

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

SEP 06 2011

S.C. SUPREME COURT

Appeal from Lexington County

Honorable D. Craig Brown, Circuit Court Judge

DENNIS SANDERS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2015-002204
APPELLATE CASE NO. 2015-002205

A P P E N D I X

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

JOHN H. STROM
Appellate Defender

JULIE COLEMAN
Assistant Attorney General
Rembert Dennis Building

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

INDEX

INDEX.....	i
PLEA HEARING TRANSCRIPT	30
APPLICATION FOR POST-CONVICTION RELIEF	43
RETURN AND MOTION TO DISMISS	51
MOTION FOR CONSOLIDATED VENUE.....	58
AMENDMENT TO APPLICATION FOR POST-CONVICTION RELIEF	61
ORDER ON MOTION REGARDING VENUE	65
POST-CONVICTION RELIEF HEARING TRANSCRIPT	70
POST-CONVICTION RELIEF HEARING EXHIBITS.....	265
ORDER OF DISMISSAL 6-8-2015.....	329
RULE 59(e) MOTION.....	349
RETURN TO RULE 59(e) MOTION	355
ORDER DENYING 59(e) MOTION 8-5-2015	358
ORDER 12-16-15.....	360
WARRANTS, SENTENCING SHEETS, AND INDICTMENT	383

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT

2 COUNTY OF AIKEN

2011-GS-02-00094, -00095, -01356,
-01357, 01358, -01360 & -01362

4 COUNTY OF LEXINGTON

2011-GS-32-00789

6 STATE OF SOUTH CAROLINA,

7 -vs-

TRANSCRIPT OF RECORD

8 DENNIS F. SANDERS,
Defendant.

11 Heard on Thursday, September 1, 2011

12 Aiken, South Carolina

13 BEFORE:

14 THE HONORABLE DOYET A. EARLY, III

16 APPEARANCES:

17 Counsel on Behalf of the State:
Elizabeth Burkhalter Young, Esq.

19 Counsel on Behalf of the Defendant:
20 Michael D. Routzong, Esq.
Charles H. S. Lyons, III, Esq.
21 John W. Carrigg, Jr., Esq.

22 Cheri L. Young, RPR
Circuit Court Reporter
23 P O Box 1154
Aiken, SC 29802-1154

EXHIBIT INDEX

(NO EXHIBITS IDENTIFIED/ADMITTED.)

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 ON THURSDAY, SEPTEMBER 1, 2011 at 11:14 a.m.:

2 MS. YOUNG: Dennis Sanders.

3 (Defendant placed under oath.)

4 THE COURT: This is Mr. Dennis F. Sanders?

5 MS. YOUNG: Yes, sir.

6 THE COURT: Appears there are, obviously, three
7 lawyers. So let me try to do them by lawyer.

8 They are charges that occurred allegedly on or about
9 February 24th, 2010. Mr. Lyons, you represent him on
10 those?

11 MR. LYONS: That's correct, Judge.

12 THE COURT: On those charges he's charged with
13 possession with intent to distribute methamphetamines and
14 possession of pseudoephedrine. Each of those, those are
15 second offense. Each one of those, nonviolent and carries
16 a minimum of five years, maximum of 30 years and a \$50,000
17 fine.

18 Mr. Lyons, have you advised him of those charges, the
19 possible sentence --

20 MR. LYONS: Yes, Your Honor.

21 THE COURT: -- and his right to trial by jury?

22 MR. LYONS: Yes, Your Honor.

23 THE COURT: And actually on the possession of the
24 pseudoephedrine, that was indicted for possession of more
25 than 12 grams. They're allowing him to plead to the

1 lesser included of less than 27.9 grams.

2 MS. YOUNG: That's correct, Your Honor. There was a
3 little bit -- the law actually changed between now and
4 then and the minimum was nine grams. And because of the
5 confusion with that, we're just letting him plead guilty
6 to the minimum weight which would be less than 28 grams.

7 THE COURT: Okay. And of course the possession with
8 intent to distribute methamphetamine second offense
9 carries a minimum of five up to 30 and 50,000.

10 So they both carry the same thing for the February 24,
11 2010, charge?

12 MR. LYONS: Yes, Your Honor.

13 THE COURT: And then we have, in chronological order,
14 a Lexington County case, 2011-GS-32-789 where he was
15 indicted by the Lexington County Grand Jury for
16 trafficking in methamphetamine between 10 and 28 grams,
17 third offense.

18 The State's allowing him to plead to second offense
19 between 10 and 28 grams. Is that correct, ma'am?

20 MS. YOUNG: That's correct, Your Honor. It's my
21 understanding he's waiving jurisdiction with Lexington
22 County to have all of these heard here today in Aiken
23 County.

24 THE COURT: Mr. Carrigg, you represent him on the
25 Lexington County charges?

1 MR. CARRIGG: That is correct, Your Honor.

2 THE COURT: And he'll be waiving presentment since
3 this --

4 MR. CARRIGG: This is a second.

5 THE COURT: So we need to get him to sign the
6 presentment of waiver.

7 MR. CARRIGG: I believe we checked waiver presentment
8 and I explained that to him.

9 THE COURT: Well, you checked it but he didn't initial
10 it.

11 MR. CARRIGG: I apologize.

12 (Document handed to the Defendant.)

13 THE COURT: So you represent him on the Lexington
14 charges?

15 MR. CARRIGG: That is correct, Your Honor.

16 THE COURT: And that occurred allegedly on January
17 24th, 2011, wherein he was indicted for trafficking in
18 methamphetamine, third or subsequent. They're allowing
19 him to plead to a second offense and between 10 and 28
20 grams. That, too, carries between five and 30 years and a
21 \$50,000 fine.

22 Have you explained to him those charges?

23 MR. CARRIGG: I have, Your Honor.

24 THE COURT: Now have you also explained to him under
25 that charge it is classified as violent and serious which

1 is an 85 percent, no parole.

2 MS. YOUNG: That is correct.

3 MR. CARRIGG: That is correct. And I've advised him
4 of that, Your Honor.

5 THE COURT: And it also constitutes a strike.

6 MR. CARRIGG: That is correct, Your Honor. I've
7 advised him of that as well.

8 THE COURT: And Mr. Lyons, yours is also an 85
9 percent, no-parole sentence; is that correct?

10 MR. LYONS: (Nods head.)

11 THE COURT: Have you advised him of that?

12 MR. LYONS: He's aware, Judge.

13 THE COURT: Mr. Routzong, you represent him on the
14 balance of the charges that is represented in four, five
15 indictments, 11-GS-2-1362, 1360, 1358, 1357, 1356.

16 56 is for second offense for manufacturing
17 methamphetamine arising out of facts on June 22 of 2011.
18 That carries five to 30 and up to 50,000.

19 1357 is for manufacture within a half-mile radius of a
20 school or park, and that's up to 10 years.

21 1358 is for second offense, possession with intent to
22 distribute marijuana. That carries up to 10 years.

23 1360 is for manufacturing meth in the presence of a
24 child, second offense. Carries up to 10 years.

25 1362, likewise, is manufacturing meth in the presence

1 of a child, second offense. Carries up to 10 years.

2 None of those indictments that I just went over have
3 been presented to the grand jury.

4 Mr. Routzong, have you advised him of the charges
5 contained in each of the five indictments that you
6 represent him on?

7 MR. ROUTZONG: Yes, sir.

8 THE COURT: Have you advised him of his right to trial
9 by jury?

10 MR. ROUTZONG: Yes, sir.

11 THE COURT: Have you advised him of his right to have
12 each indictment heard by the Aiken County Grand Jury?

13 MR. ROUTZONG: Yes, sir. He wishes to waive
14 presentment and plead guilty, Your Honor.

15 THE COURT: Have you advised him as to indictment 1357
16 for the manufacture within a half-mile radius that is also
17 classified as serious?

18 MR. ROUTZONG: Yes, sir.

19 THE COURT: Have you advised him that 1356 is a no
20 parole, 85-percent sentence?

21 MR. ROUTZONG: Yes, sir.

22 THE COURT: Mr. Carrigg, on your indictment -- or your
23 charges that you represent him on, have you advised him
24 that he has the absolute right to have these matters heard
25 in Lexington County?

1 MR. CARRIGG: I have, Your Honor.

2 THE COURT: And does he wish to waive any venue and/or
3 jurisdictional issues concerning Lexington County?

4 MR. CARRIGG: He wishes to waive venue and
5 jurisdiction and have this matter heard here today.

6 THE COURT: Okay. And as to the charges that you
7 represent him on, Mr. Lyons, he wishes to plead guilty; is
8 that correct?

9 MR. LYONS: That's correct, Judge.

10 THE COURT: Do you agree with that decision?

11 MR. LYONS: I do, Judge.

12 THE COURT: Mr. Carrigg, on the charges you represent
13 him on, does he wish to plead guilty?

14 MR. CARRIGG: He does, Your Honor.

15 THE COURT: Do you agree with that decision?

16 MR. CARRIGG: I do, Your Honor.

17 THE COURT: And, Mr. Routzong, on the five charges
18 that you represent him on, does he wish to plead guilty?

19 MR. ROUTZONG: Yes, sir.

20 THE COURT: Do you agree with that decision?

21 MR. ROUTZONG: Yes, sir.

22 THE COURT: Mr. Sanders, good morning. How are you?

23 THE DEFENDANT: Fine, sir.

24 THE COURT: All right. Let's go over the charges

25 Mr. Lyons represents you on.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Those are the two charges here in Aiken
3 County that occurred on or about February 24th, 2010. The
4 State's allowing you to plead to possession with intent to
5 distribute methamphetamine second offense and possession
6 of pseudoephedrine second offense.

