 **THE COURT:** Stop, stop. Let me help you out a
14 little bit because I specifically remember this case
15 for a lot of reasons. There was a discussion, but I
16 never made promises about anything until after I heard
17 everything. So there was no specific discussion with me
18 about a five year sentence.

19 **MS. HACKETT:** Absolutely. And I was not suggesting
20 that at all.

21 **THE COURT:** First of all, let's just straighten that
22 record out right now.

23 **MS. HACKETT:** Yes, sir. And I wasn't suggesting
24 that.

25 **THE COURT:** You may proceed.

1 BY MS. HACKETT:

2 Q. I just want to make sure we get to the guilty plea
3 itself. And do you recall Judge Manning engaging in a
4 colloquy with Mr. Hockaday?

5 A. I do.

6 Q. And can you tell us what you remember from that
7 colloquy?

8 A. I'll do my best.

9 Q. Yes, sir.

10 A. You know, I remember him going over most of what
11 I had already gone over with Michael and had told
12 Michael that the judge was going to ask him -- that
13 he was gonna place him under oath and tell him that,
14 you know, he was giving up his right against
15 self-incrimination by pleading guilty and that by
16 doing so the judge was going to ask him some questions
17 about the voluntariness of his plea and whether I had
18 explained to him the elements of the offenses that he
19 was pleading to and whether I'd explained to him the
20 type of time that he was facing on each of these pleas
21 and whether anybody had promised him anything about the
22 sentence or whether anybody had threatened him other
23 than a jury panel out there ready to go forward with the
24 trial in this case and whether or not he had anything
25 that he wanted me to do for him on the case as far as

1 reviewing the evidence and preparing a defense that I
2 hadn't already done for him and he had explained to me
3 that no, there was nothing that he wanted me to do and
4 I think Judge Manning asked him that. I think Judge
5 Manning also asked him if he had consumed any drugs or
6 alcohol that would cause him to be unable to understand
7 the proceedings that were going forward that day,
8 whether or not, again, he was under any pressure from
9 anybody to go forward, whether anybody had promised him
10 anything to get him to go forward. I believe that we
11 had at some point in time during that process explained
12 that we were going to ask the judge to give him 30 days
13 and that the judge suggested that he would give him 30
14 days prior to sentencing and that the judge was clear
15 to point out that I won't be here in 30 days, so the
16 sentence would have to be in Richland County and you'll
17 have to get down there whenever we have it and if we're
18 gonna give you 30 days to get your things in order,
19 we're going to have to ensure that you're there and that
20 if you don't show up at that sentencing, I'm gonna
21 proceed in your absence and I'm gonna sentence you
22 accordingly.

23 Q. All right. Thank you for explaining the colloquy.
24 I want to talk about what you may recall about the
25 factual basis of the plea. Do you remember the guilty

1 plea discussion about the factual basis?

2 A. I remember the Solicitor and the judge asking the
3 Solicitor to give the facts of the case and I remember
4 the Solicitor reading through the incident report, the
5 warrant, talking about the cocaine that was seized from
6 Michael's person post-arrest, post-traffic stop. I
7 remember her describing where the gun was found in the
8 vehicle. I remember her describing where the drugs were
9 seized off his person. I remember her telling him they
10 had been analyzed and what they had determined that the
11 drugs had -- that SLED had analyzed them and that they
12 had a specific weight over ten grams. I remember her
13 talking about there being a passenger in the car with
14 Michael, but the facts were pretty thorough with regard
15 to the fact that the amount of drugs taken from his
16 person exceeded the statutorily mandatory minimum amount
17 of ten grams to put it into trafficking and since she
18 had allowed us to plead to a second offense, instead of
19 a third offense, which technically, she could have --
20 you know, his criminal history, he had two prior
21 convictions for cocaine and -- within -- within a ten
22 year period or so. She only -- she told the judge she
23 had a prior conviction for him, but that this was being
24 presented as a trafficking second offense.

25 Q. Okay. So Ms. -- Solicitor White went through the

1 factual basis, Judge Manning went through the colloquy
2 of rights. Did anyone else other than Ms. White speak
3 on behalf of the State?

4 A. I can't recall.

5 Q. All right. Did anyone other than yourself speak on
6 behalf of Mr. Hockaday at the guilty plea?

7 A. I don't think so. I think Michael, you know, may
8 have said some things to the judge, but -- not a lot,
9 but I think I was the primary proponent for Michael.

10 Q. Okay.

11 A. I don't think anybody else spoke. I know that
12 after he was picked up in 2009 and the sentence was
13 read to him, I received a call from his mom. I think
14 that's the first time I'd spoken to her. What I was
15 trying to recall is whether or not she appeared in court
16 at that date.

17 **THE COURT:** Let me help you out. She did not.

18 **THE WITNESS:** She did not. All right.

19 **THE COURT:** And let me help you out a little bit
20 further. I hate to interject, but I accepted the guilty
21 plea, gave him the amount of time that was requested.
22 There was no mitigation or talks on behalf of him
23 because it never got to that point. I accepted the
24 guilty plea, I allowed him to remain for whatever period
25 of time it was, I can't remember specifically, to get

1 his affairs in order. So there was no evidence placed
2 on the record in mitigation, put it that way, if that
3 helps out.

4 **MS. HACKETT:** Yes, sir. Thank you.

5 **THE COURT:** All right.

6 BY MS. HACKETT:

7 Q. Concerning the guilty plea only, were there any
8 objections or motions made at that time by you?

9 A. No.

10 Q. Were there any objections or motions made by
11 Ms. White during the guilty plea?

12 A. Not that I recall.

13 Q. Okay. We're gonna move then to the sentencing
14 phase, and if you could tell me a little bit about your
15 recollection of what happened during the sentencing
16 proceedings.

17 A. I was present, Solicitor White was present, Judge
18 Manning was present, Mr. Hockaday was not, and I
19 informed the Court that I had made a diligent effort
20 to locate Michael and to have him present and was
21 unsuccessful. I did not ask Judge Manning to continue
22 it to give me an opportunity to -- to find him. He may
23 have asked me if I thought I could find him, I don't
24 recall, but I know I had exhausted my efforts to locate
25 Michael. I called his residence and she told me she

1 hadn't seen him for several weeks. I had learned during
2 the process of trying to locate him that he was under
3 the authority of a home incarceration program in
4 Greenville and was required to report to them and so I
5 called the program to see if they could help me locate
6 him prior to the sentencing here in Richland County
7 and they told me that he had absconded from their
8 jurisdiction on October the 15th of 2007 and that they
9 had a warrant for his arrest for not reporting, for not
10 being there, so I didn't think there was gonna be much
11 likelihood that I could find him when deputies in
12 Greenville had been looking for him for about a month
13 at that time. So, you know, I did not ask Judge Manning
14 to postpone the sentencing, but I do recall asking
15 Judge Manning to consider the minimum sentence given
16 the nature of the offense.

17 Q. And did you place any other mitigation on the
18 record at the sentencing?

19 A. I don't recall.

20 Q. And do you remember what circumstances of
21 aggravation the Solicitor may have placed on the record
22 at the sentencing?

23 A. She would have probably -- I don't really recall,
24 but normally she would read his prior criminal history
25 and anything else she may have known about, any current

1 -- you know, that he had been picked up on a bench
2 warrant, I guess. No, he hadn't been picked up on a
3 bench warrant at that time. That's right.

4 Q. Did Solicitor White ask for any specific sentence
5 to your recollection?

6 A. I can't recall.

7 Q. And did you make any motions or objections? I know
8 you've already discussed the continuance, but any other
9 motions or objections during the sentencing proceeding?

10 A. No, I don't believe I did.

11 Q. And did you have any sort of objection to the prior
12 record that Ms. White may have read to the judge during
13 that time?

