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ORIGINAL  
NO DEFENDANT'S BRIEF  
NO RESPONDENT'S BRIEF  
RECEIVED  
JUN 30 2015  
SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Steven H. John, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL ANTHONY BUTLER, JR.,

APPELLANT

APPELLATE CASE NO. 2014-001595

RECORD ON APPEAL

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- STATE’S EXHIBIT # 29 (DVD)**
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JURY POLLED  
COURT TO JURY

474

1           **JUROR NUMBER 454:** Yes ma'am.

2           **THE DEPUTY CLERK:** Juror 429. Is this your verdict?

3           **JUROR NUMBER 429:** Yes ma'am.

4           **THE DEPUTY CLERK:** Still your verdict?

5           **JUROR NUMBER 429:** Yes ma'am.

6           **THE DEPUTY CLERK:** Juror 438. Is this your verdict?

7           **JUROR NUMBER 438:** Yes ma'am.

8           **THE DEPUTY CLERK:** Still your verdict?

9           **JUROR NUMBER 438:** Yes ma'am.

10          **THE DEPUTY CLERK:** Juror 351. Is this your verdict?

11          **JUROR NUMBER 351:** Yes ma'am.

12          **THE DEPUTY CLERK:** Still your verdict?

13          **JUROR NUMBER 351:** Yes ma'am.

14          **THE COURT:** Very good. That's all the jurors.

15          All right. The jury having affirmed the verdict

16          through polling, is there anything else before the Court

17          excuses the jury in this matter, from the State?

18          **MS. RICHARDSON:** No sir, Your Honor.

19          **THE COURT:** From the Defense?

20          **MR. GALMORE:** No sir.

21          **THE COURT:** All right. Very good.

22          Mr. Foreman, ladies and gentlemen of the jury, I want

23          to thank you for your service in this particular case. You

24          did exactly what the Court asked you to do, to well and

25          truly deliberate and to reach a unanimous verdict in this

COURT TO JURY  
JURY DISMISSED  
JURY OUT/ON RECORD

475

1 matter.

2 I understand, the parties understand, we asked you to  
3 do a difficult thing. If any of you are in a relationship,  
4 you understand that oftentimes it's difficult for two  
5 people to agree on anything, much less twelve people, and I  
6 appreciate that you listened attentively during the course  
7 of the trial, that you took your time to deliberate and  
8 reach this unanimous verdict.

9 I'm going to release you from your jury service for  
10 this particular week, and remember also that you've got an  
11 exemption now for coming back to Circuit Court jury duty  
12 for three years. If you gets summoned in that three year  
13 time, you can call the Clerk of Court and tell her that  
14 you've already served.

15 If you happen to get summoned by your local City Judge  
16 or a County Magistrate, or a Federal Judge, you'll have to  
17 go see them. You just don't have to come see us for the  
18 next three years.

19 With that thank you very much for your service. You  
20 are now excused. Thank you.

21 **(THE FOLLOWING TAKES PLACE OUTSIDE THE PRESENCE OF THE**  
22 **JURY.)**

23 **THE COURT:** All right, Mr. Galmore, any motions on  
24 behalf of the Defense?

25 **MR. GALMORE:** Yes, Your Honor. I would renew our

1 motion for a directed verdict. I would also ask the Court  
2 to -- I would also make a motion for a new trial and the  
3 motion for an order in arrest of judgment just based on the  
4 insufficiency of the evidence that has been presented.

5 **THE COURT:** Thank you, sir. At this stage of the  
6 proceedings, the motion in the Court's mind that can made  
7 to test the sufficiency of the evidence is a motion for a  
8 new trial. We obviously don't have a judgment  
9 notwithstanding the verdict that we do have in civil court,  
10 and since I denied your motion for a directed verdict, that  
11 is not available.

12 The relief here would be that whether or not there is  
13 competent evidence to sustain the jury's verdict. I may  
14 not substitute at this point in time my judgment for that  
15 of the jury if I had a different judgment than the jury and  
16 overturn that verdict.

17 My task in a motion for a new trial now is to rule  
18 whether or not there is competent evidence to sustain the  
19 jury's verdict. I find there is more than sufficient  
20 competent evidence, direct evidence and substantial  
21 circumstantial evidence to sustain the jury's verdict of  
22 guilty beyond a reasonable doubt and, therefore, decline to  
23 grant your motion for a new trial.

24 Thank you very much.

25 **MR. GALMORE:** Yes sir.

1           **THE COURT:** All right, Solicitor, is the State ready  
2 to proceed with sentencing?

3           **MS. RICHARDSON:** Yes sir, Your Honor.

4           **THE COURT:** All right.

5 Defense?

6           **MR. GALMORE:** Yes sir.

7           **THE COURT:** All right.

8           Yes ma'am, please. Solicitor, is there anything you  
9 would like to say to the Court at this time of sentencing?

10          **MS. RICHARDSON:** No sir, Your Honor. Mr. Butler has  
11 no prior record.

12          **THE COURT:** All right. Thank you very much.

13          **MS. RICHARDSON:** Your Honor, just for the record, the  
14 victim in this case, Mr. White, has someone present. Your  
15 Honor, I believe she may want to speak on Mr. White's  
16 behalf.

17          **THE COURT:** All right, very good.

18           All right, Mr. Galmore, I'll be glad to hear from you  
19 sir.

20          **MR. GALMORE:** Yes sir, Your Honor.

21           Mr. Butler is thirty-four years old. He is single and  
22 he has no children. He is from North Carolina and has  
23 lived here in the Loris community for about the last four  
24 years.

25           Your Honor, he has his high school education and he

1 works with his mother. She does foster care, and he helps  
2 her to take care of the children. He also works with  
3 another family member helping that person with a food  
4 truck.

5 Judge, just to try to give you an idea of what we  
6 believed happened on this night, we received a video from  
7 the Solicitor's Office that shows Mr. Butler and Mr. White  
8 at the Dodge's Convenience Store in North Myrtle Beach, and  
9 that video was time-stamped approximately seventeen minutes  
10 before this accident happened.

11 These young men were in the store. They were buying  
12 chicken. Mr. Butler tells me that he was starting to feel  
13 kind of sick, so that's why they went to grab some food to  
14 eat to make sure that he wasn't having any type of medical  
15 problem.

16 They left the store, and as I believe it, they drove  
17 north on Highway 17 and crossed the big bridge. They  
18 crossed the Intracoastal Waterway. They crossed the  
19 bridge, eventually taking the first exit which would have  
20 taken them off by the vicinity of Mama Jean's Restaurant.

21 At that point, I believe what happened is that the car  
22 ends up going back down the exit ramp at Mama Jean's  
23 Restaurant and back on to Highway 17, but that's a one-way  
24 exit ramp, and if you're in the parking lot of Mama Jean's  
25 Restaurant, you can see that there are four signs that are

1 supposed to stop people from going the wrong way on the  
2 exit ramp, and two of those signs are DO NOT ENTER signs,  
3 and from the location that we believe they were parked,  
4 they would not have seen those DO NOT ENTER signs.

5 When you come up the exit ramp, they did not come far  
6 enough up to where the exit -- to where the DO NOT ENTER  
7 signs were located, so they pull off into the restaurant,  
8 never seeing these signs that are literally ten feet away  
9 from them.

10 Once they entered back into the exit ramp and turned  
11 left, they automatically headed the wrong way. They are  
12 automatically headed south on the northbound lane. There  
13 are two more signs further down the exit ramp that say  
14 WRONG WAY. The problem with the case is, from Mama Jean's  
15 Restaurant parking lot, you can't see the sign that's on  
16 the left side of the exit ramp. It's blocked by trees.

17 Now, once you're out into the exit ramp, you can see  
18 that sign. There's a sign on the other side, on the right  
19 side of the exit ramp closest to Highway 17, that sign is  
20 down.

21 For whatever reason, MAIT went out and took pictures  
22 the next day, and we found that the WRONG WAY sign was not  
23 posted. It was pulled out of the ground and laying on the  
24 ground. I don't know how it got there, but we've got  
25 pictures of a WRONG WAY sign laying on the ground.

1           That's the background. That's how this accident  
2 happened. Once they pulled out of the restaurant and  
3 turned left instead of right, it was just a matter of time  
4 before there was an accident on Highway 17.

5           Now, Mr. Butler doesn't remember all of the details of  
6 this accident. We've gone over it numerous times with him,  
7 and he can give us some information. He doesn't remember  
8 everything. He tells me that he wasn't driving. I believe  
9 him when he says he wasn't driving. I understand that the  
10 jury did not accept that, and we -- we respect the jury's  
11 verdict, although we disagree with it.

12           Your Honor, we just want to point out to you that Mr.  
13 Butler and Mr. White were best of friends. They had gone  
14 out to celebrate Mr. White's birthday. It did not turn out  
15 well for these two young men.

16           We ask you to consider that Mr. Butler does not have a  
17 record. We would ask you to hear from him if he chooses to  
18 address the Court. We would ask you to hear from his  
19 family members. I believe his mother would like to address  
20 the Court, and we would ask you to take these things into  
21 consideration.

22           I understand that the case does have a mandatory  
23 minimum sentence. We would just ask you to give what  
24 leniency you could allow under these circumstances.

25           **THE COURT:** All right.

1 Mr. Butler, do you wish to address the Court in any  
2 fashion.

3 MR. BUTLER: I just wish to say I wasn't driving the  
4 vehicle at the time of the accident.

5 THE COURT: All right, sir. Thank you very much.

6 You indicated there might be someone else that wanted  
7 to address the Court?

8 Yes ma'am. Just tell me your name, and then I'll be  
9 glad to hear from you.

10 HARRIETT JONES: My name is Harriett Jones, Michael  
11 Butler's mother. Michael is a good son. Back whenever I  
12 moved here, I moved here working at IGA. I was a skin  
13 coordinator, and then when my niece -- her mother passed,  
14 so she lost her children to foster care.