7 Each one of those charges carries a minimum of five
8 years up to 30 years and a \$50,000 fine. Do you
9 understand that?

10 THE DEFENDANT: Yes, sir, Your Honor.

11 THE COURT: Each of those charges are what we call a
12 no-parole sentence in South Carolina which means whatever
13 sentence I give you you will do 85 percent of that before
14 you're eligible to be released.

15 THE DEFENDANT: Yes, sir, Your Honor.

16 THE COURT: Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Once you are released you'll be released
19 to a community supervision program. Do you understand
20 that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: As to the Lexington County charge,
23 represented by Mr. Carrigg, that is for trafficking in
24 methamphetamine, that carries a minimum of five years to
25 30 years as well. Do you understand that?

1 THE DEFENDANT: Yes, sir, Your Honor.

2 THE COURT: It is also a no parole, 85-percent
3 sentence that's classified as violent which may have some
4 affect on where you're housed and how you're housed in the
5 Department of Corrections. Do you understand that?

6 THE DEFENDANT: Yes, sir, Your Honor.

7 THE COURT: It is also classified as serious. Does he
8 have any previous strikes?

9 MS. YOUNG: He does not, Your Honor.

10 THE COURT: Which means now that you have a strike
11 against you and if you become involved in criminal
12 activity classified as serious or most serious two more
13 times, you'll be subjecting yourself to the possibility of
14 life in prison without the possibility of parole. Do you
15 understand that?

16 THE DEFENDANT: Yes, sir, Your Honor.

17 THE COURT: As to the Lexington County charge, you
18 have the absolute right to have this matter heard in
19 Lexington County. Do you understand that?

20 THE DEFENDANT: Yes, sir, Your Honor.

21 THE COURT: As to the five charges Mr. Routzong
22 represents you on, those occurred on or about June 22 of
23 2011, here in Aiken County.

24 And Indictment 1356 is manufacturing methamphetamine,
25 second. That carries five to 30, classified as violent.

1 Do you understand that?

2 THE DEFENDANT: Yes, sir, Your Honor.

3 THE COURT: 1357 is manufacturing meth within a
4 one-half mile of a school or park. That carries up to 10
5 years and it's classified as serious as well. Do you
6 understand that?

7 THE DEFENDANT: Yes, sir, Your Honor.

8 THE COURT: 1358 is for possession with intent to
9 distribute marijuana, second offense. And that carries up
10 to 10 years. Do you understand that?

11 THE DEFENDANT: Yes, sir, Your Honor.

12 THE COURT: And then the last two is 1360 and 1362.
13 Those are for manufacturing methamphetamine in the
14 presence of a minor child, second offense. Those carry up
15 to 10 years each. Do you understand that?

16 THE DEFENDANT: Yes, sir, Your Honor.

17 THE COURT: None of those charges that Mr. Routzong
18 represents you on have been presented to the grand jury.
19 Do you understand that you are waiving or giving up your
20 right to have the indictments heard by the grand jury on
21 those charges?

22 THE DEFENDANT: Yes, sir, Your Honor.

23 THE COURT: As well as the one in Lexington County?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Mr. Sanders, do you have any questions you

1 want to ask me about what you're charged with on any of
2, the indictments; what the possible sentence is on any of
3 the indictments; what the classification of serious means
4 on any of the indictments; the classification of violent
5 on any of the indictments; the fact that some of these are
6 85 percent sentences, which means you do 85 percent of
7 whatever I give you; and that you're released to a
8 community supervision program?

9 Do you have any questions about any of that that you'd
10 like to ask me?

11 THE DEFENDANT: No, sir, Your Honor.

12 THE COURT: Do you understand all of that?

13 THE DEFENDANT: Yes, I fully understand.

14 THE COURT: Understanding what you're charged with,
15 the possible sentences, the classifications, the fact that
16 some of them haven't been sent to the grand jury, the fact
17 that you have the right to have the Lexington matter heard
18 in Lexington, and the fact that I have the discretion to
19 run these sentences one after the other which is
20 consecutive, or run some of them after the other, or run
21 them all concurrent, or a combination thereof -- and I
22 haven't looked at what you're facing but it's three, six,
23 nine, 120, 30, 40. If my calculation's correct, you could
24 get a total of 160 years which means you'd be in jail the
25 rest of your life. Do you understand all of that?

1 THE DEFENDANT: Yes, sir, Your Honor.

2 THE COURT: Any questions you want to ask me about any
3 of that?

4 THE DEFENDANT: No, sir, Your Honor.

5 THE COURT: Understanding all of that, how do you wish
6 to plead as to each indictment; not guilty or guilty?

7 THE DEFENDANT: Guilty, Your Honor.

8 THE COURT: Mr. Sanders, when you plead guilty you
9 will give up certain of your constitutional rights. One
10 of them is your right to remain silent. You will have to
11 admit to me your involvement in all of the indictments.
12 Do you understand that?

13 THE DEFENDANT: Yes, sir, Your Honor.

14 THE COURT: The other is your right to have the
15 indictments that were not sent to the grand jury, you'll
16 give up the right to having them sent to the grand jury.
17 Do you waive or give up that? Do you understand that?

18 THE DEFENDANT: Yes, sir, Your Honor.

19 THE COURT: You'll give up the right to have the
20 Lexington case heard in Lexington County. Do you
21 understand that?

22 THE DEFENDANT: Yes, sir, Your Honor.

23 THE COURT: I guess most importantly you'll give up
24 your right to a jury trial. Obviously if you want a jury
25 trial on any of these indictments, you have the right to

1 ask for one. Of course the State would give you one, at
2 which time you would have the right to confront and cross-
3 examine everyone who testified against you in this case,
4 these cases. The lawyers would have the right to cross-
5 examine everyone. You would have the right to present
6 your own defense, call your own witnesses and introduce
7 relevant exhibits and you can testify in your own
8 defense.

9 If you exercised your constitutional right to remain
10 silent, then I would inform the jury that they could not
11 hold the fact that you did not testify against you in any
12 manner whatsoever. And I would instruct them that they
13 couldn't even consider the fact that you did not testify
14 when they deliberated your guilt or innocence.

15 Under the constitution you would be presumed innocent
16 throughout the trial and the State of South Carolina would
17 have the burden of proving you guilty beyond a reasonable
18 doubt as to each indictment before a jury of 12 people.
19 And in order for the jury to convict you, all 12 jurors
20 would have to unanimously agree that you were in fact
21 guilty. And even if you were found guilty and convicted
22 you would still have the right to an appeal.

23 Now, do you understand your rights to trial by jury?

24 THE DEFENDANT: Yes, sir, Your Honor.

25 THE COURT: Understanding all of those rights, trial

1 by jury, the right to remain silent, the right for the
2 grand juries to consider these indictments, do you still
3 wish to plead guilty or do you want me to send these cases
4 to trial?

5 THE DEFENDANT: I wish to plead guilty today, Your
6 Honor.

7 THE COURT: As to each indictment, has anyone promised
8 you anything, held out any hope of reward or threatened
9 you in any manner in order to make you plead guilty?

10 THE DEFENDANT: No, sir, Your Honor.

11 THE COURT: You've been represented by three lawyers
12 in these case; Mr. Carrigg of the Lexington County Bar,
13 Mr. Lyons who practices both in Augusta and in South
14 Carolina, or in Georgia and South Carolina, and
15 Mr. Routzong with the public defenders office here in
16 Aiken.

17 Are you totally and completely satisfied with each of
18 these lawyers' representation?

19 THE DEFENDANT: Yes, sir, Your Honor.

20 THE COURT: In your opinion, have the three lawyers
21 had enough time to spend with you, enough time to research
22 the law and enough time to investigate the facts so that
23 they can all three properly defend you here today?

24 THE DEFENDANT: Yes, sir, Your Honor.

25 THE COURT: Is there anything else you wish for

1 Mr. Lyons, Mr. Routzong or Mr. Carrigg to do today for you
2 before we move forward, other than speak up on your
3 behalf?

4 THE DEFENDANT: No, sir, Your Honor.

5 THE COURT: And I ask you once again. Are you totally
6 and completely satisfied with these three gentlemen as
7 your attorneys in these various indictments?

8 THE DEFENDANT: Yes, sir, Your Honor.

9 THE COURT: Sir, are you today under the influence of
10 any alcoholic beverages?

11 THE DEFENDANT: No, sir, Your Honor.

12 THE COURT: Drugs?

13 THE DEFENDANT: No, sir, Your Honor.

14 THE COURT: Prescription medications?

15 THE DEFENDANT: No, sir, Your Honor.

16 THE COURT: Sir, are you today aware of any mental,
17 nervous or emotional condition which would keep you from
18 understanding these proceedings?

19 THE DEFENDANT: No, sir, Your Honor.

20 THE COURT: Have you understood all of my questions?

21 THE DEFENDANT: Yes, sir, Your Honor.

22 THE COURT: Do you have any questions you want to ask
23 me?

24 THE DEFENDANT: No, sir, Your Honor.

25 THE COURT: As to each of these indictments, are you

1 pleading guilty of your own free will?