14 A. She had given me a copy of his transcript and I was
15 reviewing it as she went over it and I didn't object to
16 anything that she related to him that, in fact, was a
17 conviction. She didn't present any non-convictions to
18 him.

19 Q. And at that time Judge Manning would have placed
20 the sentence under seal since Mr. Hockaday was not
21 present?

22 A. That's what happened, correct.

23 Q. And you mentioned earlier that at some point
24 Mr. Hockaday was picked up and his sentence was
25 unsealed?

1 A. Correct.

2 Q. And did you do anything post-unsealing of the
3 sentence in continuing your representation of
4 Mr. Hockaday?

5 A. I made a motion to -- and filed a motion with the
6 Court in Abbeville for Judge Manning to reconsider the
7 sentence that he had issued.

8 Q. And I believe that motion is already a part of the
9 record, so I won't make that an exhibit, but do you
10 recall how that motion was disposed of?

11 A. I recall that I was advised by Judge Manning's law
12 clerk at some point in time during 2010, I think, that
13 Judge Manning was denying the motion, but I continued to
14 request the opportunity to be heard on the record and at
15 some point in time, and I can't recall what year, the
16 motion was denied either by Judge Manning or by Judge
17 Griffith.

18 Q. Did you object in any way to it not being Judge
19 Manning?

20 A. That denied the motion?

21 Q. Right.

22 A. I did not. I was under the impression at that point
23 in time that Michael's mother had hired Todd Rutherford,
24 an attorney, to represent him during this process and I
25 didn't know whether, you know, he was handling any kind

1 of efforts on that end or not, but I did not make any
2 other motions, no.

3 **MS. HACKETT:** Okay. Those are all the questions
4 that I have for you, Mr. Jones. Ms. Elliott may have a
5 few.

6 **MS. ELLIOTT:** Judge, I just have a couple of
7 questions.

8 CROSS-EXAMINATION

9 BY MS. ELLIOTT:

10 Q. During the guilty plea proceeding, you stated
11 that you didn't make any motions or objections; the
12 prosecutor didn't make any motions or objections; is
13 that correct?

14 A. That's correct.

15 Q. Did Mr. Hockaday at any time voice any objections or
16 concerns to the trial court during the plea proceeding?

17 A. No.

18 Q. Okay. And also when he appeared in court the day
19 the case was being called for trial and he ultimately
20 pled guilty, did he ever on the record indicate that he
21 didn't know he was supposed to plead guilty -- I mean,
22 he didn't know he was going to trial and thought he was
23 there for rollcall? Was there any question about that?

24 A. No. Actually the rollcall appearance was that
25 Monday, the 17th. The trial was the next day --

1 Q. Okay.

2 A. -- and so I had already talked to Michael that
3 Monday and explained it to him that, you know, we had a
4 chance to do a plea, but once she called it for trial,
5 and she was going to first up, you know, everything was
6 off the table and he came back down and we actually went
7 through the process of looking at the panel, the jury
8 panel, before making the decision to -- to plead.

9 Q. So it's your recollection that there were no
10 motions or objections during the plea, the sentencing
11 proceeding or during the -- well, I guess just during
12 those two proceedings; is that correct?

13 A. Correct.

14 Q. They were preserving the issue for appeal?

15 A. Correct.

16 **MS. ELLIOTT:** That's all I have. Thank you, Your
17 Honor.

18 **THE COURT:** Anything on redirect?

19 **MS. HACKETT:** No, Your Honor.

20 **THE COURT:** All right. You may step down,
21 Mr. Jones.

22 (Witness excused.)

23 **THE COURT:** Call your next witness.

24 **MS. HACKETT:** The Appellant calls Elizabeth White.

25 **THE COURT:** Come on up, Ms. White.

1 **MS. HACKETT:** And, Your Honor, I would move to
2 excuse Mr. Jones, but Ms. Elliott has advised me that
3 she wants to keep him here.

4 **THE COURT:** I guess a lot of people would like to
5 keep him here.

6 **MS. HACKETT:** I didn't want you to think I was
7 keeping him.

8 ELIZABETH WHITE,
9 having been duly sworn, testified as follows:

10 **THE CLERK:** Thank you. Have a seat on the witness
11 stand, please.

12 **MS. HACKETT:** May it please the Court?

13 **THE COURT:** Yes, ma'am.

14 DIRECT EXAMINATION

15 BY MS. HACKETT:

16 Q. Ms. White, what's your current occupation?

17 A. I'm an Assistant Solicitor in the Eighth Circuit.

18 Q. And was that your occupation back in 2006?

19 A. It was.

20 Q. And has that been your occupation for probably since
21 you graduated from law school?

22 A. With the exception of a year clerking for Judge
23 Goode and a year at Collins and Lacy, that's where I've
24 been.

25 Q. And do you recall the prosecution of Mr. Hockaday?

1 A. I do.

2 Q. All right. And do you remember how the charges
3 against Mr. Hockaday were resolved?

4 A. They were resolved with a guilty plea on the morning
5 of trial.

6 Q. You probably heard me ask Mr. Jones if he recalled
7 anything about a no contest plea. Do you have any
8 recollection of anything about that?

9 A. I don't.

10 Q. Okay. And do you remember how you notified
11 Mr. Jones or Mr. Hockaday about the guilty plea and/or
12 trial that was upcoming?

13 A. I sent a letter to Mr. Jones informing him that the
14 case was on the trial docket for the week of September
15 17th -- or for the week of September 17th, actually the
16 18th; that the jury would be coming in that morning and
17 that I anticipated starting trial that afternoon.

18 Q. And do you remember anything regarding the guilty
19 plea negotiations?

20 A. I do. I remember I had offered trafficking second
21 down from trafficking third and that offer had expired.
22 Then there were some discussions about re-extending the
23 offer and ultimately Solicitor Peace made the decision
24 that we should re-extend the offer, and we did, and
25 Mr. Hockaday accepted.

1 Q. So it was a straight up plea, but to a lesser
2 included offense; is that right?

3 A. Yes, ma'am.

4 Q. Okay. And I'm gonna back up for just a second.

5 **MS. HACKETT:** May I approach the witness?

6 **THE COURT:** Yes, ma'am.

7 BY MS. HACKETT:

8 Q. Ms. White, do you recognize that document?

9 A. I do.

10 Q. And can you tell us what that document is?

11 A. This is the letter I sent to Mr. Jones notifying
12 him the case was up for trial.

13 Q. And date, I believe, coincides with what you told
14 us in your testimony, but could you give it one more
15 time?

16 A. The letter is dated September 11, 2007, and it's
17 notifying him that the trial would be September 18th.

18 **MS. HACKETT:** All right. I'd move to admit this at
19 this time.

20 **THE COURT:** All right.

21 **MS. ELLIOTT:** No objection.

22 **THE COURT:** Without objection.

23 (Defendant's Exhibit Number 2 was marked and
24 admitted into evidence.)

25 BY MS. HACKETT:

1 Q. And Mr. Jones talked about an in chambers
2 conference. Do you have any recollection of that?

3 A. I do.

4 Q. Okay. And let's talk about the guilty plea itself.
5 Do you remember the plea hearing in which Judge Manning
6 would have gone through a colloquy with Mr. Hockaday?

7 A. Just barely. I mean, it was a standard guilty plea
8 from what I can remember. I remember him asking for
9 the deferred sentence and Judge Manning -- I don't think
10 I took a position on it and Judge Manning agreed to it.
11 I think he instructed Mr. Hockaday that if he didn't
12 appear that that would be taken into consideration on
13 his sentence.

14 Q. Okay. I think you said a routine or a standard
15 guilty plea?

16 A. I mean, the standard -- all of the rights, I recall
17 all of those were covered, the factual basis, whether he
18 had any complaints about Mr. Jones. All of the standard
19 questions that are asked.