15 So I got them out of foster care and then I asked my  
16 son if he would come and help me with them because I know  
17 he's good with children as far as screening the programs,  
18 or helping with meals, or helping with babysitting, I know  
19 he's good for that. And then he came to help me with them,  
20 and then he worked a job.

21 And then I started more deeply into foster care, and  
22 he helped me with those children as well, and at this time  
23 he still helps me with all the three children I have at  
24 home. I have a fifteen year old, a nine year old, and a  
25 eleven year old, and he helped me with those to prepare

1 meals and everything.

2 He also has helped me as a good son. He helped watch  
3 over us and I feel safer with him because I have no other  
4 family here in South Carolina. It's just us and the  
5 children in the home.

6 I'm asking that the Court please have mercy on my son  
7 and our family, and he has always told me that he wasn't  
8 driving, and I always noticed his injuries. My son have a  
9 problem with having seizures, and whenever they were  
10 talking about the left side, when he was fifteen, his  
11 brother broke his arm, so at any time if he bump anything,  
12 the arm go out of place.

13 It will fall out of place and it has to be pulled back  
14 in, any time he bump anything, it would happen. Sometimes  
15 he's just walking, but whatever, it slips out of place  
16 because they told him he's going to have to have a surgery  
17 because not before long, that cup is just going to let go  
18 and he won't have any use for that arm, and that's the  
19 problem with his arm.

20 It didn't get to be put into anything; he didn't get  
21 to tell anyone, but I thank you for letting me speak today.

22 **THE COURT:** Yes ma'am. Thank you.

23 Anything further, Mr. Galmore?

24 **MR. GALMORE:** Your Honor, we would just point out that  
25 Mr. White's family is represented here today. Mr. White's

SENTENCING PROCEEDINGS  
SENTENCE OF THE COURT

1 sister, who is also the personal representative of the  
2 estate, is present in court just to support Mr. Butler  
3 throughout all of this.

4 Mr. White's mother has been to court on previous  
5 occasions. I don't know if you recall it or not, but we  
6 had some pre-trial issues several months back, and she came  
7 to court and also expressed that she did not want to  
8 proceed with this prosecution.

9 We just ask you to take these things into account.

10 **THE COURT:** Thank you very much.

11 2014-GS-26-2621, the State of South Carolina, County  
12 of Horry, versus Michael Anthony Butler, Jr.

13 Mr. Butler, taking into consideration what's been said  
14 on your behalf, and I appreciate your position as you have  
15 indicated that you are not the driver, the jury has decided  
16 this matter based upon the evidence presented and in that  
17 determination and found that the State has proven beyond a  
18 reasonable doubt that you were the driver of the vehicle,  
19 that you were intoxicated, it affected your ability to  
20 drive the vehicle and it caused the death of Mr. White.

21 Based upon that, the sentence of the Court is the  
22 Defendant is committed to the State Department of  
23 Corrections for a determinate term of eight years,  
24 suspended -- or provided upon the service of four years,  
25 the balance is suspended. Thank you very much.

1           **MR. GALMORE:** Yes sir. Thank you.

2           **MS. RICHARDSON:** Thank you, Your Honor.

3           **THE COURT:** Thank you.

4                           (CONCLUSION OF TRANSCRIPT OF RECORD.)

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C E R T I F I C A T E

I, the undersigned, DIXIE COX EUBANK, Official Court Reporter for the Fifteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of General Sessions for Horry County, South Carolina, on July 14 to July 17, 2014.

I DO FURTHER CERTIFY that I am neither of kin, counsel nor interest to any party hereto.

October 21, 2014



DIXIE COX EUBANK

CIRCUIT COURT REPORTER

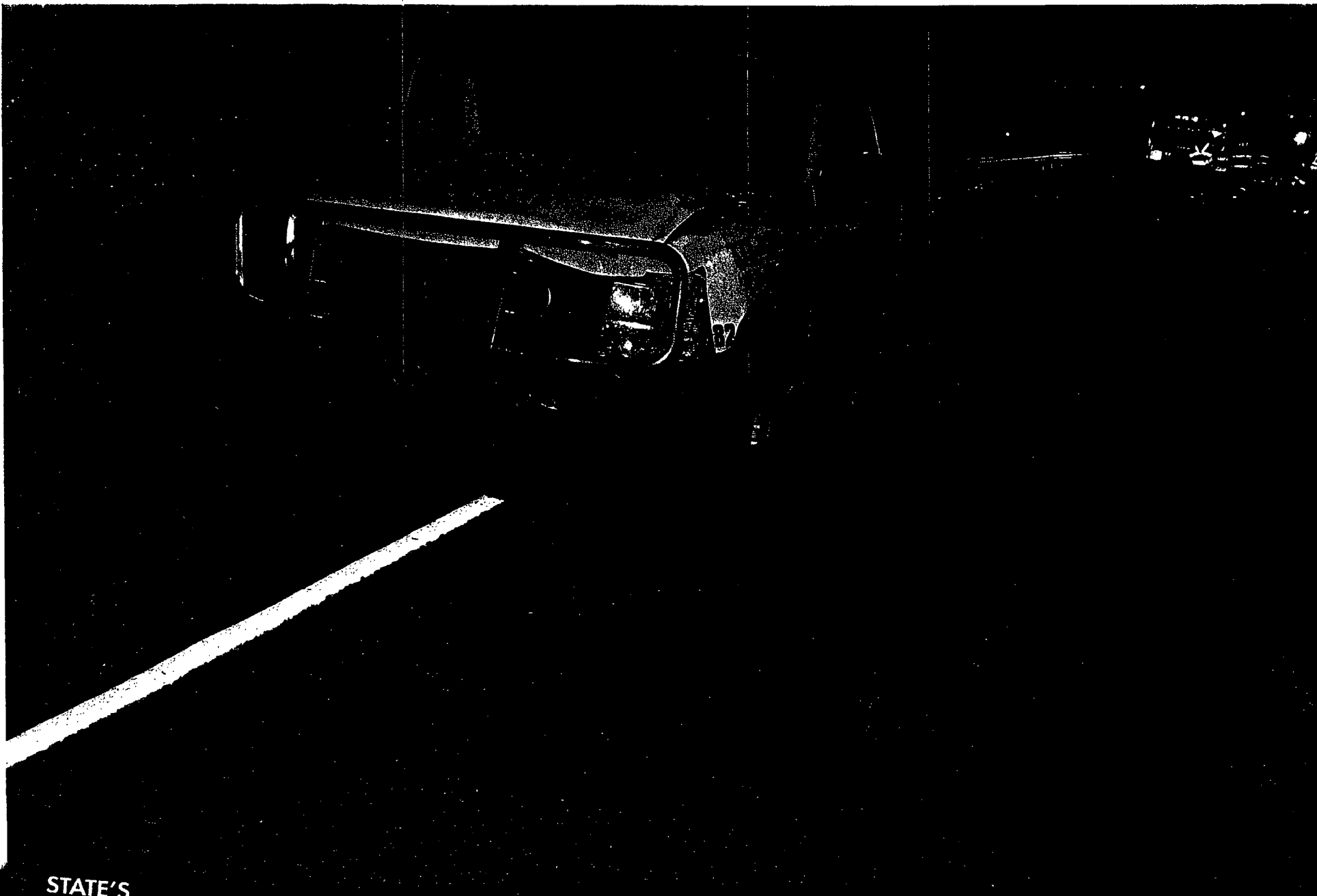
FIFTEENTH JUDICIAL CIRCUIT

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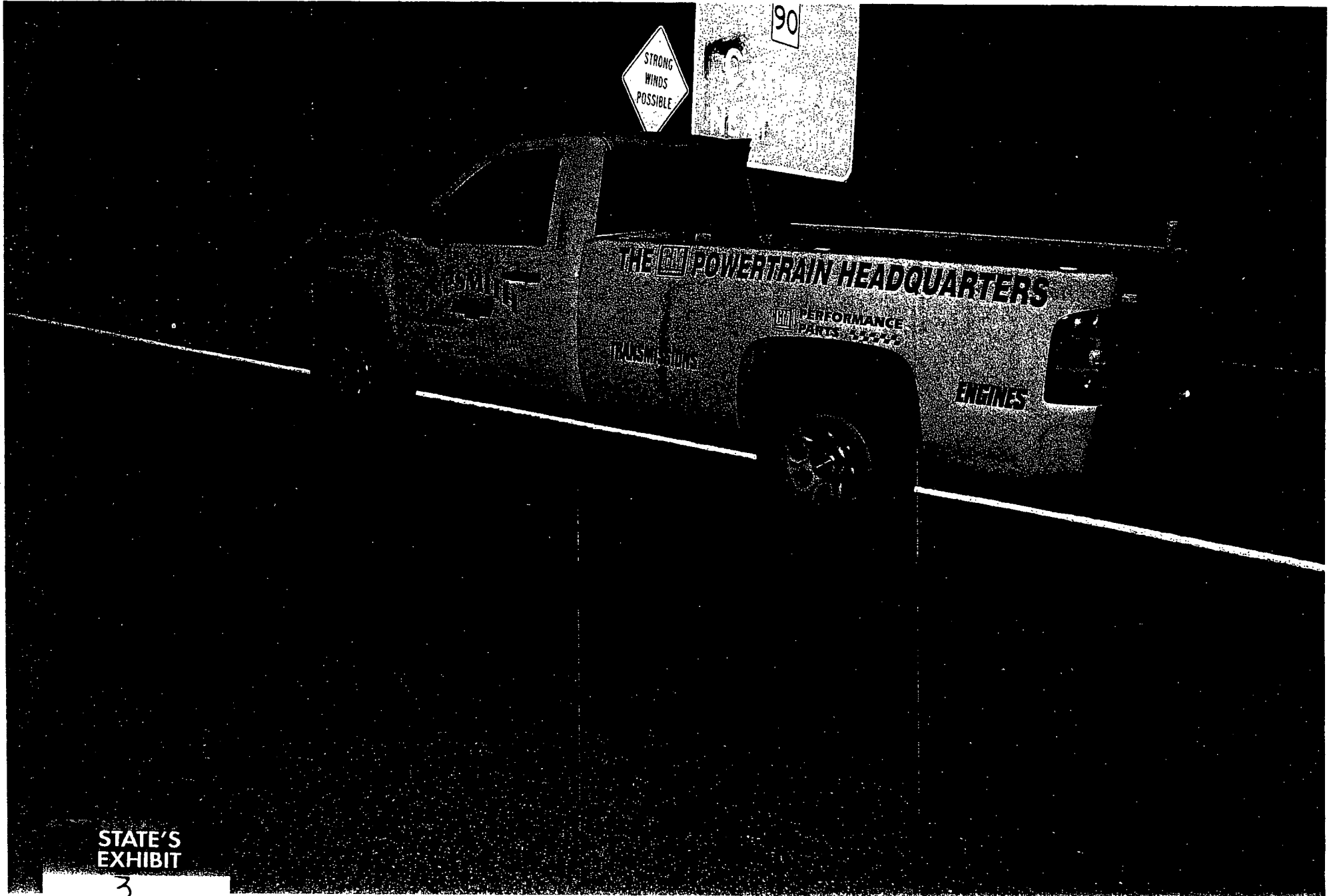
STATE'S  
EXHIBIT