2 THE DEFENDANT: Yes, sir, Your Honor.

3 THE COURT: As to the two indictments dealing with
4 February 24th, 2010, did you, sir, here in Aiken County on
5 that date have in your possession a quantity of
6 pseudoephedrine and did you have in your possession a
7 quantity of methamphetamine with intent to distribute?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: That's February 24, 2010.

10 THE DEFENDANT: Yes, sir, Your Honor.

11 THE COURT: As to the Lexington County indictment, did
12 you, sir, on or about January 24 of this year, 2011,
13 manufacture or have in your possession a quantity of
14 methamphetamine in a quantity between 10 grams and 28
15 grams which constitutes the offense of trafficking in
16 methamphetamine?

17 THE DEFENDANT: Yes, sir, Your Honor.

18 THE COURT: And as to the indictments concerning the
19 events that occurred on June 22, 2011, did you, sir, here
20 in Aiken County on that date, June 22, 2011, manufacture a
21 quantity of methamphetamine, manufactured methamphetamine
22 within a one-half mile radius of the Virginia Acres Park,
23 Odell Weeks Center, and did you, sir, have in your
24 possession a quantity of marijuana with intent to
25 distribute and did you, sir, permit Andrew Sanders and

1 Autumn Raborn, children, to be in the environment or the
2 house or home or wherever it was when you manufactured the
3 methamphetamine?

4 THE DEFENDANT: Yes, sir, Your Honor.

5 THE COURT: Mr. Sanders, as to each of these
6 indictments, eight of them, are you pleading guilty
7 because you are in fact guilty?

8 THE DEFENDANT: Yes, sir, Your Honor.

9 THE COURT: Are you pleading guilty because you did
10 what is alleged in each indictment?

11 THE DEFENDANT: Yes, sir, Your Honor.

12 THE COURT: You're pleading guilty because you broke
13 the laws of the State of South Carolina?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Mr. Sanders, I find your
16 decision to plead guilty as to each indictment to be
17 freely made, intelligently made and voluntarily made.
18 You've had the advice of three competent lawyers,
19 Mr. Carrigg, Routzong and Lyons with whom you tell me
20 you're completely satisfied. And I'll accept the plea as
21 to each indictment.

22 If you disagree with any of these proceedings or
23 sentences, you have 10 days from today's date to file your
24 notice of intent to appeal. Do you understand that?

25 THE DEFENDANT: Yes, sir, Your Honor.

1 THE COURT: Ms. Beth Ann Young?

2 MS. YOUNG: Thank you, your honor.

3 On February 24th of 2010, Lieutenant Harm with the
4 Aiken Department of Public Safety was on patrol here in
5 Aiken. He observed an SUV on Whiskey Road that he clocked
6 going 48 miles per hour in a 35 miles-per-hour zone.

7 He got behind the vehicle and at that point in time
8 observed the vehicle change lanes without signaling as
9 well as making a turn without using a signal.

10 At that point in time he initiated a traffic stop.
11 Mr. Sanders was driving the vehicle and there were several
12 other passengers in the vehicle. Lieutenant Harm got
13 Mr. Sanders out of the vehicle, talked to him about the
14 traffic infractions and also told him that he observed an
15 odor of marijuana. He told him that as soon as he got him
16 out of the vehicle and asked him some questions about
17 that.

18 In his report Lieutenant Harm also noted that he saw
19 what he believed to be marijuana stems on the floorboard
20 and a black pouch underneath the driver's seat in plain
21 view.

22 Mr. Sanders was questioned by Lieutenant Harm for a
23 few minutes and he gave him consent to search the
24 vehicle. Inside that black pouch Lieutenant Harm found a
25 quantity of a white powdery substance.

1 At that point in time Mr. Sanders fled the scene on
2 the foot. He was apprehended in a short time and just a
3 short distance away by Lieutenant Harm and Officer Walker
4 also with the Department of Public Safety.

5 Mr. Sanders was placed in custody and Lieutenant Harm
6 did a full search of the vehicle and found the following
7 items: In addition to the white powdery substance in the
8 black pouch, he also found a brown plastic container with
9 a quantity of green leafy substance, and two baggies
10 underneath the driver's seat, a set of digital scales in
11 the glove compartment along with two containers of iodine
12 which is a precursor for manufacturing methamphetamine.

13 Lieutenant Harm further found 12 packages of
14 10-pseudoephedrine pills in each package. That was on the
15 floorboard of the vehicle. Found glass smoking pipes and
16 various baggies of white powdery substance in several
17 locations. And Mr. Sanders also had approximately \$2,708
18 in cash on his person.

19 The items were tested, did come back positive for
20 methamphetamine, 7.1 grams was the total of all the
21 separate baggies as well as 1.65 grams of crack cocaine.
22 We're nolle prosequing that as a result of this guilty plea.

23 Lieutenant Harm is present in the courtroom and is
24 standing behind me at the jury bench.

25 Regarding the Lexington Police Department case, on

1 January 24th of 2011, officers with the Lexington Police
2 Department were called to the CVS at a location in
3 Lexington County regarding some suspicious behavior of
4 Mr. Sanders as well as another individual.

5 Mr. Sanders had tried to purchase ephedrine but was
6 denied because he had already purchased ephedrine
7 previously that day. They also observed him purchase a
8 cold pack which is something that's also used in
9 manufacture.

10 The officers came there and asked both of them
11 questions, asked them questions about the vehicle that he
12 felt they were driving. They both denied driving the
13 vehicle. The officer went back in and looked at the video
14 from the store and saw them in the vehicle. He ended up
15 getting a search warrant. Neither one of them gave over
16 the key so he had to actually break the window to get into
17 it. He got the search warrant because there were a lot of
18 items in plain view that he found to be suspicious.

19 Mr. Sanders told him at that point in time that he was
20 a contractor and had over \$10,000 on his person which he
21 did. The officer did a search of the vehicle pursuant to
22 that search warrant and found four plastic bags containing
23 what appeared to be marijuana; another plastic bag with
24 approximately 61 suspected dose units of ecstasy; seven
25 folded coffee filters, which is -- with white powdery

1 substance that's also common with the manufacture of
2 methamphetamine; drug paraphernalia including syringes,
3 razor blades, lighters, scales, pipes, and rolling
4 papers.

5 Additionally there were over 600 schedule two-, three-
6 and four pills found in the vehicle, and also clear
7 plastic bags that contained a white powdery substance
8 believed to be methamphetamine.

9 The items were tested and did come back positive for
10 methamphetamine 12 -- I've added it. It's 12.3 grams if my
11 math is right. It was over the trafficking weight.

12 The solicitor in Lexington indicates that she will
13 nolle pros all the additional charges involving a
14 controlled substance.

15 THE COURT: How many nolle prosses in Aiken -- I
16 mean, in Lexington?

17 MS. YOUNG: Your Honor, I believe if I'm correct it
18 would be one, two -- let's see. Three and also a drug
19 paraphernalia charge.

20 MR. CARRIGG: Your Honor, I believe he pled guilty to
21 the drug paraphernalia charge.

22 THE DEFENDANT: Yes, sir

23 THE COURT: Okay. Nolle crossing three charges in
24 Lexington?

25 MR. CARRIGG: Let me see if that's correct, Your

1 Honor.

2 MS. YOUNG: It appears to me that --

3 MR. CARRIGG: Yes, that is correct.

4 THE COURT: Thank you. The first set of facts you
5 went over, how much money did he have with him there?

6 MS. YOUNG: \$2,708.

7 THE COURT: And this in Lexington was \$10,000?

8 MS. YOUNG: It was 10,000, Your Honor, and I believe
9 there was an additional -- if you'll excuse me while I
10 find it -- the total seized was \$12,975.

11 THE COURT: What were those pills that they found, the
12 scheduled pills; what were those?

13 MS. YOUNG: She did not include those, the drug
14 results for those, I assume, because she was going to
15 dismiss them.

16 THE COURT: Okay. And that brings us to?

17 MS. YOUNG: That brings us to the June incident which
18 occurred in the City of Aiken, was investigated by
19 Detective Chris Medlin who's also standing behind me.

20 The officers of Aiken Department of Public Safety got
21 a tip of a possible meth lab --

22 THE COURT: Hold on a second. Was he out on bond
23 while all of this was going on? He made bond in Aiken
24 for -- February 24th, 2010?

25 MS. YOUNG: That is correct.

1 MR. CARRIGG: That's correct.

2 THE COURT: And then he got arrested in Lexington on
3 the January 24, 2011, charge. I assume he made bond on
4 that?

5 MS. YOUNG: That's correct. Well, he was out in June
6 so...

7 MR. CARRIGG: He did make bond, Your Honor.

8 MS. YOUNG: He did make bond.

9 THE COURT: That's what I meant. They gave him bond
10 and while on bond -- and then while on bond we come to
11 June 22, 2011. Is that sort of how it goes?

12 MS. YOUNG: That's correct, Your Honor.

13 On June 22nd, 2011, based on a tip about a possible
14 meth lab, officers went to 405 Palm Drive. That's a
15 residence located here in the City of Aiken in Aiken
16 County that is within a half a mile of the Odell Weeks
17 Recreation Center.

18 When they got to the residence, this was during the
19 afternoon, they heard people inside but couldn't get
20 anybody to come to the door. Eventually two of the
21 co-defendants, Ms. Raborn and Ms. Winch who you previously
22 sentenced last week to five years, came to the door as
23 well as two juveniles.