20 Q. And nothing stands out in your mind?

21 A. No.

22 Q. Concerning the factual basis, did you provide that
23 to Judge Manning?

24 A. I did.

25 Q. You did. And do you recall how you would have done

1 that or how you did do it?

2 A. I don't recall exactly what I said, but I know
3 generally I would have said on or about such and such
4 date in Abbeville County he was driving a car stopped
5 for a -- I think it was speeding in this case, informed
6 the officer he didn't have a license, the officer placed
7 him under arrest, during the search found the gun in the
8 car and then as he was booked in at the detention center
9 during a strip search they found cocaine on his person,
10 and that that was tested at SLED and it was 12.35 grams.

11 Q. And you recall, I assume, that Judge Manning
12 accepted -- found a factual basis and accepted the
13 guilty plea?

14 A. He did.

15 Q. And that Mr. Jones then moved to defer the
16 sentencing for 30 days?

17 A. Yes.

18 Q. And you -- if I'm correct, you said you took no
19 position on that?

20 A. I don't think I took a position. I don't think I
21 was -- I don't think I was happy about it, but I don't
22 think I took a position just because, as Mr. Jones said,
23 we were ready to move on with the morning.

24 Q. Do you recall if anyone spoke on behalf of the
25 State other than yourself?

1 A. I know I had -- because we were preparing, we were
2 ready go to trial, the officers were there. I know
3 they were standing with me or they were standing kind
4 of behind me in the way the Abbeville courthouse is set
5 up. I don't remember if any of them said anything.

6 Q. Do you remember if anyone else spoke on behalf of
7 Mr. Hockaday?

8 A. I don't believe they did.

9 Q. Okay. And do you remember if there were any
10 objections or motions made on behalf of Mr. Hockaday
11 during the guilty plea?

12 A. There were none.

13 Q. Okay. Moving to the sentencing, were you present
14 for the sentencing?

15 A. I was.

16 Q. And do you remember Mr. Jones was present as well?

17 A. Yes.

18 Q. Okay. And what do you recall taking place during
19 the sentencing proceeding?

20 A. We came. We actually had two matters from
21 Abbeville that day. We took care of the first one
22 first, it was another deferred sentence, just to give
23 Mr. Hockaday more time to show up if he was gonna show,
24 and then we did the Hockaday sentencing. I think
25 Mr. Jones put on the record his efforts to contact

1 Mr. Hockaday and I think I may have said -- and read his
2 record and then the judge issued the sealed sentence and
3 a bench warrant as well.

4 Q. So you do recall going through the prior record
5 and do you remember any additional information from
6 Mr. Jones other than his efforts to locate Mr. Hockaday?

7 A. I think he asked the judge to go along with the --
8 the lower end of the range, but I don't remember if he
9 said anything. I know he asked him to not -- to go
10 along with the lower, you know, more in the five to ten
11 range, but I can't recall anything other than that.

12 Q. Did you take a position on sentencing?

13 A. I think I said -- I asked the judge -- I pointed
14 out to the judge that it was Mr. Hockaday's
15 responsibility to have kept in touch with Mr. Jones;
16 that it was our information that he had cut off an
17 ankle monitor, and I asked him to take that into
18 consideration.

19 Q. But you did not ask for a specific number?

20 A. I did not ask for a specific number.

21 Q. And I neglected to ask you this earlier, and I
22 apologize, did you take any notes during the guilty
23 plea?

24 A. I did not.

25 Q. Did you take any notes during the sentencing?

1 A. I did not.

2 MS. HACKETT: Those are all the questions I have
3 for you, Ms. White. Thank you.

4 THE COURT: All right, Ms. Elliott.

5 MS. ELLIOTT: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. ELLIOTT:

8 Q. During the guilty plea colloquy, do you recall
9 whether the Defendant answered appropriately to all of
10 the questions posed to him by Judge Manning?

11 A. I think so. It doesn't stand out to me that he
12 didn't.

13 Q. Do you recall that anything occurred during the
14 plea that would have caused you to hesitate about the
15 knowing and voluntary nature of the plea?

16 A. No.

17 Q. And did Mr. Hockaday admit the facts as presented
18 by you and admit his guilt to the crimes?

19 A. He did.

20 Q. And did he admit or agree that there were no
21 promises or coercion or threats or pressure that was
22 causing him to enter the guilty plea?

23 A. He did.

24 Q. And were the charges explained to Mr. Hockaday
25 during the guilty plea proceeding before he indicated

1 he wished to plead guilty?

2 A. Yes.

3 Q. And were the possible sentencing ranges explained
4 to Mr. Hockaday?

5 A. Yes.

6 Q. And did Mr. Hockaday indicate that he understood
7 those facts, the charges and the possible punishments
8 he would receive or could receive?

9 A. He did.

10 Q. And was he informed by Judge Manning of the
11 right to a jury trial and rights pertaining to that
12 jury trial, including the right to cross-examine
13 witnesses, present witnesses and his right against
14 self-incrimination?

15 A. He was.

16 Q. And that the trial might -- if he pleaded guilty
17 that he would waive the right to challenge any search
18 or seizure or anything else connected with a trial that
19 he could have challenged at trial?

20 A. Yes.

21 Q. And did he indicate that he was satisfied with
22 counsel at that time?

23 A. He did.

24 Q. And did he indicate that counsel had done all he
25 could for Mr. Hockaday during the proceeding?

1 A. He did, and he didn't -- sometimes people will
2 indicate on the record that they feel pressured because
3 there's a jury there to make a decision too quickly. He
4 never said anything to that affect. I think the plea
5 went through smoothly.

6 Q. Okay. And did Judge Manning rule that the plea was
7 knowing and voluntary?

8 A. Yes.

9 Q. And did Judge Manning accept the plea?

10 A. Yes.

11 Q. And the motion to reconsider sentence, I believe
12 Mr. Hockaday actually appeared before Judge Griffith
13 when the sentence was unsealed and read; is that
14 correct?

15 A. He did.

16 Q. And Mr. Jones made a written motion and an oral
17 motion, correct, to reconsider that sentence?

18 A. He did. And I think Mr. Hockaday also filed a
19 pro se motion and it got kind of confusing which judge
20 was gonna hear the motion and where it was supposed to
21 be and I think judge Griffith ultimately ruled on it.

22 Q. Okay. What was his ruling?

23 A. He denied the motion.

24 **MS. ELLIOTT:** And that's all I have, Your Honor.

25 **MS. HACKETT:** Nothing further, Your Honor.

1 **THE COURT:** All right. You can step down,
2 Ms. White.

3 (Witness excused.)

4 **MS. HACKETT:** Our next witness is Mr. Hockaday for
5 the limited purpose of reconstruction.

6 **THE COURT:** That's fine. For whatever reason you'd
7 like, ma'am. Come around, Mr. Hockaday.

8 **THE WITNESS:** Thank you, Your Honor.

9 MICHAEL HOCKADAY,
10 having been duly sworn, testified as follows:

11 **MS. HACKETT:** May it please the Court?

12 **THE COURT:** Yes, ma'am.

13 DIRECT EXAMINATION

14 BY MS. HACKETT:

15 Q. Mr. Hockaday, were you charged with unlawful
16 carrying of a pistol and trafficking of cocaine in
17 Abbeville County?

18 A. Yes, ma'am.

19 Q. Was that in 2006?

20 A. Yes, ma'am.

21 Q. And did you retain counsel?

22 A. Yes, ma'am.

23 Q. Who did you retain?

24 A. Mr. Townes Jones.

25 Q. All right. And do you remember how those charges

1 were ultimately resolved?