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EXHIBIT

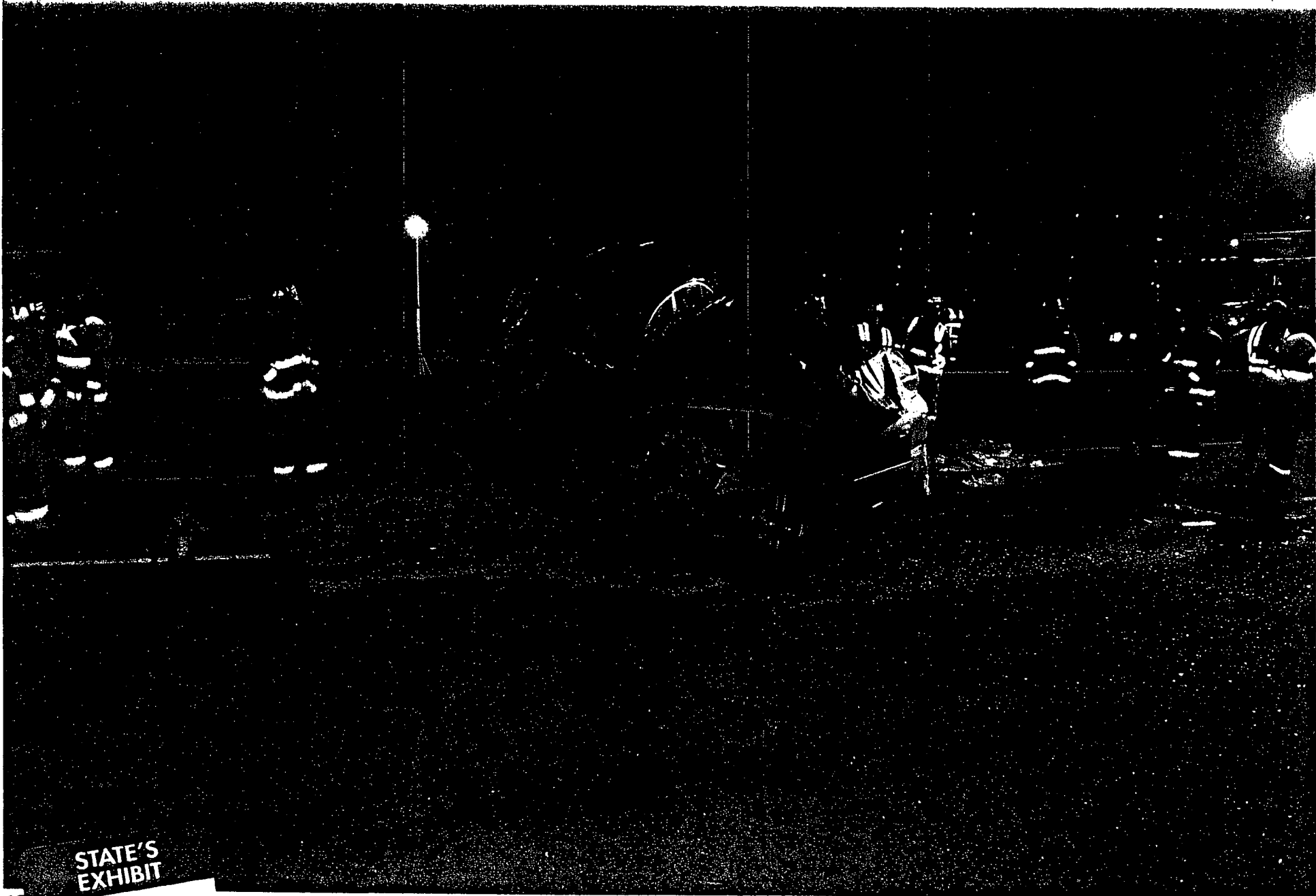
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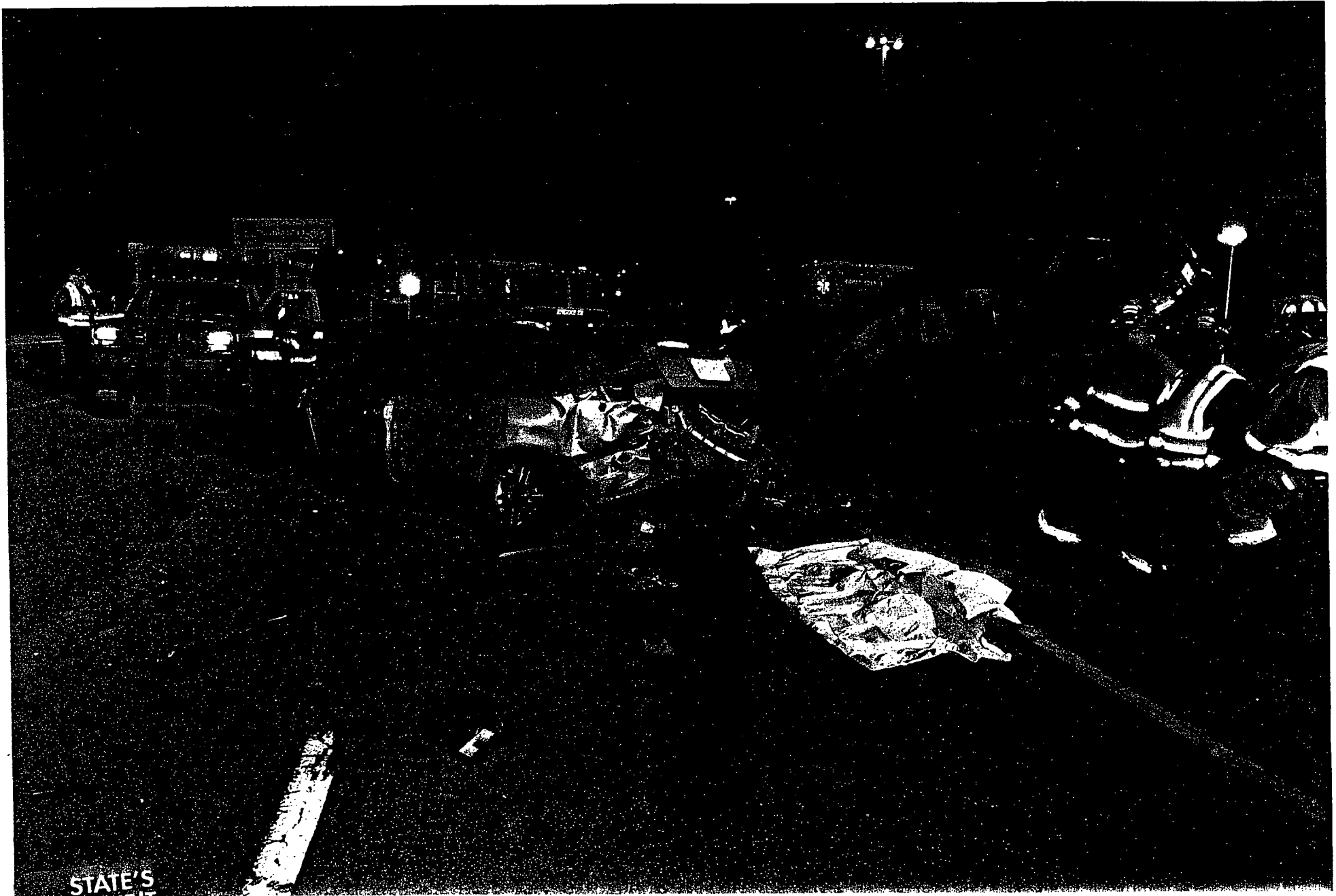
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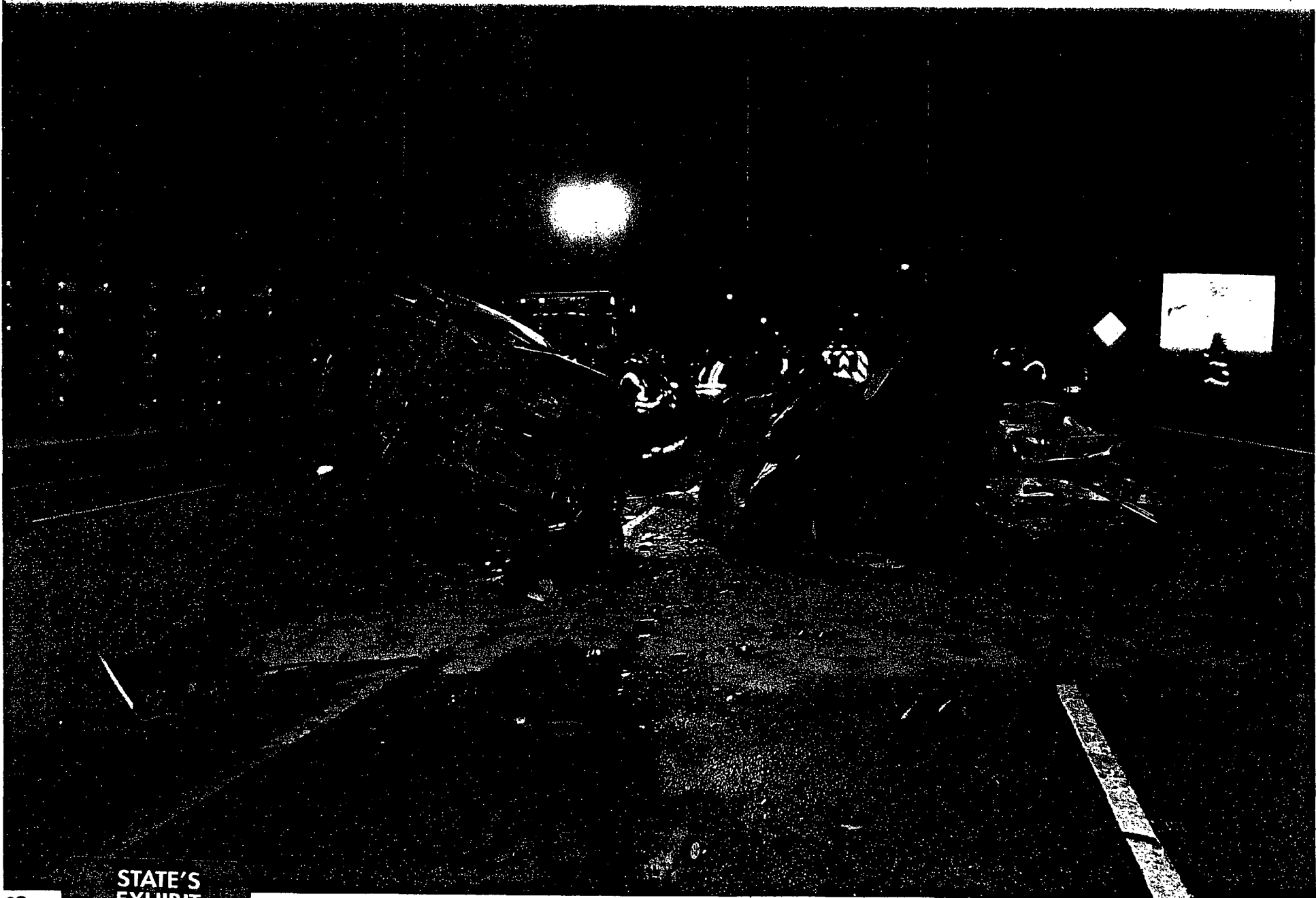