24 Officer -- Investigator Jackson with Aiken County
25 Sheriff's Office was in the back of the residence making

1 sure nobody went out the back way. And he observed
2 Mr. Sanders trying to exit through a rear window.

3 All of them were detained at that point in time.
4 Officers saw what they believed to be precursor materials
5 for manufacturing methamphetamine and obtained a search
6 warrant for the residence.

7 Inside they found multiple gas generators, jars and
8 tubing.

9 THE COURT: Gas generators.

10 MS. YOUNG: Gas generators. It's a bottle with tubing
11 coming out of the top of it and that's used in the
12 manufacturing process. It's -- to my knowledge it's the
13 only thing that's used for. And it's called a gas
14 generator because it makes a gas.

15 Jars and tubing, pseudoephedrine and other chemicals
16 used to manufacture methamphetamine. The only place that
17 drug-related materials were not found were in the room of
18 the 10-year-old juvenile female.

19 In the bathroom they found additional pseudoephedrine
20 pills and a quantity of a green leafy substance where, the
21 room that was indicated to be Mr. Sanders and
22 Ms. Raborn's, they found a total of 271 pseudoephedrine
23 pills, coffee filters, green leafy substance I previously
24 mentioned, glass pipes, residue, lots of smoking
25 materials, lithium batteries, butane lighters.

1 And I did print off a few pictures. These are from
2 discovery. (Documents handed to Judge.)

3 THE COURT: Any money?

4 MS. YOUNG: I can go back and look, Your Honor.

5 While you're looking at that, Your Honor, the 16 year
6 old was Mr. Sanders' son. He was questioned by juvenile
7 investigators at the scene. He indicated that he was
8 sharing a bedroom with Ms. Winch, the co-defendant, and
9 that he was learning how to make methamphetamine. Correct
10 me if I'm wrong, Chris.

11 THE OFFICER: Yes.

12 MS. YOUNG: I'm trying to make sure I covered
13 everything.

14 THE COURT: That's the lady I sent to jail last week.
15 She was about 20-some odd years old.

16 MS. YOUNG: Twenty-six.

17 THE COURT: And had little 16-year-old boys for
18 boyfriends, so to speak.

19 MS. YOUNG: That's correct.

20 And his charges are pending in general sessions court,
21 the 16 year old, as well as Ms. Raborn, the co-defendant.

22 Investigator Medlin expressed to me that the
23 information that they received -- you always ask me what
24 peoples' roles are -- is that Mr. Sanders is a meth cook
25 who teaches other people how to cook meth. That's the

1 reason we had the meth lab found last week. Additionally
2 teaching his son how to make methamphetamine.

3 And that's the information we have regarding his
4 activities with manufacturing.

5 THE COURT: Tell me what his prior record is.

6 MS. YOUNG: Did I leave anything out?

7 THE OFFICER: Ms. Raborn had over \$1,000 cash on her.
8 Yeah, Ms. Raborn.

9 MS. YOUNG: With regards to Mr. Sanders' prior record,
10 Your Honor, he has a conviction in 1989 for carrying a
11 pistol, unlawful carrying of a pistol; 1990, pistol
12 violation, night hunting deer; 1991, DUS; 1993, night
13 hunting deer; 1995, night hunting deer, second offense;
14 1997, unlawful use of phone, obscene calls and CDV; 1998,
15 manufacturing or possessing with intent to distribute
16 schedule one-, two- or three controlled substance.

17 THE COURT: Hold on a second. Manufacturing.

18 MS. YOUNG: Or PWID.

19 THE COURT: Do you know what drug that was?

20 MS. YOUNG: I don't, Your Honor.

21 THE COURT: '98?

22 MS. YOUNG: That's correct.

23 THE COURT: Starting into drugs.

24 MS. YOUNG: That's correct. That was the first
25 offense.

1 2002, a simple assault; 2004, manufacturing or PWID
2 schedule one-, two-, or three controlled substance, second
3 offense as well as a conviction for simple possession of
4 marijuana on that same date; and on a different date in
5 2004 he has a conviction for manufacturing or
6 distributing, it says crack cocaine second offense.

7 THE COURT: Since '04, I guess he stayed in jail some.
8 What was his sentence in '04?

9 MS. YOUNG: In '04 he got, on the first one, two
10 years. Let me see. It looks like he got six years and
11 \$50,000 on one, and then the second one got two years
12 concurrent with the recommendation of ATU.

13 THE COURT: So, that was in '04. When were you
14 released from incarceration, sir?

15 THE DEFENDANT: December of '08.

16 THE COURT: Twelve of '08. And -- 12/08, so that's
17 actually 14 months, at most 15 months you stayed clean.

18 THE DEFENDANT: (Nods head.)

19 THE COURT: Anything else?

20 MS. YOUNG: I think that's it, Your Honor. We just ask
21 you to take into account the numerous repeated offenses as
22 well as the fact that he's being given a break in two
23 counties being allowed to plead to second offenses rather
24 than thirds.

25 THE COURT: Third carries what?

1 MS. YOUNG: Twenty-five to 30 on the most serious
2 charges, and several of those.

3 THE COURT: Gentlemen, who wants to go first?

4 MR. LYONS: I will, Your Honor.

5 THE COURT: He looks like a nice guy. What in the
6 world. Why is he such an involved drug manufacturer
7 dealer, whatever you want to call him, for everything?
8 From marijuana to cocaine to crack to pills to meth,
9 16-year-old son, getting him into the business. It's
10 just -- what happened?

11 MR. LYONS: Judge, I just -- my understanding is that
12 it is a recommendation of a concurrent sentence.

13 MS. YOUNG: We had previously discussed that, Your
14 Honor. I don't really have any objection.

15 THE COURT: She has no recommendation. Go ahead.

16 MR. LYONS: Judge, he's 39 years old. He has, Judge,
17 vocational skills.

18 THE COURT: What?

19 MR. LYONS: Heating and air-conditioning, plumbing.
20 Judge, he appears to be pretty well trained in those two
21 trades. My understanding is he was actually doing some
22 work in those trades. And I guess some of the moneys that
23 was taken from him can be traced back to those trades.

24 THE COURT: Mr. Lyons, I didn't come to Aiken on a
25 watermelon truck. I'm smarter than that.

1 MR. LYONS: Judge, what I'm saying is I think he was
2 using too much dope to make a whole lot of money. He's
3 generating money to make dope to sell dope to use dope.

4 And, he tells me that, if I'm not mistaken, this all
5 started in '89 when he started smoking crack. And it just
6 ballooned to where it is here today, where he's got a bad
7 drug problem.

8 Judge, we'd ask the Court to consider that
9 Mr. Sanders, he's not taking this jurisdiction or the
10 Lexington jurisdiction to be changed, trying him. He, one
11 thing about him, Judge, he steps up and he accepts his
12 responsibility and what he did. He could possibly
13 challenge the search over in Lexington County but, Judge,
14 he has decided not to do that.

15 He could point fingers. There were four other people
16 in the vehicle that he was in when he was arrested in
17 February of last year. The only person arrested was him,
18 Judge. He's not pointing fingers at anybody. He's
19 accepting responsibility.

20 He's just -- the Court has seen time and time again.
21 He's got a bad drug habit. I know the Court always asks,
22 well, what do you do with somebody who's got a bad drug
23 habit.

24 THE COURT: Mr. Lyons, this is a lot different. He
25 may have a habit but he's pretty darn good at making the

1 stuff, too, and then having it all around him.

2 And what bothers me is he's released from
3 incarceration for manufacturing drugs December of '08,
4 makes it about 14 months, then he gets right back into the
5 drug business. Gets out on bond, gets right back into the
6 drug business. Gets out on bond, gets right back into
7 it. You know --

8 MR. LYONS: Well, Judge --

9 THE COURT: -- my position is if somebody's out on
10 bond and they get another charge, I don't give them bond.
11 And perhaps if that would have happened here he'd be a lot
12 better off.

13 MR. LYONS: Judge, I think it's clear he shouldn't
14 have gotten out on bond by any step of any imagination.
15 But, Judge, my experience with people who end up with
16 these meth charges, federal level, state level, is that
17 they pretty much do anything they can to get the drug.

18 THE COURT: That's exactly right.

19 MR. LYONS: And usually it involves making a lot of
20 the drug to get the drug. But I've seen very few cases
21 where people make the drug and don't use it --

22 THE COURT: I tend to agree with you.

23 MR. LYONS: -- and -- unlike cocaine, where you do
24 have some people who are able to profit in selling it and
25 not get addicted to it.

1 Now, does that excuse what he did? Exposing it to his
2 son, and these other young people? Exposing the community
3 to the risk? Judge, I wouldn't sit here and try to argue
4 about that to the Court.

5 THE COURT: Mr. Lyons, you've been doing this for a
6 while. Y'all have been. Mr. Carrigg is a seasoned
7 lawyer. Mr. Routzong sees his share of misery up here.
8 And, it all, not all but, gosh knows, a high percentage of
9 it directly or indirectly goes right back to the drugs.

10 It's just, you know, what it's doing to our society
11 and peoples' lives and families and the community.
12 People, some people get violent with it. It's just a
13 terrible, terrible evil that we have to deal with.