2 A. When I -- when I first went to court -- actually
3 earlier -- if it's okay, I want to elaborate on it,
4 because earlier when I went to court, we -- it was
5 supposed to be a rollcall hearing. It was supposed to
6 be a rollcall hearing. Actually, I hadn't been dressed
7 or anything or prepared to go to court on the actual
8 day, but he said that they were preparing to put a jury
9 together for me if I didn't go ahead and make the plea
10 or whatever, whatever, and so -- but I remember the --
11 the way that he resolved it was it was supposed to be a
12 five-year plea, no contest to the firearm, and he talked
13 to the judge because I needed time to handle my affairs.
14 He talked to Mr. Manning --

15 **MS. ELLIOTT:** Your Honor, I'm gonna object to all of
16 this. That's outside of what we're --

17 **THE COURT:** I totally agree. How about that?

18 BY MS. HACKETT:

19 Q. Let's start with --

20 **THE COURT:** Go ahead. We'll proffer it anyway.
21 This is fine. Continue.

22 BY MS. HACKETT:

23 Q. Let's start with how the charges were resolved. You
24 were telling us that you went to court --

25 A. Yes, ma'am.

1 Q. -- and that you ultimately decided to enter a guilty
2 plea. Is that part correct?

3 A. Yes, ma'am.

4 Q. Okay. And tell us what you remember about the
5 guilty plea. Do you remember standing in front of
6 Judge Manning?

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

8 Q. And do you remember Mr. Jones standing beside you?

9 A. Yes, ma'am.

10 Q. And do you remember Ms. White standing nearby, I'm
11 sure?

12 A. Yes, ma'am, across the courtroom.

13 Q. And do you remember Judge Manning talking to you
14 that day?

15 A. Yes, ma'am.

16 Q. And what do you remember regarding his conversation
17 with you?

18 A. He pretty -- he went through everything like they
19 said about the coercing, had anybody coerced me, am I'm
20 completely doing it -- everything on freewill. He just
21 went through the standard procedures that judges go
22 through, and I pleaded guilty. He gave me 30 days to
23 defer, I think they call it. Like they said, deferred
24 sentence for 30 days to handle my affairs. Earlier like
25 when he said -- I mean, he gave me 30 days, but I wanted

1 to say earlier I heard Townes Jones say I was placed on
2 house arrest. I was on house arrest the whole time I
3 was going down there for rollcall and everything before
4 -- before the whole -- before I started going to
5 Abbeville in court, I was placed on house arrest and
6 after -- after my 30-day sentencing, when he gave me
7 30 days to defer sentencing --

8 **MS. ELLIOTT:** Your Honor, again, I object unless
9 that was during the --

10 **THE COURT:** How is this related to this matter?

11 **MS. HACKETT:** Well, I believe this is in --

12 **THE COURT:** This is for the purpose of
13 reconstructing the guilty plea, the guilty plea, and
14 not what happened necessarily outside of the scope of
15 the guilty plea.

16 **MS. HACKETT:** I certainly agree with Your Honor and
17 we are going to reconstruct the guilty plea and the
18 sentencing.

19 **THE COURT:** Well, she made a valid objection and I
20 sustained it.

21 **MS. HACKETT:** Yes, Your Honor. Thank you.

22 BY MS. HACKETT:

23 Q. So you were present that day for the colloquy in
24 which you and Mr. -- excuse me, you and Judge Manning?

25 A. Yes, ma'am.

1 Q. You said that Judge Manning went through the rights?

2 A. Yes, ma'am.

3 Q. Do you recall Ms. White talking about the facts of
4 the case?

5 A. Yes, ma'am.

6 Q. Was it made known to Judge Manning that you were on
7 house arrest as part of getting the sentencing deferred?

8 A. Not at that time, no, ma'am.

9 Q. Okay. And once your sentence got deferred, you
10 were not made aware of the sentencing until you came
11 back and the sentence was unsealed, right?

12 A. Yes. You're talking about after? Yes, ma'am. Yes,
13 ma'am.

14 Q. Okay. And in terms of the guilty plea, did anybody
15 speak on your behalf?

16 A. Talking about that -- that day after the sentencing?

17 Q. At the guilty plea itself, did anybody speak to the
18 judge on your behalf other than you or Mr. Jones?

19 A. No, ma'am.

20 Q. Do you remember if anyone spoke on behalf of the
21 State other than you or Mr. Jones?

22 A. No, ma'am.

23 Q. I'm sorry, other than Ms. White?

24 A. No, ma'am.

25 Q. Okay. And do you remember the terms of the plea

1 negotiation? You talked about this briefly, but I want
2 to make sure it's clear for the record. Do you remember
3 what the plea offer was?

4 A. It was five years -- the original plea, right? It
5 was five years. I think no contesting to the firearm
6 or that's what he had come in there and told me at
7 first. I don't remember verbatim how it all panned out,
8 but it was something to the extent of five years and
9 30 days to surrender to whatever presiding county that
10 Manning was on -- Judge Manning, excuse me, was on the
11 bench at, I had to self-surrender to that county.

12 Q. Is there anything else about the guilty plea that
13 you recall?

14 A. Unh-unh. No, ma'am.

15 **MS. HACKETT:** All right. Those are all the
16 questions I have for you.

17 CROSS-EXAMINATION

18 BY MS. ELLIOTT:

19 Q. The terms of the plea that you've just testified
20 about, none of that was put on the record about the
21 discussion you had; is that correct?

22 A. Excuse me. Could --

23 Q. None of the terms, the five years, none of that was
24 put on the record? Nobody talked about that to Judge
25 Manning during the guilty plea proceeding; isn't that

1 correct?

2 A. Oh, yes, ma'am.

3 **MS. ELLIOTT:** Okay.

4 **THE COURT:** Anything further?

5 **MS. HACKETT:** No, Your Honor.

6 **THE COURT:** You may step down, Mr. Hockaday.

7 (Witness excused.)

8 **THE COURT:** You were about to say something,
9 Ms. Elliott?

10 **MS. ELLIOTT:** I have no witnesses other than I
11 would ask Your Honor if you have any recollection about
12 the plea or the sentencing proceeding, if Your Honor
13 could kindly put that on the record.

14 **THE COURT:** Sure. I'll be happy to. Townes Jones
15 represented Mr. Hockaday. I've known Townes Jones for
16 a long time. If I recall off the top of my head,
17 Mr. Hockaday had some issues about going forward
18 initially because he was stopped for a traffic offense
19 and not for a drug-related offense and they found drugs,
20 almost an ounce of cocaine, on his body when he was at
21 the county jail, okay? There was no specific mention
22 to me about any negotiated sentence or specifically a
23 recommendation except for he was pleading to a second,
24 rather than a third.

25 And, of course, as I would usually tell the defense

1 lawyer, you ask for the minimum and I would tell the
2 prosecutor you ask for whatever you want and I'll make
3 the decision, so. But there was no specific negotiated
4 sentence for five years, there was no recommendation of
5 a five-year sentence. And -- let's see. But I do
6 recall they didn't find the drugs on him, he wasn't a
7 target. They found the drugs on him while I think he
8 was in the county jail, if I'm not mistaken, okay?

9 And there was some confusion about reconsidering.
10 I think Mr. Rutherford had gotten in touch with me and
11 I said well, I don't have jurisdiction in this matter
12 anymore because whoever unseals the sentence does, and
13 that's who you're gonna have to go in front of or talk
14 to, and that was Judge Griffith. And I later on
15 received a call from Chief Judge Few from the Court of
16 Appeals. They seemed to be somewhat confused about the
17 matter also. Once you seal a sentence, you lose
18 jurisdiction. The only way I would have had
19 jurisdiction is I would have to re -- unseal the
20 sentence myself, but I might have had a discussion --
21 I'm sure I had a discussion with Mr. Rutherford about
22 look, what he gets is up to Judge Griffith, not me; I
23 don't have jurisdiction anymore, so there's nothing
24 really I can do, and I might have talked to Judge
25 Griffith about it. I'm not really sure about that, but

1 the bottom line is that once you seal a sentence whoever
2 unseals the sentence they can give him anything they
3 want, it starts with you, and that's sort of what the
4 situation was.