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STATE'S  
EXHIBIT

dec 7 7-14-14



STATE'S  
EXHIBIT

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Dec 7-14-14

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STATE'S  
EXHIBIT

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Dec 7-14-14



522

STATE'S  
EXHIBIT  
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523



STATE'S  
EXHIBIT

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dec 2014-14



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STATE'S  
EXHIBIT

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7-14-14



STATE'S  
EXHIBIT

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Dec 7-14-19



STATE'S  
EXHIBIT

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Dec 7-14-14

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STATE'S  
EXHIBIT

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Dec 7-14-14



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EXHIBIT

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7-14-14

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STATE'S  
EXHIBIT  
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dec 7-14-14





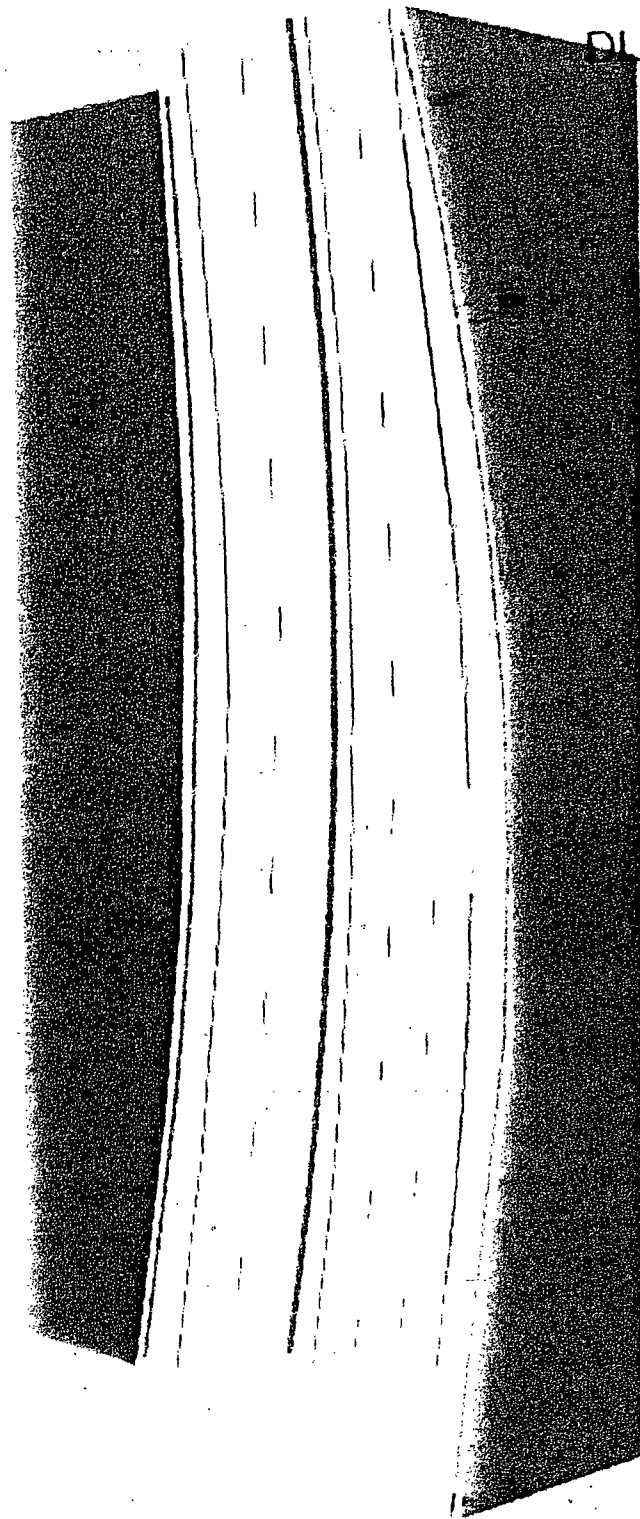
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STATE'S  
EXHIBIT

Dec 7-14-14

Finding # 3

DL-018-10



SOUTH CAROLINA HIGHWAY PATROL  
MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM  
Pee Dee MAIT  
DATE DRAWN 2/20/2010

North Myrtle Beach DPS  
OCCURRED ON 7-15-2010  
31 0711 10

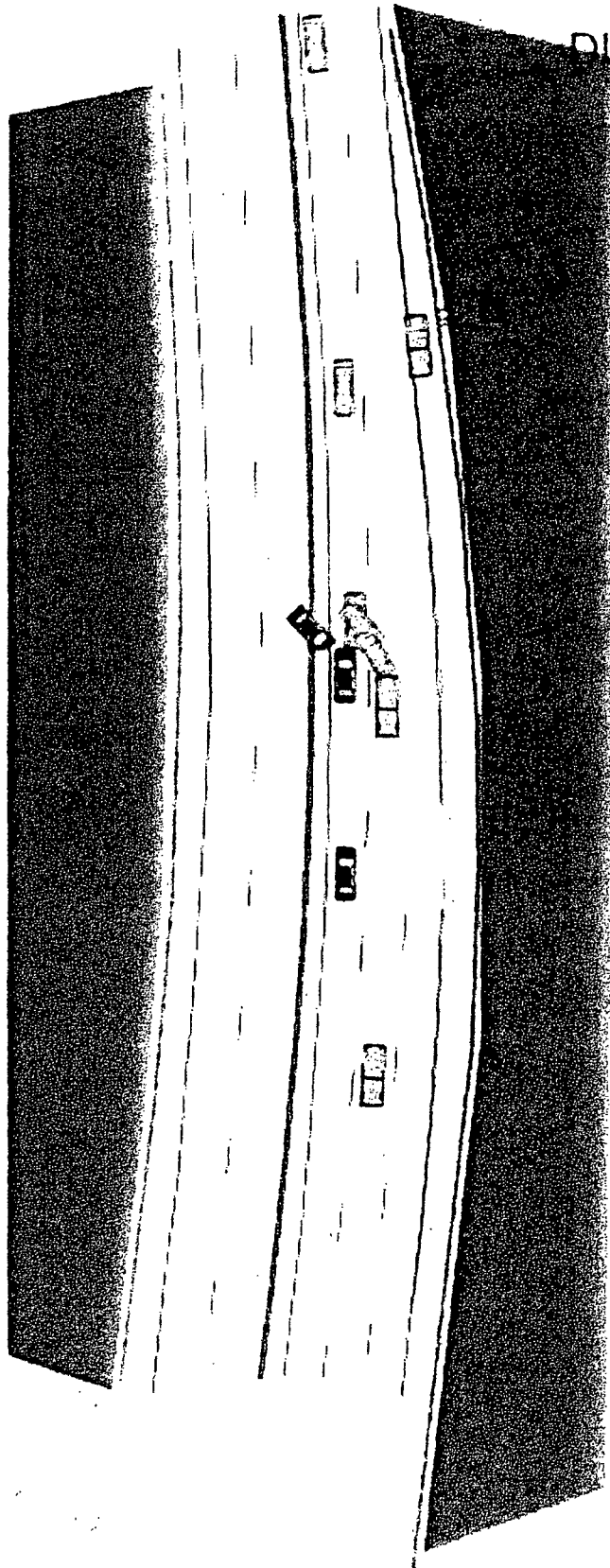
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EXHIBIT**