14 And here I got a young man that's -- can't seem to
15 turn him around. He goes to jail, gets right back in it.
16 Gets arrested, right back in it. He's arrested, right
17 back in it. I don't know. Has a bunch of times or more
18 until something stays.

19 MR. LYONS: Well, Judge, one thing we do know in this
20 situation is that whatever you give him for the most part
21 he's going to serve.

22 THE COURT: That's right.

23 MR. LYONS: And so, Judge, what I'd ask the Court to
24 do in considering that, evidently he's only served, I
25 guess, three years or so max on the end of these sentences

1 that he's gotten, that considering the fact that if the
2 Court gave him a 15-year sentence, that he is going to
3 serve anywhere between 12 and 13 years on that sentence.
4 Judge, my understanding is probably that the solicitor's
5 office is probably looking at about 20 years for him to
6 serve. I think he would like to look at 10. And the
7 reason that I am asking the Court to consider 15 because
8 that's a little more than what he'd like to get and it's a
9 little less than what the solicitor's office --

10 THE COURT: Quite candidly, Mr. Lyons, I'm not here to
11 please him.

12 MR. LYONS: Yes, sir.

13 THE COURT: I'm here to protect our society, our
14 children, our system. And he has had his chances to
15 straighten up and fly right. He just says to heck with
16 it, I'm going to do what I want to do, and the law doesn't
17 mean a thing to me. I'm right back in it.

18 MR. LYONS: Well, Judge, I want to tell you why I'm
19 asking for a 15-year sentence.

20 THE COURT: Certainly.

21 MR. LYONS: Judge, my experience in 26 years of doing
22 this is that generally when you start hitting the 40s you
23 start just about running out of steam. You start running
24 out of steam.

25 THE COURT: Speak for yourself.

1 MR. LYONS: In fact, Judge, I got a young man that
2 he's been out there doing what he's been doing for the
3 last 10 years and he told me a few months ago that he just
4 can't do the time with these young guys any more which
5 just surprised me.

6 But, Judge, If he got a 15-year sentence he'd be early
7 50s or so when he got out. And definitely about that age
8 you're pretty much had it, you're pretty much burned out
9 in criminal activity. So, Judge, I'd ask the Court that
10 at that particular point in his life, he should be done.
11 That --

12 THE COURT: He should have been done when he got out
13 in '08.

14 MR. LYONS: Judge, but I don't think he -- sometimes,
15 Judge, the only choice you have is to put people in jail
16 and keep them there long enough to hope that --

17 THE COURT: That's exactly right.

18 MR. LYONS: -- you're going to punish them, number
19 one, and hopefully to straighten them out. Judge, I mean,
20 I think he's deep down a decent individual --

21 THE COURT: I'm not --

22 MR. LYONS: -- but drugs have done this to him. And I
23 just don't think that, Judge, that just putting him in and
24 throwing away the key is the absolute answer to it.

25 I think, Judge, if he served 12 or 13 years, I would

1 hope he'd be burned out by that time.

2 THE COURT: Okay. Anything else?

3 MR. LYONS: Not from me, Your Honor.

4 THE COURT: Mr. Routzong?

5 MR. ROUTZONG: That's a letter he's written to Your
6 Honor. I'd pass it up. I've already shown it to the
7 solicitor. (Document handed to the Judge.)

8 Your Honor, I guess briefly I think Mr. Lyons has very
9 well stated the case for Mr. Sanders. From my little bit
10 of experience, Your Honor, I found out that folks that get
11 hooked on drugs when they're a young person, it sets them
12 on the wrong course right away. And that's been the case
13 with Mr. Sanders.

14 There's some folks in the front row, Your Honor, I
15 believe would like to address the Court. His mom, I
16 believe, his dad's here, and I think maybe just his mom
17 would like to address the Court at the appropriate time.

18 THE COURT: Mr. Carrigg?

19 MR. CARRIGG: Your Honor, basically my understanding
20 of this situation is Mr. Sanders is a bad drug addict. I
21 mean, he's a bad drug addict. That is the driving force
22 behind all of this. That is what has got him back into
23 drugs every time is just being hooked on drugs.

24 THE COURT: Mr. Carrigg, you know, you're a seasoned
25 lawyer. You're not wet behind the ears. You're probably

1 exactly right. He's an addict to some degree but he got
2 \$13,000 one time --

3 MR. CARRIGG: I wanted to address that because that is
4 a key piece of evidence that looks really bad. It looks
5 like he's selling in large amounts.

6 Ms. Raborn, and I'll hand this up because she gave
7 this to me, ran a gold business in Aiken County. She is a
8 co-defendant in this case. She consistently claimed that
9 these amounts of cash that he had in his possession were
10 hers. Basically she would buy up gold from people and
11 then a wholesaler would come buy it from her, presumably
12 for more than she paid for it and that would create the
13 large sums of cash, the 13,000 she insisted --

14 THE COURT: I assume she brought you some receipts and
15 all of that to verify that.

16 MR. CARRIGG: No, sir. She didn't. But I can tell
17 you without any reservation that she insisted that that
18 cash was her money, that he had taken that money. I don't
19 know what he going to buy with it now, but that was her
20 money.

21 Because I don't want you -- I don't know. I mean, I
22 know what I've been told, Judge, just like you know what
23 you've been told. And I've been doing this long enough to
24 know that you got to separate the wheat from the chaff and
25 decide what you decide here.

1 I can tell you in talking to his family members and
2 seeing the course that this case took, because I think at
3 one point in time he and Ms. Raborn were friends and he
4 turned his back on her and wanted to get away from it and
5 then got back in it because I know she was involved in
6 these Aiken charges as well.

7 All I can tell you, Judge, is I know that this man has
8 a drug problem. That has been the root to all of this. I
9 don't think he's a cook for profit out there, to cook it
10 to make money. Maybe to live off of, I don't know, but
11 certainly to buy the supplies to do it again.

12 But I don't think he's the guy out there cooking it
13 for the gangs to go sell. I think he's a drug addict
14 that's cooking it to take and, I guess, make a living out
15 of it. I don't know that you can call that a living.

16 THE COURT: How do you reconcile that with the
17 marijuana and all the pills, the ecstasy and all of that
18 other stuff that's in there with it?

19 MR. CARRIGG: Well, Your Honor, I mean, I understand.
20 I know all the pieces of the puzzle don't fit together.

21 THE COURT: Mr. Carrigg, I've been right down there
22 where you're standing for 30 years. I know exactly where
23 you're coming.

24 The toughest job I have up here, a man that looks like
25 he just won't straighten up and fly right. He's had

1 opportunity after opportunity. And trying to decide
2 what's -- he's got to be punished, what's good for
3 society, get him away from our young people for a while.
4 But how long, that's the toughest job I have.

5 And I think you appreciate it, all three of you guys
6 appreciate that responsibility that I have to our society
7 when I was elected by the legislature to protect society
8 and people who just insist on continuing, continuing,
9 continuing, go to jail, come right back out, right back
10 into it, get arrested, get out on bond, right back in it.
11 Get arrested, get out on bond right back in.

12 I have to judge his future by his past actions, and
13 I -- he's going to have to be severely punished. I don't
14 know what else to do to get him out of society.

15 But go ahead. I didn't mean to cut you off.

16 MR. CARRIGG: No, Your Honor. I think someone from
17 the family wanted to speak.

18 THE COURT: That's fine. Come right over here. Your
19 name?

20 THE WOMAN: Denise Sanders. Denise Sanders.

21 THE COURT: Yes, ma'am.

22 MS. SANDERS: I'm his sister. Dennis has been an
23 addict for years. I'm proof that an addict can recover,
24 because I came in front of you myself and you were swift
25 justice.

1 THE COURT: What did I do to you?

2 MS. SANDERS: You sentenced me and I turned -- you
3 told me that you better not ever see me in the courtroom
4 again.

5 THE COURT: And I haven't; have I?

6 MS. SANDERS: You sure haven't.

7 THE COURT: What did I give you; probation?

8 MS. SANDERS: No, sir. I served time.

9 THE COURT: How much?

10 MS. SANDERS: I served a year with three years
11 probation and I went and got recovery. Dennis, I do not
12 think has had a chance to get recovery. He went straight
13 into, after he got out, to a relationship to a drug --
14 with a drug addict. He didn't get into a group with
15 family, and I think that's what happened to him. Instead
16 of coming in with us, and he just got straight back in it
17 and I do not believe for one minute he was trying to teach
18 his son how to make the drug. I believe his son was
19 watching him with a careful eye because he is a 16-year-
20 old boy and you know they're going to watch everything you
21 do.

22 THE COURT: Exactly. Mine watch me.

23 MS. SANDERS: I do have my children and everything. I
24 do see them. I've changed my life around. I want him to
25 have that chance. I do know you have to sentence him but

1 I do want him to have a chance to recover and not live a
2 life when he gets out of being straight and not a addict
3 and to recover from this. But he's never come -- he's
4 never recovered, sir. He's never not done drugs.

5 THE COURT: Thank you. I'm glad that you have turned
6 your life around.

7 MS. SANDERS: Thank you, sir.

8 THE COURT: Anybody else?

9 MR. CARRIGG: No, sir.

10 THE COURT: Anything further by the State?

11 MS. YOUNG: No, sir, Your Honor.

12 THE COURT: Anything else you want to tell me,
13 Mr. Sanders?

14 THE DEFENDANT: No, sir, Your Honor.

15 THE COURT: Well, obviously, Mr. Sanders, I have to
16 take into consideration a lot of things in passing
17 sentence.

18 It appears that you do have a lot of family support.
19 And I tend to agree with Mr. Carrigg; probably basically
20 down deep you're not a bad person, not an evil person but
21 you got some type of problem that cannot let you comply
22 with our laws and society.