5 There's been some confusion obviously over the last
6 couple of years, particularly with the Court of Appeals.
7 For some reason they contacted me thinking I continue
8 to have some sort of jurisdiction over it, but once
9 Judge Griffith unsealed the sentence, I lost all
10 jurisdiction, but I'd be happy -- and I have provided
11 a standard guilty plea form that I've used probably in
12 90 percent of them. If somebody was gonna receive a
13 substantial sentence, I always use this long form. I'm
14 sure I used this long form, in Mr. Hockaday's case.
15 We'd go through everything, garden variety, and I made
16 that part of the record and I provided it to each of you
17 all. And I would say 90 percent of the guilty plea came
18 from that in one way or the other. Not word for word,
19 but that maybe covered all the bases; your education,
20 your prior record, consecutive time, are you sure you
21 want to do this. I mean, everything you see in that
22 standard form guilty plea I said one way or the other
23 up to 90 percent of what took place.

24 **MS. HACKETT:** Just one more thing, Your Honor.

25 **THE COURT:** Yes, ma'am. Go ahead.

1 **MS. HACKETT:** Just so that we've made a good faith
2 effort to reconstruct, I wanted to explain that I did
3 seek notes from Your Honor and I believe that you do not
4 have any.

5 **THE COURT:** Oh, yeah. I'll tell you what happened
6 was the law -- my law clerk typically, like this young
7 lady here is writing down everything I'm saying, but my
8 law clerk then was Hailey Powers and I think when I went
9 back for the resentencing she didn't accompany me for
10 some reason and I think I might have taken a note or two
11 myself, but I misplaced them. And actually I had
12 Ms. Goodstein -- was it you or Adam -- go back and look
13 at my old law clerk notes and we couldn't find any for
14 the date that he was sentenced, I don't believe, or none
15 for that week; was that right? We could not locate any
16 notes on Mr. Hockaday, which is sort of unusual, but, I
17 mean, not totally out of the -- out of the realm of
18 possibility. I mean, those notes go back to 2007, and
19 this was last year I think I had you look for them, but
20 typically I have notes from the first day I started up
21 until today, but for some reason -- I think what
22 happened is I took the plea, my law clerk was present,
23 but she wasn't present later on and what happened to the
24 notes from that particular week I couldn't find them.

25 **MS. HACKETT:** Thank you.

1 **THE COURT:** But essentially what everybody has said
2 that's the way I pretty much recollect the thing. There
3 might have been some -- I think I remember Mr. Jones
4 saying he was somewhat reluctant and hesitant because he
5 wasn't a target, they happened to find it on him. They
6 were -- he wasn't the target of a drug bust, it was a
7 traffic stop and he just happened to have almost an
8 ounce of cocaine on his person, they found it while he
9 was in jail, if I remember that correctly. Is that
10 about right?

11 **MR. JONES:** Yes, sir.

12 **MS. HACKETT:** And one more thing, Your Honor.

13 **THE COURT:** Go ahead. Yes, ma'am.

14 **MS. HACKETT:** Ms. Elliott and I have talked about
15 this, and I'm not sure if you need the order remanding
16 for reconstruction?

17 **THE COURT:** No, I've seen it. I have it somewhere.
18 I have seen it. The Court of Appeals, in other words?

19 **MS. HACKETT:** Yes, sir. I just wanted to speak to
20 you briefly about what your findings are. Oftentimes
21 when we get these from the Supreme Court they direct
22 the judge to make a finding of whether the record has
23 been reconstructed or not.

24 **THE COURT:** Well, I find and conclude that based
25 on the testimony presented here, the arguments made,

1 that this record is complete enough for appellate
2 review. That's up to the Court of Appeals to make that
3 determination, but I think Exhibit 1, Court's Exhibit
4 Number 1, sort of sums up everything I would have asked
5 under the circumstances, how I would have asked it, the
6 questions I would have asked, and you couple this with
7 the testimony today I think that is a sufficient record
8 for a meaningful appellate review in terms of the
9 reconstruction at this point.

10 **MS. HACKETT:** Thank you, Your Honor.

11 **THE COURT:** And with that in mind, anything
12 further?

13 **MS. HACKETT:** No, Your Honor.

14 **MS. ELLIOTT:** Thank you, Judge.

15 **MS. HACKETT:** Thank you.

16 (Proceedings were concluded at 2:47 PM.)
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C E R T I F I C A T E

I, the undersigned Stacy S. Johnson, Official Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of all the proceedings had and the evidence introduced in the trial of the captioned cause, relative to appeal, in the Criminal Court for Abbeville County, South Carolina, but heard in Richland County, South Carolina, on the 28th day of August, 2014.

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 have an interest to any party hereto.

October 29, 2014

s/Stacy S. Johnson
Stacy S. Johnson, RPR
Circuit Court Reporter

SOUTH CAROLINA

FENGAD 800-851-4989	COURT'S
	EXHIBIT NO. <u>1</u>
	IDENTIFICATION EVIDENCE
	DATE: <u>8/28/19</u>

STANDARD FORM GUILTY PLEA WITH ATTORNEY**Questions to Defendant's Attorney**

1. Mr./Ms. _____, do you represent the defendant?
2. (a) Have you explained to the defendant the charge contained in the indictment, the possible punishment, and his/her constitutional rights including the right to a jury trial?

(b) Have you explained to the defendant his/her right to have this case submitted to the grand jury for its consideration? Does the defendant wish to waive this right?
3. In your opinion, does the defendant understand the charge, the punishment, and his/her rights?
4. How does the defendant indicate he/she wishes to plead: guilty or not guilty?
5. Do you agree with his/her decision to plead guilty?
6. From your investigation of the facts and circumstances of this case, do you feel that the State could produce sufficient evidence to convince a jury of the defendant's guilt beyond a reasonable doubt, and that if the defendant were to stand trial his/her conviction would be probable?
7. Has the defendant been ordered to submit to a mental examination to determine his/her competency to stand trial?

If yes, a hearing should be held. State v. Blair, 276 S.C. 644,
273 S.E.2d 536 (1981).

Background of Defendant

[Place the defendant under oath.]

1. Are you _____ (name of defendant) _____?
2. Before I can accept a plea of guilty, it is necessary for me to make sure that your plea of guilty is made freely and voluntarily. Therefore, I need to ask you some questions. If you do not understand the questions or the words I use, you should tell me so that I can explain them to you. You may consult with your lawyer about any matter during questioning, and if you feel this is necessary, you may ask for an opportunity to talk to your lawyer. Do you understand?

3. How old are you?
4. How far did you go in school?
5. What kind of work do you do?
6. Have you ever been treated for abuse of alcohol or drugs or for mental illness?

If so, when?

For how long?

Did you successfully complete the program?

7. Have you taken any medication, drugs, or alcohol in the last 24 hours?

If yes, what?

How much?

When?

[To the attorney:] Do you agree that the defendant knows and understands what he/she is doing?

8. Are you today aware of any physical, emotional, or nervous problem that might keep you from understanding what you are doing?

Nature of the Charge and Its Consequences

1. You have heard your attorney tell me that he/she has explained to you the charge against you, the possible punishment, and your constitutional rights, and that you understand these things. Is that correct?
2. (a) You are pleading guilty to the offense of _____. The State charges you with having _____ [Explain in details of charge] _____. The maximum possible sentence for this is _____, [including that possible from consecutive sentences]. The minimum possible sentence is _____.
- (b) [If an offense with graduated penalties:] Do you understand that if you plead guilty to this offense and you are convicted at a later time of [the same crime], the punishment will be higher next time because then you would have _____ prior offenses for _____.
- (c) [Explain loss of license or forfeiture of weapon, if necessary.]