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Dec 7-14-14

Finding # 3

DL-018-10



STATE'S  
EXHIBIT

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Dec 7-14-14



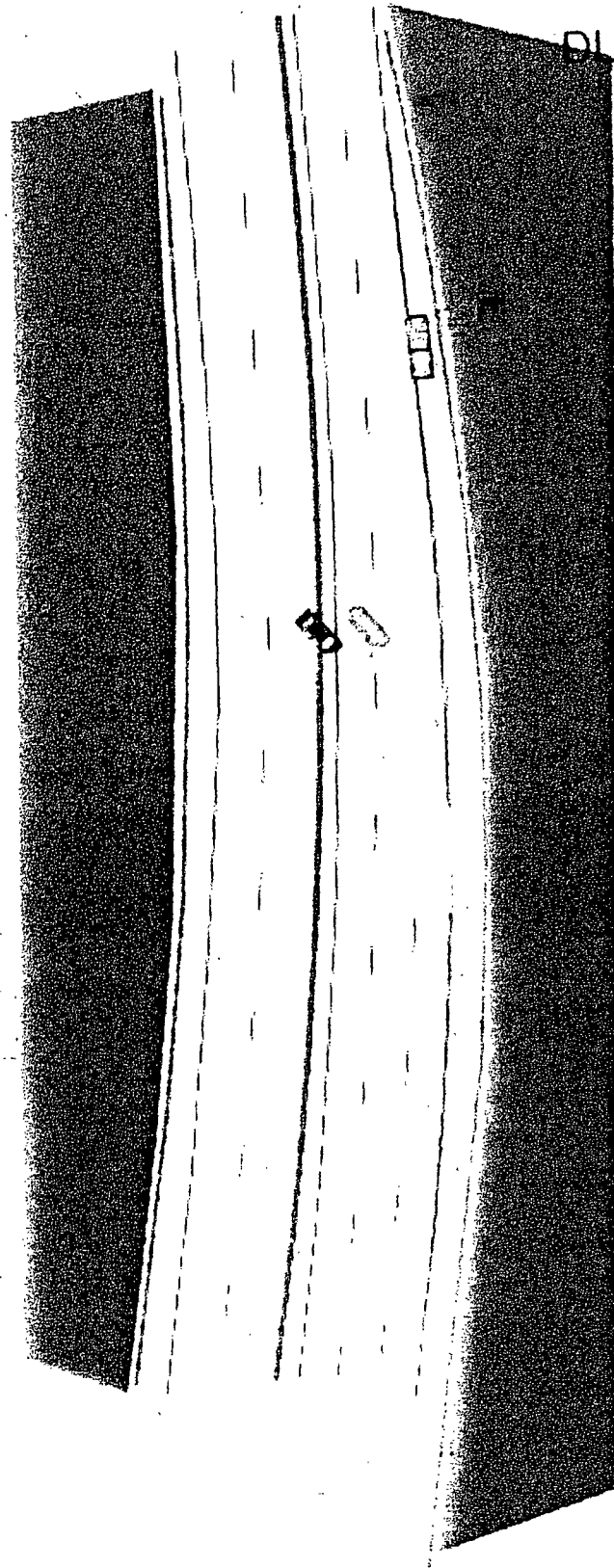
SOUTH CAROLINA HIGHWAY PATROL  
MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM  
Poe Dee MAIT  
DATE DRAWN 2/10/2010

Sequence of Events

North Myrtle Beach DPS  
OCCURRED ON 2/15/2010  
DL-018-10

Finding # 3

DL-018-10



**STATE'S  
EXHIBIT**

22  
Dec 7-14-14



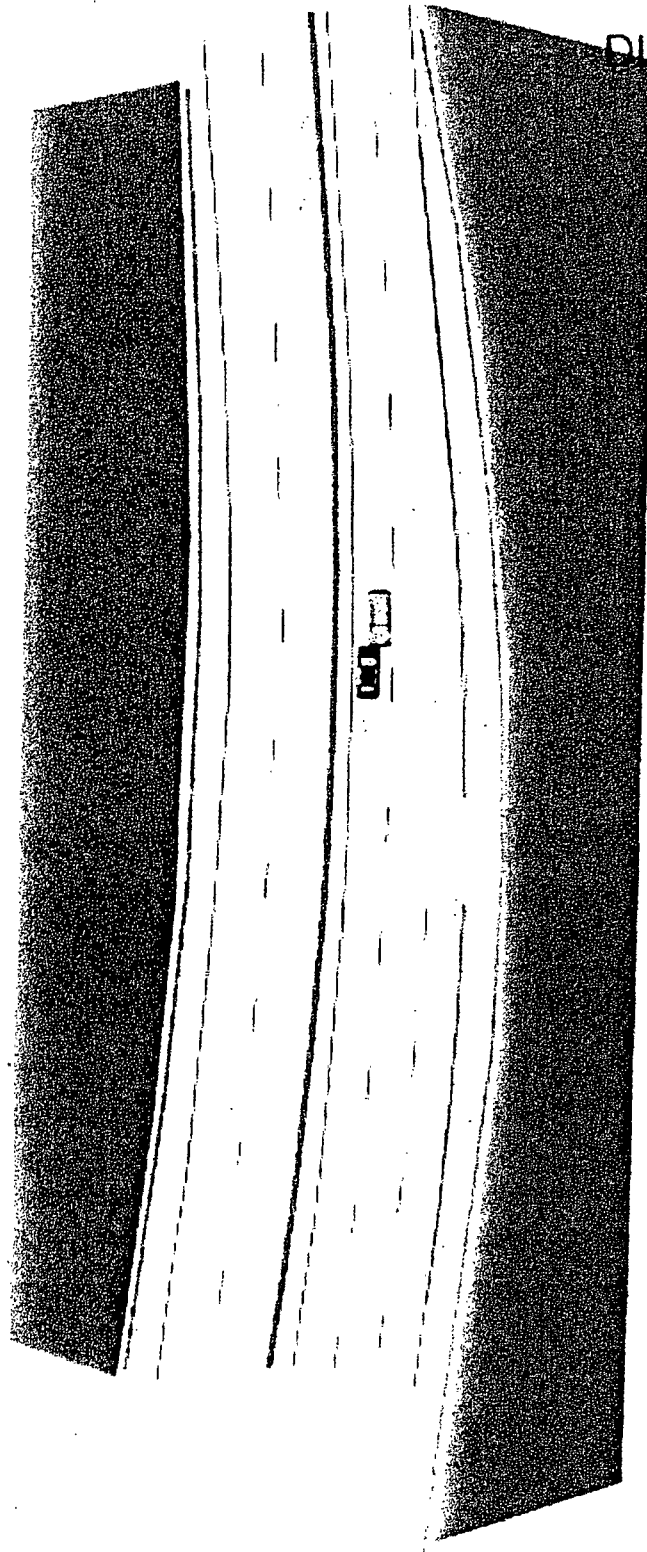
SOUTH CAROLINA HIGHWAY PATROL  
MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM  
Pee Dee MAIT  
DATE DRAWN: 2/17/2012

DL-018-10-001

North Myrtle Beach DPS  
OCCURRED ON: 2-16-2010  
DL 018 10

Finding # 3

DL-018-10



**STATE'S EXHIBIT**

23  
dce 2-14-14



SOUTH CAROLINA HIGHWAY PATROL  
MULTI-DISCIPLINARY ACCIDENT INVESTIGATION TEAM  
Pre Dec MAIT  
DATE DRAWN 2/17/2010

Near Myrtle Beach OPS  
OCCURRED ON 2/15/2010  
DL 018 10

535



STATE'S  
EXHIBIT  
24  
dec 7-14-14



STATE'S  
EXHIBIT

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dce 7-14-14

530

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STATE'S  
EXHIBIT

26  
dec 7-14-14



STATE'S  
EXHIBIT

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27  
dec 7-15-14



STATE'S  
EXHIBIT

dec 28  
7-15-14

ADVISEMENT OF IMPLIED CONSENT RIGHTS

Michael Anthony Butter Jr

Subject's Name (Print)

08-17-79

Date of Birth

24519987

Driver's License Number

NC

State Licensed



FELONY DRIVING UNDER THE INFLUENCE ADVISEMENT

- (A) Will test be video recorded? If answer is Yes, start here - Inform subject of video recording. If answer is No, start here - Inform subject of type samples requested(i.e. breath,blood,urine). (B) Provide subject with a written copy of the following advisement and read the advisement to the subject: - You are under arrest for Felony Driving Under the Influence (Felony DUI), Section 56-5-2945, South Carolina Code of Laws 1976, as amended, or a law enforcement officer has probable cause to believe that you have violated this section. - The officer has directed that samples be taken for alcohol and/or drug testing. - The samples will be taken and tested according to Section 56-5-2950 and SLED policies. - Pursuant to Section 56-5-2946, you must submit to either one or a combination of chemical tests for the purpose of determining the presence of alcohol, drugs, or a combination of alcohol and drugs. - The resistance, obstruction, or opposition to testing pursuant to Section 56-5-2946 is evidence admissible at trial. - If your tests or samples have an alcohol concentration of fifteen one-hundredths of one percent (0.15%) or more, your privilege to drive in South Carolina must be suspended for at least one (1) month. [Redacted] - You have the right to request an administrative hearing within thirty (30) days of the issuance of the notice of suspension. - If you do not request an administrative hearing or if your suspension is upheld at the administrative hearing, you must enroll in an Alcohol and Drug Safety Action Program.