23 You've been punished once and that didn't do any
24 good. You got out. Like I said, you keep getting in
25 trouble, in trouble, in trouble.

1 Lexington is nolle prossing three charges. You're
2 looking at, I told you, 130, 140 years.

3 AS TO INDICTMENT 11-GS-32-789, THAT'S THE LEXINGTON
4 INDICTMENT, THE SENTENCE OF THE COURT: YOU BE COMMITTED
5 TO THE STATE DEPARTMENT OF CORRECTIONS FOR A PERIOD OF 20
6 YEARS.

7 ON INDICTMENT 95, THAT'S THE POSSESSION WITH INTENT TO
8 DISTRIBUTE METHAMPHETAMINE, THAT'S LIKEWISE A 20-YEAR
9 SENTENCE.

10 1194, THAT'S THE POSSESSION OF PSEUDOEPHEDRINE, THAT'S
11 A 20-YEAR SENTENCE AS WELL.

12 AND THE OTHER AIKEN CHARGES, THE MANUFACTURING METH IN
13 THE PRESENCE OF TWO CHILDREN, THOSE ARE BOTH 10-YEAR
14 CHARGES. THE SENTENCE IS 10 YEARS ON EACH ONE OF THOSE.

15 POSSESSION OF MARIJUANA SECOND, THAT'S A 10-YEAR
16 SENTENCE.

17 MANUFACTURING METHAMPHETAMINE, THAT'S A 20-YEAR
18 SENTENCE.

19 AND THE OTHER METH IN THE PRESENCE OF A CHILD
20 MANUFACTURING, THAT'S A 10-YEAR SENTENCE.

21 I'M GOING TO LET ALL THE OTHER SENTENCES RUN
22 CONCURRENT TO YOUR LEXINGTON SENTENCE. YOU'LL BE CREDIT
23 FOR YOUR TIME SERVED.

24 Good luck to you.

25 MS. YOUNG: Thank you, Your Honor.

1 MR. ROUTZONG: Thank you, Your Honor.

2 MR. CARRIGG: Thank you, Your Honor.

3 MR. LYONS: Thank you, Your Honor:

4 END OF CASE: 12:28 P.M.

5 * * * *

6 CERTIFICATE OF REPORTER

7 I, Cheri L. Young, Registered Professional Reporter,
8 and Official Court Reporter for the State of South
9 Carolina, do hereby certify that the foregoing transcript
10 of proceedings heard on Thursday, September 1, 2011, in
11 Aiken, South Carolina, was reported by me using machine
12 shorthand and realtime computer-aided translation and is a
13 true, accurate and complete transcript of the proceedings
14 had and evidence introduced in the hearing of the matter.

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

17 I have hereunto set my hand this Thursday, the 26th
18 day of July, 2012.

19
20
21 

22 Cheri L. Young, RPR
23 Official Court Reporter
24
25

43
ORIGINAL

FORM 5

FILED

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Dennis F. Sanders, 245612,
Full name and prison number (if any) of Applicant.

IN THE COURT OF COMMON PLEAS

2012 MAY 23 12:47

LETHA CARRIGE

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

2012 CP3202136

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210
2. Name and location of Court which imposed sentence Lexington County Court of General Sessions, plea occurred in Aiken County Court of General Sessions, 109 Park Ave. SE, Aiken, SC 29801
3. Name(s) of co-defendant(s) (if any) John Michael Hagelston
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2011-GS-32-0789: Trafficking in meth or cocaine base, 10-28 grams (2nd offense)
 - (b) _____
 - (c) _____

A TRUE COPY

Revised 3/2003
Lex. Co. C.C.C.P., G.S. & F.C.

5. The date upon which sentence was imposed and the terms of the sentence:

(a) September 1, 2011: 20 years

(b) _____

(c) _____

FILED

6. Check whether a finding of guilty was made:

(a) after a plea of guilty X

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

2012 MAY 23 P 12:47

WTH A. CARRIGL
CLERK OF COURT

7. Did you appeal from the judgment of conviction or the imposition of sentence?

No.

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. _____

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) I was not advised nor did I discuss this right with counsel.

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of counsel.
 - (b) Involuntary guilty plea.
 - (c) Belated direct appeal.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Failure to properly prepare and investigate prior to guilty plea.
 - (b) Failure to properly advise Applicant regarding applicable law, likely sentence, parole eligibility, and venue matters.
 - (c) Failure to advise Applicant about and/or file Motion for Reconsideration and/or direct appeal.
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No.
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No.
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No.
 - (d) any other petitions, motions or applications in this or any other Court? No.
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (c) the disposition thereof:

FILED
2012 MAY 23 12:47
SOUTH CAROLINA
DEPT. OF CORRECTIONS

Revised 3/2003

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No.

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) PCR is the proper forum.

(b) _____

FILED
2012 MAY 23 12:47
JIM A. CARRIG
CLERK OF COURT
JANUARY 2012

- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes.
 - (b) your trial, if any? _____
 - (c) your sentencing? Yes.
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. John W. Carrigg, Jr., 137 E. Butler St., Ste. 6, Lexington SC 29072
 - ii. _____
 - iii. _____
 - (b) the proceedings at which each such attorney represented you:
 - i. Plea and Sentencing.
 - ii. _____
 - iii. _____
19. State clearly the relief you seek in filing this application:
A new trial.
20. Are you now under sentence from any other court that you have not challenged?
No.

FILED
 2012 MAY 23 12:47
 JOHN W. CARRIG, JR.

ORIGINAL

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Richland)

I, Dennis F. Sanders, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Dennis F. Sanders

SWORN to and subscribed before me this 18th
day of May, 2012.

[Signature] (L.S.)
Notary Public My Commission Expires
October 8, 2014

My Commission Expires: _____

2012CP3202136

FILED
2012 MAY 23 12:47
JIM A. CARRIGG
CLERK OF COURT
RICHMOND COUNTY

ORIGINAL 49

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Dennis F. Sanders, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Dennis F. Sanders
Applicant

SWORN or affirmed to and subscribed before me this

15th day of May, 2012.

[Signature]
Notary Public My Commission Expires

October 8, 2014

My Commission Expires: _____

2012 CP3202136

FILED
2012 MAY 23 2:12:47
JIM A. CARRIG
CLERK OF COURT
JANUARY 1, 2011

Dennis G. Sanders #245612
 P.C.I. B2-23A
 1344 Broad River Rd.
 Columbia, SC, 29210

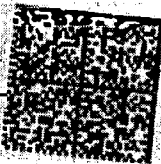
KCI MAILROOM

MAY 21 2012



Lexington County Clerk of Court
 Suite 128
 205 East Main Street
 Lexington, SC 29072

MAILED FROM ZIP CODE 29210
 MAY 21 2012
 \$00.20
 02 1M
 0008001098



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	ELVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	
	)	Case No. 2012-CP-32-2136
	)	
Dennis F. Sanders,	)	
S.C.D.C. No. 245612	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed May 23, 2012, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Lexington County. Applicant was indicted at the April 2011 term of the Lexington County Grand Jury for trafficking methamphetamine, ten to twenty-eight grams, third offense (2011-GS-32-0789). Applicant was represented by John W. Carrigg, Jr., Esquire. On May 21, 2012, Applicant waived jurisdiction in Lexington County and pled guilty in Aiken County to the lesser included offense of trafficking methamphetamine, ten to twenty-eight grams, second offense. Included in the plea, Applicant also pled guilty to possession with intent to distribute methamphetamine, second offense, and possession of pseudoephedrine, second offense. Applicant was represented by Micheal D. Routzong, Esquire, and Charles H.S. Lyons, III, Esquire on the Aiken County charges. He was sentenced by the Honorable Doyet A. Early, III, to confinement for a period of twenty years of incarceration for

trafficking methamphetamine, ten to twenty-eight grams, second offense (2011-GS-32-0789). Applicant did not appeal.

Attached herewith and incorporated herein by reference are the records of the Lexington County Clerk of Court regarding the subject conviction(s), Applicants records from the South Carolina Department of Corrections, and the transcript of the proceeding against Applicant. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Trial Counsel;
 - a. "Failure to properly prepare and investigate prior to guilty plea."
 - b. "Failure to advise Applicant about and/or file Motion for Reconsideration and/or direct appeal."
2. Involuntary Guilty Plea
 - a. "Failure to properly advise Applicant regarding applicable law, likely sentence, parole eligibility, and venue matter."

III.

The Applicant's first claim is an allegation of ineffective assistance of trial counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged

as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Applicant also alleges that he did not plead guilty freely and voluntarily. The State submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

The State submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, supra; Dover, supra. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The State submits Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but

would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Respondent submits that Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such.

V.

The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code '17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VII.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VIII.

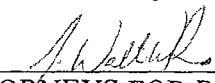
WHEREFORE, having made its Return, the Respondent requests that a hearing be held.