(d) If you are on probation or parole, do you understand that your probation or parole could be revoked because of your guilty plea in this case?

3. Do you understand the nature of the charge against you and the range of possible punishments?

Waiver of Constitutional Rights

1. (a) When you plead guilty, you give up certain important constitutional rights.

First, you give up your right to remain silent; that is, your right against self-incrimination, your right to say nothing at all. You cannot be compelled to testify or to provide evidence against yourself.

Second, you give up your right to have a jury trial; that is, your right to have a jury decide whether or not you are guilty beyond a reasonable doubt. They would base their decision upon evidence which the State presents and on any evidence you might wish to introduce. In a trial, you would be presumed to be innocent, and the State would have to produce evidence that would convince all 12 members of the jury that you were guilty beyond a reasonable doubt.

Third, you give up your right to confront and be confronted by the witnesses against you; that is, the right to see, hear, and cross-examine any witnesses that may be called against you during the trial and the right to subpoena and call witnesses in your own behalf.

(b) Your case has not yet been before the grand jury for their consideration. After hearing evidence, 12 of the 18 people on the grand jury would have to agree that you were probably guilty before the charge against you could be reported out as a True Bill ready for trial. A grand jury might return a No Bill, which would mean that the charge would be dismissed. Do you understand this? Do you wish to give up your right to have the grand jury examine your case?

Do you understand these rights?

2. Do you understand that when you plead guilty you give up these constitutional rights?

Is that what you want to do?

Do you understand that you won't get a jury trial if you plead guilty?

Plea

1. Understanding then the nature of the charge against you and the consequences

of a guilty plea, how do you wish to plead to this charge: guilty or not guilty?

2. Do you understand that when you plead guilty you admit the truth of the charge that is made against you?
3. You may have defenses to the charge against you. I don't know whether you do or not. Do you understand that if you plead guilty you will waive or give up any defenses to this charge?
4. You may have given an incriminating statement in this case. If you plead guilty, do you understand that you waive or give up the right to contest or challenge whether such a statement was freely and voluntarily given in accordance with your constitutional rights?
5. Did you commit this offense?
6. Tell me what you did.

Plea Negotiations

1. Have there been any plea negotiations in this case?
2. If so, what are they, solicitor?

[To the defense attorney:] Has the solicitor correctly and completely stated the negotiations into the record?

[To the defendant:] Has the solicitor fully and completely stated what you understood the recommendation to be?

Is there anything more to it?

3. Do you understand that the recommendation of the attorneys is not binding on me and that I could still sentence you up to the maximum if I felt it appropriate?

or

Do you understand that the recommendation is not binding on me and that I may reject it?

I will inform you that if I cannot accept the recommendation, I will allow you to withdraw your guilty plea.

4. Do you still wish to plead guilty?

Plea Freely and Voluntarily Given

1. Has anyone promised you anything or held out any hope of reward to get you to plead guilty?
2. Has anyone threatened you or used force to get you to plead guilty? Has anyone used any pressure or intimidation to cause you to plead guilty?
3. Have you had enough time to make up your mind as to whether or not you want to plead guilty?
4. Are you pleading guilty of your own free will and accord?

Satisfaction With Attorney

1. Are you satisfied with the manner in which your lawyer has advised you and represented you?
2. Have you talked with your lawyer as often and for as long as you feel necessary for him/her to properly represent you?
3. Do you need any more time to talk to your lawyer?
4. Have you understood your talks with your lawyer?
5. Has your lawyer done everything for you that you feel he/she could have done or should have done?
6. Has your lawyer done anything in this case that you feel he/she should not have done?
7. Are you completely satisfied with your lawyer's services?
8. Do you have any complaint that you want to make about your lawyer, the solicitor, or any of the police officers?

Acceptance of Plea

1. Have you understood my questions? Is there anything you would like to ask me about what we've just been over?
2. Do you understand that you have a right to appeal the guilty plea and sentence of the court and that you or your lawyer must do this within 10 days?

3. [Solicitor to give facts of case.]

4. [Victim Impact Statement.]

5. [Prior record of defendant.]

[To the defendant and attorney:] Do you agree that the state has accurately stated your prior convictions?

[If no, this should be cleared up.]

[If the defendant is pleading to his/her second or subsequent violent crime as defined in Section 16-1-60, he/she will not be eligible for parole. See § 24-21-640. Therefore, the fact of any prior violent crime conviction should be verified and the defendant informed of this no-parole provision.]

[If Section 24-21-640 is not applicable, a statement to this effect should be made:]

You may have discussed parole or parole eligibility with other people or with your attorney. Until I sentence you, no one can tell you when, if ever, you will be eligible for parole or under what conditions. You should assume that you will serve the entire time in jail that I sentence you to.

Do you understand this?

Are you relying on any information concerning possible parole in your plea of guilty?

6. I find that there is a substantial factual basis for this plea. I find that the defendant's decision to plead guilty is freely, voluntarily, knowingly, and intelligently made and that the defendant has had the advice and counsel of an attorney with whom the defendant says he/she is satisfied. The defendant's plea of guilty is accepted.

W. Townes Jones. IV
Law Firm. P.A.

September 10, 2007

Michael Hockaday

██████████
Greenville, S.C. 29609

Re: Abbeville Roll Call List for September 17, 2007

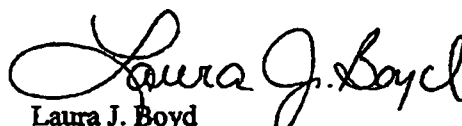
Dear Mr. Hockaday:

Please be advised that you are expected to appear Monday, September 17, 2007, at 9:00 A.M., for roll call at the Abbeville Court of General Sessions.

It is important that you are there. In the event you do not show up a bench warrant will be issued for your arrest. Please note this date on your calendar, this is the only notice you will receive.

If you have any questions concerning this matter please call me at 864-223-1111.

Sincerely,


Laura J. Boyd
Paralegal to Townes Jones

/ljb

cc: File



The State of South Carolina



OFFICE OF THE SOLICITOR
EIGHTH JUDICIAL CIRCUIT

864/942-8800
FAX 864/942-8830

Abbeville
Greenwood
Laurens
Newberry

JERRY W. PEACE
SOLICITOR

Suite 203, Park Plaza
800 Monument Street
Post Office Box 516
Greenwood, SC 29648-0516

September 11, 2007

W. Townes Jones, IV, Esquire
Via Facsimile (864-323-0241) and U.S. Mail

RE: State v. Michael Hockaday
2006GS01-652; 653

Dear Mr. Jones:

This letter is to advise you that the above-referenced case is first on the trial docket for the September 17, 2007 term of General Sessions Court in Abbeville County. The State intends to begin jury qualification and selection on Tuesday, September 18th at 11:00 am. I anticipate that qualification and selection will take the entire morning, and that we'll begin the case after lunch.

Enclosed please find a copy of the SLED Lab Report in this case. Please let me know if you have any questions or concerns. With kind regards,

Sincerely,

Elizabeth P. White
Assistant Solicitor

EPW:

DEC 16 2007



STATE OF SOUTH CAROLINA)

COUNTY OF ABBEVILLE)

STATE OF SOUTH CAROLINA)

v.)

Michael Hockaday,
Defendant.)

IN THE GENERAL SESSIONS COURT

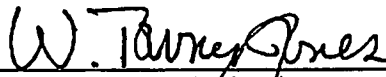
EIGHTH JUDICIAL CIRCUIT

MOTION TO RECONSIDER SENTENCE

On behalf of the defendant, Michael Hockaday, W. Townes Jones, IV, Attorney for the Defendant, moves before this Court to reconsider the Defendant's sentence.