If applicable, perform the following procedures:

- (C) Check subject's mouth and remove any foreign material. (Not required if a refusal has occurred.) (D) Enter biographical data into DataMaster DMT. (Required for all tests, including refusals.) (E) Observe subject for a minimum of twenty (20) minutes before collecting breath sample. (Not required if a refusal has occurred.)

ADVERTENCIA POR EL DELITO DE MANEJAR BAJO LOS EFECTOS DE ALCOHOL O DROGAS(FELONY DUI)

- (A) ¿Se grabará en video el análisis? Si la respuesta es Si, empieza aquí - Informe al sujeto que va a ser grabado en video. Si la respuesta es No, empieza aquí - Informe al sujeto de lo que se requiere(ejemplo: soplar, sangre, urina.) (B) De al sujeto una copia escrita de la siguiente advertencia y lea la advertencia al sujeto: - Usted queda detenido por el Delito de Manejar Bajo los Efectos de Alcohol o Drogas (Felony DUI), Sección 56-5-2945, del Código de Leyes de Carolina del Sur de 1976, según su enmienda, o un agente del orden público tiene motivo justificado para afirmar que usted ha quebrantado esta sección. - El agente ordenó que usted se someta a que le saquen muestras de alcohol y/o drogas. - Se obtendrán y se analizarán las muestras según la Sección 56-5-2950 y las normas de SLED. - Según la Sección 56-5-2946, usted tiene que someterse a alguno de los análisis químicos, o a una combinación de los mismos, para determinar si existe la presencia de alcohol, drogas o una combinación de alcohol y drogas. - Si usted se resiste, dificulta o se opone a los análisis, según la sección 56-5-2946, este hecho se considera prueba admisible ante un tribunal de justicia en un juicio oral. - Si en sus análisis o muestras se detecta una concentración de alcohol de quince centésimos del uno por ciento (0,15%) o más, se le deberá suspender el derecho de manejar en Carolina del Sur por lo menos durante un (1) mes. - Usted tiene el derecho de que una persona que usted elija y que esté capacitada para hacerlo, realice sus propios análisis adicionales, los cuales usted mismo tiene que pagar y en ese caso, el agente debe brindarle ayuda si usted lo solicita. - Usted tiene el derecho de solicitar una audiencia administrativa dentro de los treinta (30) días de la fecha en que se emitió la notificación de la suspensión. - Si usted no solicita una audiencia administrativa o si se le confirma la suspensión en la audiencia administrativa, usted tiene que matricularse en un Programa de Medidas Contra el Abuso del Consumo del Alcohol y las Drogas.

Si aplica, efectue los procesos siguientes:

- (C) Inspecciona la boca del sujeto y quite material ajena de la boca. (Ignora si se niega el sujeto.) (D) Anade datos biograficos en el DataMaster DMT. (Esto es requerido para todos los exámenes aunque se niege el sujeto.) (E) Observe al sujeto un minimo de (20) minutos antes de obtener un ejemplar al soplar aire.(Ignora si se niega.)

\* Refused 0457AM

Subject's Signature Firma del Sujeto (Recibió una copia)

Matthew Swartzout

Officer's Signature Firma del Agente

2:10:10/0457 date/time fecha/hora

STATES EXHIBIT

SO 7-15-14 dce



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



**SUBJECT BIOGRAPHICAL INFORMATION**

SUBJECT NAME:	MICHAEL A/BULTER	DL NUMBER:	24519987
RACE:	BLACK	DRIVER'S LICENSE:	NC
SEX:	M	SUBJECT ADDRESS:	713 N CEDAR ST
DOB:	08/17/1979		LINCOLTON, NC

**ARREST INFORMATION**

OFFICER NAME:	SWARTHOUT/H/D	AGENCY ORI:	SC0260700
TICKET NUMBER:	20103FA	COUNTY OF ARREST:	26 - Horry
ARREST DATE:	02/16/2010	ARREST TIME:	04:30

**OPERATOR INFORMATION**

TEST OPERATOR:	SWARTHOUT/H/D	AGENCY ORI:	SC0260700
CERTIFICATION #:	DMT003055	EXPIRATION DATE:	05/27/2011
SOLUTION LOT #:	09803	BOTTLE:	0171
BREATH TEST VIDEO RECORDED?	YES	SUBJECT INFORMED OF VIDEO RECORDING?	YES
SUBJECT'S MOUTH CHECKED AND ANY FOREIGN MATERIAL REMOVED?	YES	SUBJECT INFORMED OF TYPE SAMPLE REQUESTED?	YES
SUBJECT ADVISED OF APPLICABLE RIGHTS?	YES	SUBJECT OBSERVED FOR A MINIMUM OF (20) TWENTY MINUTES?	YES

**SUBJECT'S BREATH ALCOHOL TEST RESULTS**

DATAMASTER DMT SERIAL #105707

TEST DATE:		02/16/2010
OBSERVATION START TIME:		05:07:01
BLANK TEST	0.00	05:28:02
INTERNAL STANDARD	VERIFIED	05:28:08
0.08% SIMULATOR TEMPERATURE	33.98°C	05:28:28
0.08% SIMULATOR VERIFICATION	0.078	05:28:28
BLANK TEST	0.00	05:29:12
SUBJECT SAMPLE	0.19	05:29:41
BLANK TEST	0.00	05:30:31
INTERNAL STANDARD	VERIFIED	05:30:37

**STATE'S EXHIBIT**  
4-15-14 32

*[Handwritten Signature]*  
Subject's Signature

02-16-10/0528AM  
(Received Copy) Date/Time

*[Handwritten Signature]*  
Arresting Officer's Signature

*[Handwritten Signature]*  
Test Operator's Signature

VISIT [WWW.SLED.SC.GOV](http://WWW.SLED.SC.GOV) AND CLICK ON IMPLIED CONSENT. THEN CLICK ON BREATH SITE VIDEO RECORDINGS. ENTER THE REQUESTED INFORMATION FROM THE BOX BELOW TO ACCESS THE VIDEO RECORDING OF THIS BREATH TEST:

SUBJECT ID: 006D052FD4  
SUBJECT PASSWORD: 3112F

\*\*\*IMPORTANT NOTICE\*\*\*  
INFORMATION FROM THIS REPORT WILL BE USED TO ACCESS THE BREATH TEST VIDEO. ANYONE WITH THIS INFORMATION WILL HAVE ACCESS TO THE VIDEO. PROTECT THIS REPORT AS YOU WOULD ANY IMPORTANT DOCUMENT. SLED ASSUMES NO RESPONSIBILITY FOR UNAUTHORIZED ACCESS.



# South Carolina Department of Motor Vehicles Notice of Suspension

MV-65  
Rev. 3/06

Michael Anthony Butler Jr

713 N Cedar St. Lincolnton NC 28092

Defendant's Name

Address

24519987

NC

28092

08-17-1979

BP/DL Number

State

Zip Code

Date of Birth

Vehicle: License Plate Number 2694CH

Vehicle Type: Commercial  Yes  No

Hazardous Material  Yes  No

**YOUR PRIVILEGE TO DRIVE IN SOUTH CAROLINA IS SUSPENDED IMMEDIATELY FOR THE FOLLOWING:  
(CHECK ONLY ONE BOX)**

**UNDER THE AGE OF TWENTY-ONE (21)  
AND NOT UNDER ARREST FOR DUI\***

Registering an alcohol concentration of .02 or greater\*

Refusing to submit to a breath, blood or urine test\*

**ANY AGE UNDER ARREST FOR DUI**

Registering an alcohol concentration of .15 or greater

Refusing to submit to a breath, blood or urine test

\*A person who is taken for testing under 56-1-286 cannot be prosecuted under 20-7-8920, 20-7-8925, 56-5-2930 or 56-5-2933. Everyone who receives this Notice of Suspension can have a hearing to challenge the suspension. A hearing will be scheduled if within thirty days of the date on this notice of suspension the South Carolina Administrative Law Court RECEIVES your written request for a hearing. There is a \$150.00 filing fee for a hearing. (Personal checks not accepted.) See the back of this form for more information on how to ask for a hearing.

If a hearing is scheduled, you may be able to get a temporary alcohol restricted license. The temporary alcohol restricted license costs \$100.00 and allows you to drive without restrictions until the hearing results are mailed to you. See the back of this form for instructions on how to get a temporary alcohol restricted license.

If you do not get a temporary alcohol restricted license, your suspension continues. You cannot drive until you either get a route-restricted license or your suspension period ends and you: 1) enroll in ADSAP [if you do not complete ADSAP, your driver's license will again be suspended]; 2) pay a \$100.00 reinstatement fee; and 3) have a license issued to you.