ALAN WILSON
Attorney General

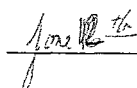
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

WALT WHITMIRE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

, 2013

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Dennis F. Sanders, # 245612

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent

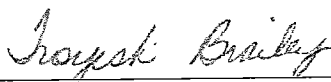
IN THE COURT OF COMMON PLEAS
IN THE ELEVENTH CIRCUIT

2012-CP-32-2136

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Tricia A. Blanchette, Esq.
Post Office Box 12725
Columbia, SC 29211

DATED this 12th day of June, 2013


Troyeshi Brailey, Legal Assistant
 For Respondent

ORIGINALSTATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUITDennis F. Sanders, #245612,)
Applicant,)

2012-CP-32-2136

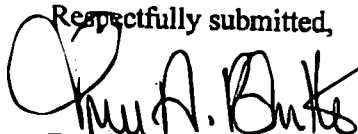
v.)

MOTION

State of South Carolina,)
Respondent.)

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on May 23, 2012, and an Amendment was submitted on April 8, 2014. Applicant would move before the Court for consolidated venue and/or evidentiary hearing with his Application pending in Aiken County (Docket No.: 2012-CP-02-1278).¹ Applicant submits that the Applications and allegations stem from a joint plea. Applicant submits that it will be necessary for plea counsel that jointly advised him prior to the plea to be present at the evidentiary hearing on both Applications. Therefore, in the interest of judicial economy and to ensure that the Applications are properly heard, Applicant would move for consolidated venue and/or evidentiary hearings.

Respectfully submitted,



Tricia A. Blanchette
Attorney for Applicant
Post Office Box 12725
Columbia, South Carolina 29211

April 8, 2014
Columbia, SC

BETH A. CARRIG
CLERK OF COURT
LEXINGTON, SC

2014 APR - 9 A 11: 07

FILED

¹ Applicant is not requesting a consolidated ruling and submits that an Order must be entered separately on each Application.

STATE OF SOUTH CAROLINA)
 COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS
 ELEVENTH JUDICIAL CIRCUIT

Dennis Sanders, #245612,)
 Applicant,)

2012-CP-32-2136

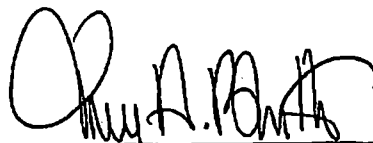
v.)

CERTIFICATE OF SERVICE

State of South Carolina,)
 Respondent.)

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I hand delivered this 8th day of April 2014 a Motion to J. Walt Whitmire of the Attorney General's Office at:

Office of the Attorney General
 Att: J. Walt Whitmire, Ast. AG
 1000 Assembly Street, 5th Floor
 Columbia, SC 29201



Tricia A. Blanchette
 PO Box 12725
 Columbia, SC 29211
 (803) 988-0008

April 8, 2014

BETH A. CARRIGG
 CLERK OF COURT
 LEXINGTON, SC

2014 APR - 9 A 11:47

FILED

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

ORIGINAL

IN THE COURT OF COMMON PLEAS

Dennis Sanders, #245612,
☒ Plaintiff

FILED

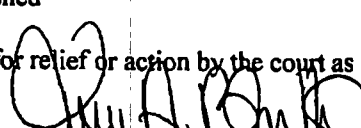
CASE NO.
2012-CP-32-2136

v. 2014 APR -9 A 11:4

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

State Of South Carolina
☐ Defendant.

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

Plaintiff's Attorney: Tricia A. Blanchette, Bar No. 74904 Address: PO Box 12725 Columbia, SC 29211 phone: 803-988-0008 fax: 803-0988-8070 e-mail: blanchettelaw@gmail.com other:	Defendant's Attorney: J. Walt Whitmire, Bar No. Address: PO Box 11549 Columbia, SC 29211 phone: 803-734-3737 fax: 803-734-4113 e-mail: other:
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Venue Estimated Time Needed: 10 minutes Court Reporter Needed: ☒ YES / ☐ NO	
SECTION II: Motion/Order Type	
☐ Written motion attached ☒ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for ☒ Plaintiff / ☐ Defendant	April 8, 2014 Date submitted
SECTION III: Motion Fee	
☐ PAID - AMOUNT: ☒ EXEMPT: (check reason)	
☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☒ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: ☐ Other:	
JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	JUDGE _____ CODE: _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____	
☐ MOTION FEE COLLECTED: _____ ☐ CONTESTED - AMOUNT DUE: _____	

ORIGINALSTATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUITDennis F. Sanders, #245612,)
Applicant,)

2012-CP-32-2136

v.)

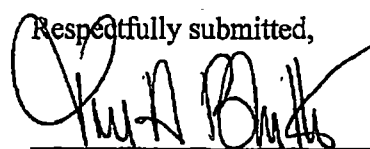
State of South Carolina,)
Respondent.)**AMENDMENT TO APPLICATION
FOR POST CONVICTION RELIEF**

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on May 23, 2012, Applicant would amend his original Application by adding the following specific allegations to his original claim of ineffective assistance of plea counsel and involuntary guilty plea:

1. Ineffective assistance of counsel that resulted in an involuntary guilty plea due to counsel's failure to prepare with Applicant by going over the discovery materials and conducting an independent investigation of the case, specifically matters related to the search and subsequent relinquishment of Dempsey Sanders' vehicle and handling of the drug evidence and analysis conducted by SLED.
2. Ineffective assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to discuss prior the day of the joint plea whether Applicant was subject to and would entering his joint plea under the "new law" passed in June 2010, which was not in effect at the time of one of his Aiken County charges.
3. Ineffective assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to advise Applicant that he was being charged and would be required to plea to a trafficking charge and that he would not be eligible for parole under the joint plea agreement.
4. Ineffective assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to discuss the waiver of venue and plea offer with Applicant prior to the day of the joint plea in Aiken County.
5. Pursuant to Rule 15(b), SCRPC, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing.

FILED
2014 APR -9 A 11:48
JAMES A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

April 8, 2014
Columbia, SC

Respectfully submitted,


Tricia A. Blanchette
Attorney for Applicant
Post Office Box 12725
Columbia, South Carolina 29211

ORIGINAL

STATE OF SOUTH CAROLINA)
 COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS
 ELEVENTH JUDICIAL CIRCUIT

Dennis Sanders, #245612,)
 Applicant,)

2012-CP-32-2136

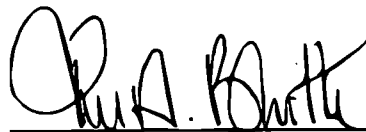
v.)

CERTIFICATE OF SERVICE

State of South Carolina,)
Respondent.)

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I hand delivered this 8th day of April 2014 an Amendment to Application for Post Conviction Relief to J. Walt Whitmire of the Attorney General's Office at:

Office of the Attorney General
 Att: J. Walt Whitmire, Ast. AG
 1000 Assembly Street, 5th Floor
 Columbia, SC 29201



Tricia A. Blanchette
 PO Box 12725
 Columbia, SC 29211
 (803) 988-0008

April 8, 2014

BETH A. CARRIGG
 CLERK OF COURT
 LEXINGTON, SC

2014 APR -9 A 11:48

FILED

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Dennis Sanders, #245612,

☒ Plaintiff

v.

State Of South Carolina

☐ Defendant.**ORIGINAL****FILED**

2014 APR -9 A 11:48

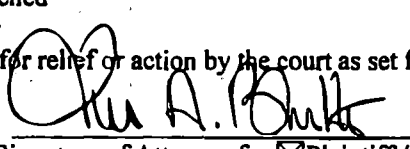
BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

IN THE COURT OF COMMON PLEAS

CASE NO.

2012-CP-32-2136

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: Tricia A. Blanchette, Bar No. 74904 Address: PO Box 12725 Columbia, SC 29211 phone: 803-988-0008 fax: 803-988-8070 e-mail: blanchettelaw@gmail.com other:	Defendant's Attorney: J. Walt Whitmire, Bar No. Address: PO Box 11549 Columbia, SC 29211 phone: 803-734-3737 fax: 803-734-4113 e-mail: other:
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: Amendment to Application for Post Conviction Relief Estimated Time Needed: 2 hours Court Reporter Needed: ☒ YES / ☐ NO	
SECTION II: Motion/Order Type ☐ Written motion attached ☒ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.  Signature of Attorney for ☒ Plaintiff / ☐ Defendant April 8, 2014 Date submitted	
SECTION III: Motion Fee ☐ PAID - AMOUNT: ☒ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☒ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: ☐ Other:	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	JUDGE _____ CODE: _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____	
☐ MOTION FEE COLLECTED: _____ ☐ CONTESTED - AMOUNT DUE: _____	

ORIGINAL

STATE OF SOUTH CAROLINA)
) FILED)
) IN THE COURT OF COMMON PLEAS)
 COUNTIES OF LEXINGTON & AIKEN)

2014 APR 18 P 4: 53

DENNIS F. SANDERS, 245612,)

Applicant,)

BETH J. CARRIGG
 CLERK OF COURT
 LEXINGTON, SC

-vs-)

ORDER ON MOTION REGARDING
 VENUE

STATE OF SOUTH CAROLINA,)

Case Numbers: (Lexington) 2012-CP-32-02136
 (Aiken) 2012-CP-02-01278

Respondent.)