Respectfully, I ask that this Honorable Court, reconsider the sentence to allow the defendant to show cause why the Court should reconsider the Defendant's current sentence.

Respectfully submitted,



W. Townes Jones, IV, Esquire
Attorney at Law
116 W. Court Avenue
Greenwood, South Carolina 29646
(864) 223-1111

Greenwood, South Carolina

This 12th day of November, 2009

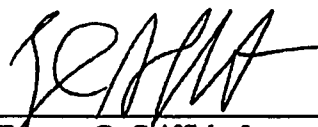
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
Filed November 13 A.D. 2009
at 2:45 o'clock P.M.
Shandal B. Bogg
Clerk of Court

TRUE COPY
BY Shandal Bogg
ABBEVILLE COUNTY CLERK OF COURT

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF ABBEVILLE	)	FOR THE EIGHTH CIRCUIT
State of South Carolina,	)	
Plaintiff,	)	ORDER DENYING DEFENDANT'S
	)	MOTION TO RECONSIDER
vs.	)	SENTENCE
	)	
Michael Hockaday, Jr.,	)	2006-GS-01-00653
	)	
Defendant.	)	
	)	

This matter came before the Court upon motion of the Defendant requesting that the Court reconsider its sentence of November 13, 2009 on the above referenced indictment. On September 28, 2007 in Abbeville County, South Carolina, Mr. Hockaday entered a guilty plea to the charge of Trafficking Cocaine 10-28g (2nd offense) in front of the Honorable Casey Manning. As a result of the plea, Judge Manning sealed his sentence. When Mr. Hockaday appeared before this Court on November 13, 2009, Judge Manning's sentence was published. Having considered the Defendant's request and in light of the fact that the Court's only involvement in this case was only to publish the sentence set by Judge Manning, the Court respectfully denies the Defendant's motion.

IT IS SO ORDERED.


 Eugene C. Griffith, Jr.
 Resident Judge
 Eighth Judicial Circuit

October 17th, 2012
 Greenwood, SC

TRUE COPY
 BY Shandal Rocco
 ABBEVILLE COUNTY CLERK OF COURT

EMILY V. LEO
 CLERK OF COURT

2009 OCT 17 3:45

FILED
 STATE OF SOUTH CAROLINA
 COUNTY OF ABBEVILLE

ARREST WARRANT
J-095661
STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ABBEVILLE
THE STATE
against

MICHAEL EDWARD HOCKADAY JR
Address:
GREENVILLE SC 29601
Phone: SSN:
Sr M Race: B Height: 6-2 Weight: 247
DL SC DL#:
DOB: Agency ORI#: SC0010100
Prosecuting Agency: ABBEVILLE CITY POLICE
Prosecuting Officer: PTL. J.S. ERWIN
Offense: TRAFFICKING COCAINE
Offense Code: 0278
Code/Ordinance Sec. 44-53-0370 (I) (1)

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

Signature of Judge (L.S.)
D 10/09/2006

RETURN

A copy of this arrest warrant was delivered to
defendant MICHAEL EDWARD HOCKADAY JR
on 10/09/06
H.T. Pat. [Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
MUNICIPAL COURT JUDGE
102 S. MAIN STREET
ABBEVILLE, SC 29620

10-24-06

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ABBEVILLE

AFFIDAVIT

Form Approved by
S.C. Attorney General
July 20, 1960
SCCA 618

Personally appeared before me the affiant PTL. J.S. ERWIN who
being duly sworn deposes and says that defendant MICHAEL EDWARD HOCKADAY JR
did within this county and state on 10/09/2006 to 10/09/2006 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ABBEVILLE)
in the following particulars:
DESCRIPTION OF OFFENSE: 44-53-0370 (I) (1) / TRAFFICKING COCAINE

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

ON 10/09/2006 LOCATED IN THE CITY OF ABBEVILLE A TRAFFIC STOP WAS INITIATED ON FIRST STREET FOR SPEEDING.
THE DRIVER MICHAEL EDWARD HOCKADAY WAS TAKEN INTO CUSTODY FOR DRIVING UNDER SUSPENSION. UPON A
FURTHER SEARCH OF THE OFFENDER MICHAEL E. HOCKADAY WAS FOUND TO BE IN POSSESSION OF A LARGE QUANTITY
OF A SUBSTANCE BELIEVED TO BE COCAINE. UPON WEIGHING THE SUBSTANCE AND CONDUCTING FURTHER TEST. THE
SUBSTANCE TESTED POSITIVE FOR COCAINE AND WEIGHED APPROXIMATELY 15 GRAMS. SEE INCIDENT # 2006-6355.

TRUE COPY
BY Shandal Boopp
ABBEVILLE COUNTY CLERK OF COURT

Signature of Affiant J.S. Erwin

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
ABBEVILLE

Affiant's Address 102 SOUTH MAIN ST
ABBEVILLE SC 29620
Affiant's Telephone 864-366-5832

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on 10/09/2006 defendant MICHAEL EDWARD HOCKADAY JR

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of ABBEVILLE) as set forth below:

DESCRIPTION OF OFFENSE: DRUGS / TRAFFICKING IN COCAINE, 10G OR MORE, BUT LESS THAN
28G - 1ST OFFENSE

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

Sworn to and subscribed before me)

on 10/09/2006)

[Signature] (L.S.)
Signature of Issuing Judge

Judge Code: 6665

Judge's Address 102 SOUTH MAIN ST
ABBEVILLE SC 29620

Judge's Telephone 864-366-5843

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

Case: 2006-6355

ORIGINAL

ARREST WARRANT

J-095662

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ABBEVILLE

THE STATE

against

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ABBEVILLE

Personally appeared before me the affiant PTL. J.S. ERWIN who
 being duly sworn deposes and says that defendant MICHAEL EDWARD HOCKADAY JR
 did within this county and state on 10/09/2006 to 10/09/2006 violate the criminal laws of the
 State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ABBEVILLE)
 in the following particulars:

DESCRIPTION OF OFFENSE: 16-23-0020 / UNLAWFUL CARRYING OF PISTOL

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

ON 10/09/2006 LOCATED IN THE CITY OF ABBEVILLE, AT A TRAFFIC STOP ON FIRST ST. THE OFFENDER MICHAEL E.
 HOCKADAY WAS TAKEN INTO CUSTODY. UPON SEARCH INCIDENT TO ARREST, OFFICERS FOUND A SILVER HANDGUN
 WITH BLACK GRIPS IDENTIFIED AS A LORCIN .380 CALIBER HANDGUN. THIS WAS FOUND UNDER THE PASSENGER SIDE
 SEAT. THE PASSENGER DENIED THAT THIS WEAPON WAS HIS, BOTH SUBJECTS WERE ARRESTED FOR THE WEAPON
 VIOLATION. SEE INCIDENT # 2006-8355.

TRUE COPY
 BY Shanda Bogg
 ABBEVILLE COUNTY CLERK OF COURT

MICHAEL EDWARD HOCKADAY JR

Address: GREENVILLE SC 29601Phone: SSN: Sex M Race B Height 6-2 Weight 247DL SC DL# DOB: Agency ORI#: SC0010100Prosecuting Agency: ABBEVILLE CITY POLICEProsecuting Officer: PTL. J.S. ERWINOffense: UNLAWFUL CARRYING OF PISTOLOffense Code: 0044Code/Ordinance Sec. 16-23-0020

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☒ Municipality of

ABBEVILLE CITY

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

Signature of Judge

(L.S.)