If you do get a temporary alcohol restricted license and the hearing officer rules against you after your hearing, your suspension will go back into effect. If you were suspended after having been arrested for DUI, you may be eligible for a route-restricted license to allow you to drive for the remainder of the suspension. There are instructions on the back of this form to explain how to get a route-restricted license. If you do not get a route-restricted license or if you are under the age of twenty-one and were not arrested for DUI, you cannot drive until your suspension period ends and you: 1) enroll in ADSAP [if you do not complete ADSAP, your driver's license will again be suspended]; 2) pay a \$100.00 reinstatement fee; and 3) have a license issued to you.

If you do get a temporary alcohol restricted license and the hearing officer rules in your favor, the suspension will be cancelled. Your driving privileges will be reinstated. However, you must go to a DMV office and have a regular license issued to you.

If you were suspended after having been arrested for DUI, you may be entitled to have a route-restricted license during your suspension period. You do not have to request a hearing to be eligible for a route-restricted license. The route-restricted license costs \$100.00 and allows you to drive only to and from work, college, ADSAP classes, and a court-ordered drug program, plus during the course of your employment or college. However, you must enroll in ADSAP before a route-restricted license will be issued. See the back of this form for instructions on how to get a route-restricted license.

I understand that I cannot drive until a license has been issued to me.

\* Refused to Signe 0534AM  
Signature of Defendant

Defendant's license or permit surrendered (yes or no) no (If yes, license must be attached to yellow copy of this form)

02-16-2010  
Date

Heather Swarthout  
Signature of Arresting Officer

Heather Swarthout  
Printed Name of Arresting Officer

City of N. Myrtle Beach  
Agency Name

SC0260700  
Agency Code

8432805511  
Agency Telephone Number

02-16-2010  
Date

Heather Swarthout  
Signature of DataMaster Operator

Heather Swarthout  
Printed Name of DataMaster Operator

City of N. Myrtle Beach  
Agency Name

SC0260700  
Agency Code

8432805511  
Agency Telephone Number

Pink Copy-Defendant

Yellow Copy-DMV/Driver Records

Green Copy-Officer

White Copy-Officer's Agency

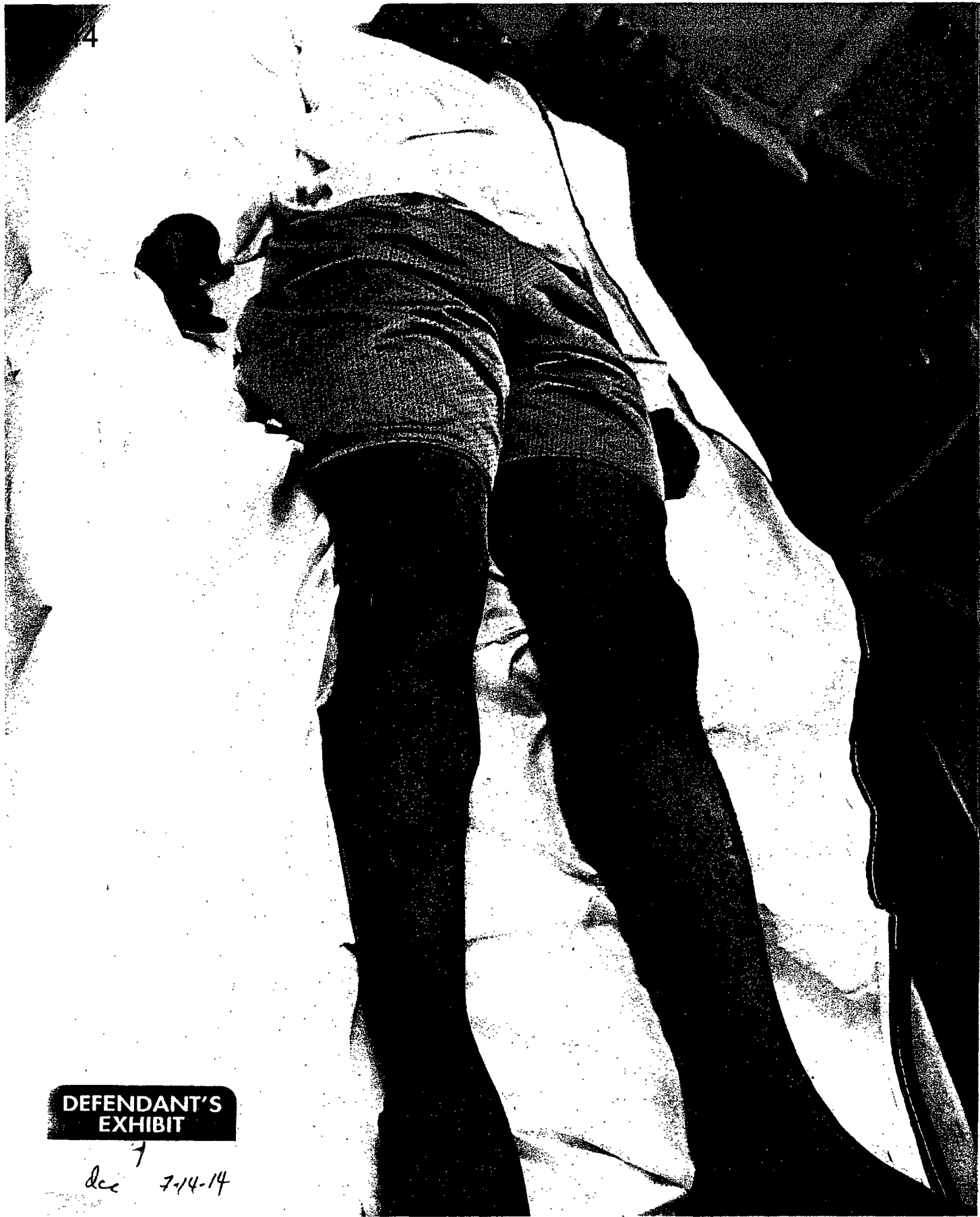
STATE'S  
EXHIBIT

33  
see 9-16-14

543



STATE'S  
EXHIBIT  
34  
due 7-15-14



**DEFENDANT'S  
EXHIBIT**

7  
Dec 7-14-14

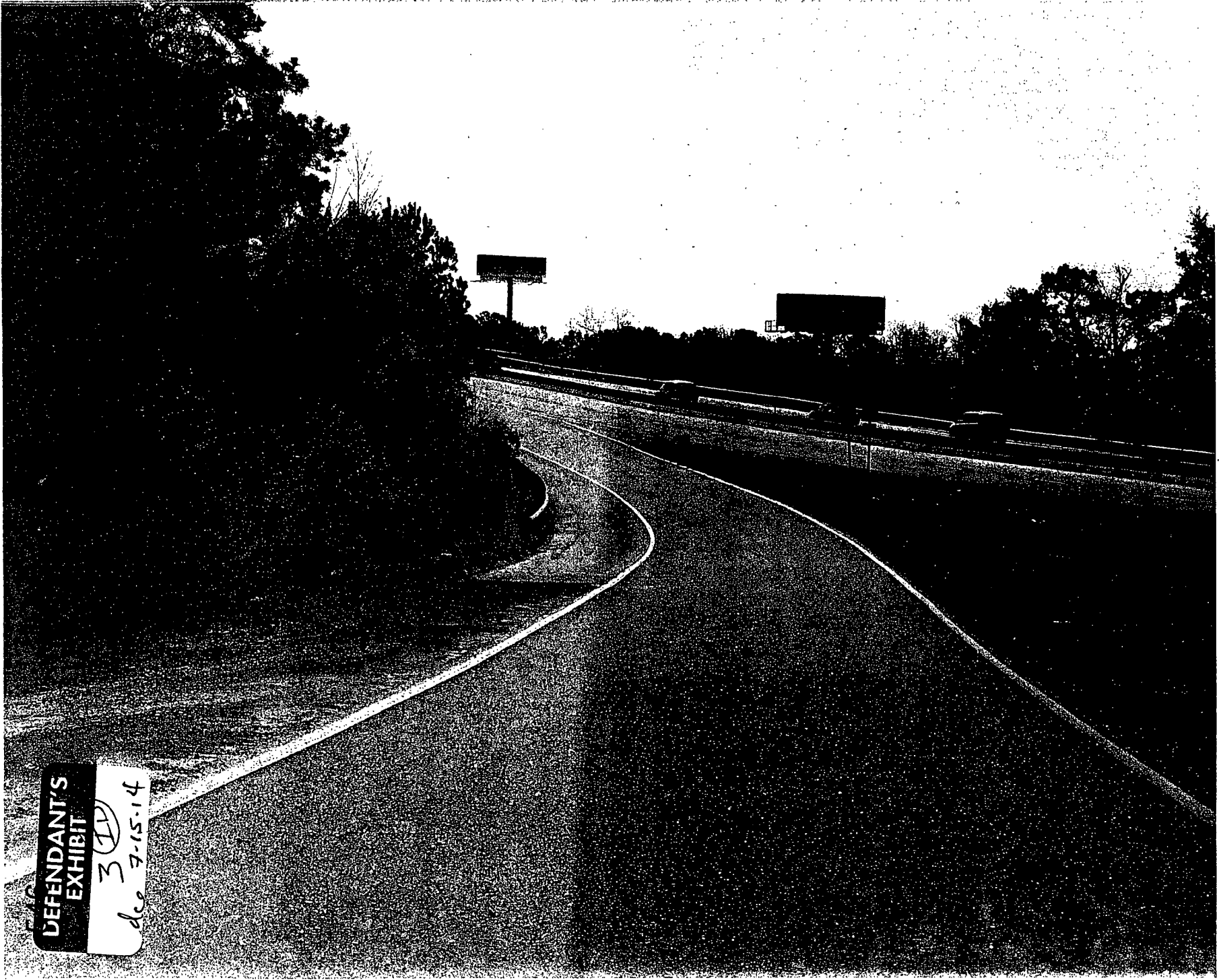


DEFENDANT'S  
EXHIBIT  
2  
Dec 7-15-14

DEFENDANT'S  
EXHIBIT

3 (IV)