D 10/09/2006

RETURN

A copy of this arrest warrant was delivered to
 defendant MICHAEL EDWARD HOCKADAY JR
 on 10/09/06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
 MUNICIPAL COURT JUDGE
 102 S. MAIN STREET
 ABBEVILLE, SC 29620

10-24-06

✓

AFFIDAVIT

Form Approved by
 S.C. Attorney General
 July 28, 1999
 SCBA 618

Signature of Affiant

J.S. Erwin

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

ABBEVILLE

Affiant's Address 102 SOUTH MAIN STABBEVILLE SC 29620Affiant's Telephone 864-366-5832

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
 on 10/09/2006 defendant MICHAEL EDWARD HOCKADAY JR

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of ABBEVILLE) as set forth below.DESCRIPTION OF OFFENSE: WEAPONS / UNLAWFUL CARRYING OF PISTOL

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

Sworn to and subscribed before me)

on 10/09/2006)

Signature of Issuing Judge

(L.S.)

Judge Code: 6665Judge's Address 102 SOUTH MAIN STABBEVILLE SC 29620Judge's Telephone 864-366-5843Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

Case: 2006-6355

ORIGINAL

WITNESSES

Raymond Vandiver

WARRANT NUMBERS

95662

Ray Crocker
May 27 2006
Foreman of the Grand Jury

Date.

VERDICT

True Bill

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

November Term, 2006

Indictment # 06GS01- *652*

THE STATE

vs.

MICHAEL EDWARD HOCKADAY, JR.

INDICTMENT FOR

CARRYING PISTOL UNLAWFULLY

✓

**THE STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE**

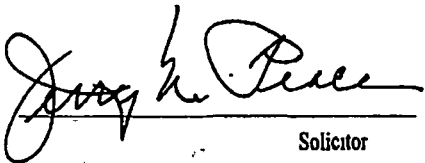
**INDICTMENT FOR
CARRYING PISTOL UNLAWFULLY**

At a Court of General Sessions, convened on the 27th day of November, 2006, the Grand Jurors of Abbeville County present upon their oath

COUNT ONE

That MICHAEL EDWARD HOCKADAY, JR., did in Abbeville County, state aforesaid, on or about the 9th day of October, 2006, wilfully and unlawfully carry about the person a pistol, in violation of Section 16-23-20 of the South Carolina Code of Laws, 1976, as amended

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


Solicitor

66

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF ABBEVILLE

STATE VS.

MICHAEL EDWARD HOCKADAY

INDICTMENT/CASE#: 06GS01-0652

AW#: J-095662

Date of Offense: 10/9/2006

S.C. Code §: 16-23-0020

CDR Code # 0 0 4 4

AKA:

Race: BLK

Sex: M

Age: 30

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City Greenville, State SC Zip

DL# [REDACTED]

SID#

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Unlawful Carry of Pistol (up to 1 yr) in violation of § 16-23-20of the S.C. Code of Laws, bearing CDR Code # 0 1 0 1 4 1 4☐ 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 Initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Solicitor[Signature]
Defendant[Signature]
Attorney for DefendantWHEREFORE, 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 _____ 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: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department
of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

\$14-1-206 (Assessments 107.5%) \$

\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00

\$14-1-211(A)(2) (DUI Surcharge) \$100 \$

\$56-5-2995 (DUI Assessment) \$12 \$

\$35.13 (Public Def/Prob) \$500 \$

\$73.3, 1B TP (Law Enforce. Funding) \$25 \$25.00

\$33.7, 1B TP (Drug Court Surcharge) \$100 \$

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

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$

TOTAL \$125

[Signature]
Clerk of Court/ Deputy ClerkCourt Reporter: [Signature]

PTUP

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

____ Appointed PD or appointed other counsel, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

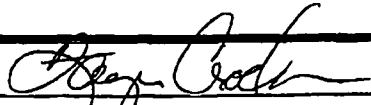
PRESIDING JUDGE [Signature]Judge Code: 1 12061 1Sentence Date: 11-13-09

WITNESSES

Raymond Vandriver

WARRANT NUMBERS

.95661



Foreman of the Grand Jury

Date.

NOV 27 2006

VERDICT

TRUE BILL

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

November Term, 2006

Indictment # 06GS01-653

THE STATE

vs.

MICHAEL EDWARD HOCKADAY, JR.

INDICTMENT FOR

TRAFFICKING IN COCAINE

**THE STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE**

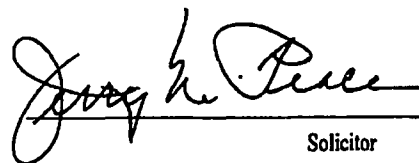
**INDICTMENT FOR
TRAFFICKING IN COCAINE**

At a Court of General Sessions, convened on the 27th day of November, 2006, the Grand Jurors of Abbeville County present upon their oath:

COUNT ONE

That MICHAEL EDWARD HOCKADAY, JR., did in Abbeville County, state aforesaid, on or about the 9th day of October, 2006, wilfully, unlawfully and knowingly traffick in cocaine, to wit: that the said defendant(s) did sell, manufacture, cultivate, deliver, purchase, or bring into this State, and/or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, and/or was knowingly in actual possession or did knowingly attempt to become in actual or constructive possession more than 10 grams, but less than 28 grams of cocaine, a Schedule II controlled substance under the provisions of Title 44, Chapter 53, Article 3 of the South Carolina Code of Laws, 1976, as amended, in violation of Section 44-53-370 of the South Carolina Code of Laws, 1976, as amended

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


Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF ABBEVILLE

STATE VS

MICHAEL EDWARD HOCKADAY

AKA:

Race: BLK Sex: M Age: 30

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City Greenville, State SC Zip

DL# [REDACTED] SID#

INDICTMENT/CASE#: 06GS01-0653

AW#: J-095661

Date of Offense: 10/9/2006

S.C. Code §: 44-53-320

CDR Code # 0147

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Trafficking Cocaine 10g - 28g (5-30 yrs) in violation of § 44-53-320of the S.C. Code of Laws, bearing CDR Code # 0131812
☐ 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 Initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

\$14-1-206 (Assessments 107.5%) \$ _____

\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00

\$14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____

\$35.13 (Public Def/Prob) \$500 \$ _____

\$73.3, 1B TP (Law Enforce. Funding) \$25 \$25.00

\$33.7, 1B TP (Drug Court Surcharge) \$100 \$100.00

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

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$225.00

Clark of Court/ Deputy Clerk

Court Reporter: Jo Rice

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel, \$35.13 TP

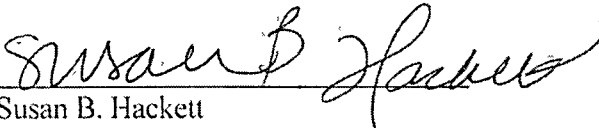
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE P. [Signature]Judge Code: 12061Sentence Date: 11-13-09

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 9th day of April, 2015.


Susan B. Hackett
Appellate Defender

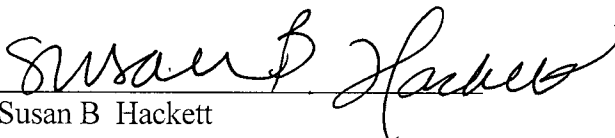
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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This 9th day of April, 2015.


Susan B. Hackett
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

 ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Abbeville County

L. Casey Manning, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL EDWARD HOCKADAY

APPELLANT

APPELLATE CASE NO. 2009-146387

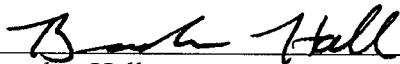
CERTIFICATE OF SERVICE

RECEIVED

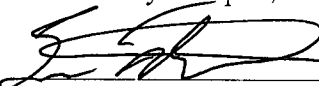
APR 09 2015

SC Court of Appeals

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 Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Michael Hockaday #276153, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 9th day of April, 2015


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 9th day of April, 2015.

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