Dec 7-15-14



# SOUTH CAROLINA LAW ENFORCEMENT DIVISION

## FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY  
*Governor*



MARK A. KEEL  
*Chief*

Ofc. Heather Swarhout  
North Myrtle Beach Department of Public Safety  
1015 Second Avenue South  
North Myrtle Beach, SC 29582

**DNA ANALYSIS**  
April 24, 2014  
SLED LAB: L13-02473  
Your Case No: 201002878  
Incident Date: 02/16/2010  
[S] Michael Butler  
[V-Deceased] Mitchell White

---

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

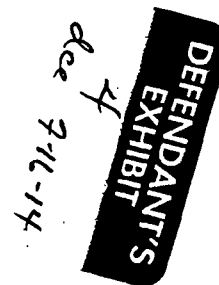
Mark A. Keel, Chief  
South Carolina Law Enforcement Division

---

### DNA ANALYSIS

#### ITEMS ANALYZED:

- 1 Buccal swab from Michael A. Butler
- 2.1 Swab from driver's airbag
- 2.2 Swab from passenger airbag



### EXAMINATIONS

DNA analysis was performed on the items above using Short Tandem Repeat (STR) PCR DNA analysis. The results of the analysis are shown in the following table(s).



SLED LAB No. L13-02473  
April 24, 2014

Page 2 of 3

### RESULTS

The partial DNA profile developed from item 2.2 matches the DNA profile of Michael Butler. The probability of randomly selecting an unrelated individual having a DNA profile matching this item is approximately 1 in 1.4 quadrillion.

The partial DNA profile developed from item 2.1 also matches the DNA profile of Michael Butler.

**Note: Any remaining evidence and/or packaging will be returned to the requesting agency.**

*This report contains the conclusions, opinions and interpretations of the analyst whose signature appears below.*



Lilly S. Gallman  
Forensic Scientist



**Table 1 - Identifier**

Case Items	D8S117 9	D21S11	D7S820	CSF1PO	D3S1358	TH01	D13S317	D16S539	D2S1338	D19S433	vWA	TPOX	D18S51	D5S818	FGA	AMEL
1 Michael Bulter	13	29,32,2	9	10,11	14,16	7,8	11,13	11,12	24,25	11,13	15,17	8,11	12,16	10,12	20,25	XY
2.1 Swab from driver's airbag	13	29,(32,2)	9	-	14,16	7,8	(11,13)	11	-	11,13	15,17	(8,11)	-	10,12	(20)	XY
2.2 Swab from passenger's airbag	13	(29)	-	-	14,16	(7,8)	-	-	-	11,13	(15,17)	-	-	(10,12)	-	XY

( ) = alleles between 75 and 149 rfu    - = no result    Bold = major contributor    Inc = Inconclusive

**Table 2 - Minifiler**

Case Items	D13S317	D7S820	D2S1338	D21S11	D16S539	D18S51	CSF1PO	FGA	AMEL
2.2 Swab from passenger's airbag	11,13	9	24,25	29,32,2	11,12	12,16	10,11	20,25	XY

( ) = alleles between 75 and 199 rfu    - = no result    Bold = major contributor    Inc = Inconclusive



We WISH TO WATCH  
ONE OF THE DVD'S PLEASE

**EXHIBIT**

Court's

dec 1 7-17-14

JUROR FOREMAN  
WILLIAM TODD

**EXHIBIT**

Courts

Dec 2 11-14

IF WE HAVE A TRANSCRIPT  
OF SAID CANTO'S TESTIMONY WE  
WOULD LIKE TO READ OR HEAR  
IT AGAIN PLEASE. THANK YOU.

JUROR FOREMAN

William T. All

The Court would need  
for the jury to listen to  
the testimony of the witness  
said Carlo in the  
courtroom. Please let the  
bailiff know what you want  
to do.

Robert H. John  
President Judge  
Tenth Judicial Circuit

Yes we would like to  
come to the court room and  
listen to the testimony of  
said Cantu please.

JUROR FOREPERSON  
with Todd

been below two off  
at retail at jury off of  
the testimony of the witness  
said Cantu in the  
court room please  
know what you want  
about  
about  
about



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

INDICTMENT

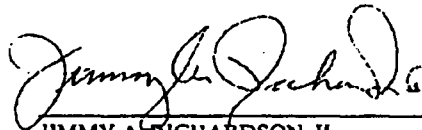
At a Court of General Sessions, convened on June 19, 2014, the Grand Jurors of Horry County present upon their oath:

FELONY DRIVING UNDER THE INFLUENCE - DEATH

CDR: 0395 56-05-2945(A)(2)

That Michael Anthony Butler Jr did in Horry County on or about February 16, 2010 drive a motor vehicle while under the influence of alcohol, drugs, or a combination of both, and did an act forbidden by law and/or neglected a duty imposed by law in the driving of the vehicle, to wit: drove left of center, failed to maintain lane, and/or drove recklessly, and/or drove on the wrong side of the road, which act or neglect proximately caused the death of Mitchell White in violation of Section 56-05-2945(A)(2), S. C. Code of Laws, 1976, as amended.

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



JIMMY A. RICHARDSON, II  
FIFTEENTH CIRCUIT SOLICITOR

CLERK OF COURT  
HORRY COUNTY

2014 JUL 23 AM 8:51

CERTIFIED COPY

2014 JUL 23 AM 8:48

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF HORRY )  
 )  
 STATE OF SOUTH CAROLINA )  
 )  
 v. )  
 )  
 MICHAEL ANTHONY BUTLER, JR., )  
 )  
 Defendant. )

IN THE COURT OF GENERAL SESSIONS  
 FIFTEENTH JUDICIAL CIRCUIT  
 CASE NO.: 2014-GS-26-02621

**VERDICT FORM**

**I. FELONY DRIVING UNDER THE INFLUENCE - DEATH**

On the charge of Felony Driving Under the Influcnce - Death, we the Jury, by unanimous consent, find the Defendant, Michael Anthony Butler, Jr.:

Not Guilty

or

Guilty

2014 JUL 23 AM 8:49  
 CLERK OF COURT  
 HORRY COUNTY

*[Signature]*  
 FOREPERSON'S SIGNATURE  
 2014 JUL 23 AM 8:51  
 CLERK OF COURT  
 HORRY COUNTY  
 CERTIFIED COPY

July 17, 2014  
 Conway, South Carolina

NOTE: Please inform the Bailiff once deliberations are complete.

STATE OF SOUTH CAROLINA )  
 COUNTY OF Horry )  
 STATE VS. )  
Michael Anthony Butler Jr )  
 AKA: \_\_\_\_\_ )  
 Race: BLACK Sex: M Age: 34 )  
 DOB: 01-11-1980 SS#: \_\_\_\_\_ )  
 Address: PO Box 1045 )  
 City, State, Zip: Torie, SC 29569 )  
 DL#: \_\_\_\_\_ SID#: \_\_\_\_\_ )

IN THE COURT OF GENERAL SESSIONS  
 INDICTMENT/CASE#: 2014GS2602621  
 A/W#: 2014GS2602621  
 Date of Offense: 2/16/2010  
 S.C. Code §: 56-05-2945(A)(2)  
 CDR Code #: 0395

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No   
 In disposition of the said indictment comes now the Defendant who was  
 TO: DUI / Felony driving under the influence, death results (1-25)

CONVICTED OF or  PLEADS

in violation of § 56-05-2945(A)(2) of the S.C. Code of Laws, bearing CDR Code # 0395  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45  
 w/minor 1st or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. \_\_\_\_\_ (defendant's initials)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: \_\_\_\_\_ SCB76142  
Richardson, Lauree SC Bar# \_\_\_\_\_ Defendant Attorney for Defendant SC Bar# \_\_\_\_\_

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
 for a determinate term of 8 years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
 and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of 4 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.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal  
 Domestic Violence ) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

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 \$ 25.00 beginning 8/17/2014  
 \$ \_\_\_\_\_ paid to Public Defender Fund.  
 Other: \_\_\_\_\_

Recipient: \_\_\_\_\_

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ <u>100.00</u>
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$ <u>25.00</u>
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$ <u>7.50</u>
TOTAL		\$ <u>257.50</u>

RECEIVED

JUL 24 2014

Appointed PD or appointed other counsel  
 § 47.12 requires \$500 bond to be paid to the State during probation.

SG Court of Appeals

Clerk of Court/ Deputy Clerk Melanie Higgins Ward  
 Court Reporter: Dale Eubank  
 SCCA/217 (03/2011)

Presiding Judge \_\_\_\_\_  
 Judge Code: \_\_\_\_\_  
 Sentence Date: 7/17/14

## 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."

June 30, 2015



Laura R. Baer  
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

**RECEIVED**  
JUN 30 2015  
SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Horry County

Steven H. John, Circuit Court Judge  
\_\_\_\_\_

 ORIGINAL

RECEIVED

JUN 30 2015

RESPONDENT

SC Court of Appeals

THE STATE,

V.


MICHAEL BUTLER,

APPELLANT

APPELLATE CASE NO. 2014-001595  
\_\_\_\_\_

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 Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 30th day of June, 2015.

  
\_\_\_\_\_  
Cruise Mitchell  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 30th day of June, 2015.

 (L.S.)  
Notary Public for South Carolina

My Commission Expires: October 24, 2021