The applicant in these Post-Conviction Relief (PCR) actions is challenging his pleas of guilty for charges lodged against him in Lexington County and Aiken County. His pleas from both counties were accepted in a single hearing that took place in Aiken County. He wants venue of the Lexington County matter transferred to Aiken County. He does not want the cases consolidated. The court grants the motion and also directs that the matters be tried together under Rule 42, SCRPC. The Lexington County file is to be transferred to Aiken County. Because of the provisions of §17-27-80 and Buchanan v. State, 276 S.C. 127, 276 S.E.2d 302 (1981), the court directs that the attorneys apprise the judge assigned to hear this case that concurrent jurisdiction should be obtained. Nothing contained in this order prohibits the presiding judge or the Chief Judge for Administrative Purposes from issuing rulings regarding how and when these cases or parts thereof are to be tried.

The precise issue before the court does not appear to have been decided in South Carolina. The State opposes the motion to change venue.

The applicant is not seeking a change of venue under Rule 82, SCRPC. Rather, the motion is addressed to the convenience of witnesses and the ends of justice. Before

reaching that issue, this court must address whether the statutory framework for PCR hearings requires that the cases be heard separately and in the counties where the underlying convictions arose.

S.C. Code Ann. §17-27-80 reads, in part, "The application shall be heard in, and before any judge of, a court of competent jurisdiction in the county in which the conviction took place." That language was interpreted in Buchanan in the context of a PCR case being heard in the same circuit, but in a different county than the one where the criminal conviction took place. The Buchanan court stated:

We do not construe Code Section 17-27-80 to mandate that post conviction applications be actually heard "in the county in which the conviction took place." Rather, the section says that the post conviction application shall be "heard in" a court of competent jurisdiction and "before" any judge of a court of competent jurisdiction "in the county in which the conviction took place." The phrase "in the county in which the conviction took place" modifies or refers to jurisdiction in the county and not the location of the place of trial. Therefore, the directions of this statute are fully met if the post conviction application is heard before a judge who has jurisdiction to pass upon matters arising in the Court of Common Pleas of York County (a court of competent jurisdiction in that county to entertain post conviction applications).

The judge in this case, as a presiding judge in the Sixteenth Circuit, of which York County is a part, had the power and jurisdiction to determine nonjury matters. A post conviction application is a nonjury matter and the trial judge, therefore, had the power and jurisdiction, as the presiding judge, to hear and determine this post conviction matter at his chambers within the circuit.

[276 S.C. 130] The fact that the trial judge heard circuit wide post conviction matters at a scheduled nonjury term is of no consequence. His jurisdiction to hear nonjury matters was the same whether his status is designated as presiding judge over a nonjury term or as sitting at chambers.

Buchanan establishes that a PCR case can be heard in another county and still comply with §17-27-80, if the judge presiding has proper jurisdiction. For that reason,

the judge assigned to preside over the Lexington County case should obtain concurrent jurisdiction for both Aiken and Lexington Counties for PCR hearings.

The issue then turns to the claim that the convenience of witnesses and the ends of justice would be promoted by changing the place of trial. The burden of proof is on the applicant.

§ 15-7-100. Changing place of trial.

(A) The court may change the place of trial if: . . .

(3) the convenience of witnesses and the ends of justice would be promoted by the change.

(B) When the place of trial is changed, all other proceedings must be in the county to which the place of trial is changed, unless otherwise provided by the consent of the parties in writing duly filed or by order of the court. The pleadings and other papers must be filed or transferred accordingly.

WPM
#3

Mr. Sanders entered his pleas in Aiken in a single proceeding. There were separate defense attorneys for each county, but the allegations are that the defense attorneys were giving advice that cannot be completely segregated. At times, the applicant is challenging the advice of the attorneys collectively, which seems to necessitate that the attorneys in both counties testify in each PCR case or, at a minimum, that the collaborative conduct of all the attorneys be examined.

The Assistant Attorney General who handles the PCR cases will have to travel from offices in Richland County regardless of where the cases are heard. That is also true of the attorney representing the Applicant. The Lexington County attorney, Mr. Carrigg, has an office in Lexington County, and the Public Defender's office in Aiken would be in the same building, if the hearing is held in Aiken County. The overriding consideration is that having a transfer of venue and joint hearing would avoid all of these attorneys and witnesses having to appear on more than one day. It is self-evident that

requiring these PCR cases to be heard in separate counties by separate judges on separate days will inconvenience the witnesses and require a duplication of court resources. It furthers the ends of justice to have a single judge decide the challenges and avoid inconsistent rulings on the facts and conclusions of law. The court finds that the applicant has proven that the ends of justice and the convenience of witnesses will be advanced by having these PCR cases heard in the same location in one proceeding.

The court also finds that Aiken County is the logical place to have the matters heard. The criminal cases were all handled in Aiken County, and the attorneys and prosecutors chose to send the underlying criminal cases to Aiken County for disposition.

*WPC
#4*

The argument of the State is that it will be prejudiced by being unable to have the ability to check with local court officials and potential witnesses, should unexpected issues arise in a hearing. It is claimed that the ability of the Attorney General's office to produce information, records, and evidence in reply for matters that arise in a hearing will be hampered if the hearing is being held in another county in a different circuit. While that is a possibility, the court notes that PCR hearings are routinely held in other counties in a circuit, so it is commonplace to be in a location other than the one where the particular Clerk of Court or prosecutor's office is housed. Even if an issue arises and an on-the-fly adjustment has to be made, the remedy of keeping the record open and/or obtaining a transfer of information through an electronic medium is available.

Rule 42, SCRCP, reads:

**RULE 42
CONSOLIDATION; SEPARATE TRIALS**

(a) Consolidation. When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of

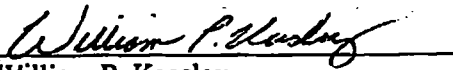
any or all matters in issue in the action; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

The court finds that there are common issues of law and fact arising in both of these PCR cases. It is not necessary to consolidate the cases themselves. However, a joint hearing appears to be the better method of determining the issues and promoting judicial economy. Delay and cost would be avoided by a joint trial based on the current assessment of these cases. It remains in the discretion of the presiding judge and/or the Chief Judge for Administrative Purposes in Aiken County to issue directives regarding the ultimate methodology to be employed in hearing these cases as they develop.

THEREFORE, IT IS ORDERED that venue of the Lexington County case is to be transferred to Aiken County. The Clerk of Court of Lexington County shall forward the file and a copy of this Order to the parties and to the Clerk of Court for Aiken County.

45 IT IS FURTHER ORDERED, based on the provisions of §17-27-80 and Buchanan v. State, 276 S.C. 127, 276 S.E.2d 302 (S.C. 1981), that the attorneys apprise the judge assigned to hear this case that concurrent jurisdiction should be obtained.

AND IT IS SO ORDERED.


William P. Keesley
Judge

April 18, 2014

Date Heard: April 18, 2014

Court Reporter: Stacy Sheppard

Attorney for the Applicant: Tricia A. Blanchette, Esquire, PO Box 12725, Columbia, SC 29211; blanchetteclaw@gmail.com; (803) 988-0008

Attorneys for the Respondent: Assistant Attorney General Walt Whitmire, wwhitmire@scag.gov 803-734-4198 & Assistant Attorney General Daniel Gourley, dgourley@scag.gov 803-734-3737
PO Box 11549, Columbia, SC 29211-1549

1 STATE OF SOUTH CAROLINA

2 COUNTY OF AIKEN

CIRCUIT COURT
2012-CP-02-02136

3
4
5 DENNIS SANDERS,
Applicant,

6 -vs-

TRANSCRIPT OF RECORD

7 STATE OF SOUTH CAROLINA,
8 Respondent.

9
10 Post Conviction Relief Hearing

11 Heard on Tuesday, January 13, 2015

12 Aiken, South Carolina

13
14 BEFORE:

15 THE HONORABLE D. CRAIG BROWN

16
17 APPEARANCES:

18 Counsel on Behalf of the Applicant:

19 J. Walter Whitmire, Esq.

Daniel F. Gourley, Esq.

20 Counsel on Behalf of the Respondent, State of SC:

21 Tricia A. Blanchette, Esq.

22
23 Cheri L. Young, RPR
Circuit Court Reporter
24 P O Box 5232
Aiken, SC 29803-5232
25

EXAMINATION INDEX

JUDY SANDERS

DIRECT BY MS. BLANCHETTE	9
CROSS BY MR. WHITMIRE	12
REDIRECT BY MS. BLANCHETTE	13

DENICE SANDERS

DIRECT BY MS. BLANCHETTE	14
CROSS BY MR. GOURLEY	17

DENNIS SANDERS

DIRECT BY MS. BLANCHETTE	19
DIRECT BY MS. BLANCHETTE	68

JOHN CARRIGG

DIRECT BY MS. BLANCHETTE	70
CROSS BY MR. WHITMIRE	96
REDIRECT BY MS. BLANCHETTE	100
RECROSS BY MR. WHITMIRE	101

DENNIS SANDERS (CONTINUED)

CROSS BY MR. WHITMIRE	103
REDIRECT BY MS. BLANCHETTE	108
RECROSS BY MR. WHITMIRE	113
DIRECT BY MS. BLANCHETTE	117
CROSS BY MR. GOURLEY	146
REDIRECT BY MS. BLANCHETTE	157

1	CHARLES H. S. LYONS, III	
2	DIRECT BY MR. GOURLEY	160
3	CROSS BY MS. BLANCHETTE	172
4	MICHAEL D. ROUTZONG	
5	DIRECT BY MR. GOURLEY	184
6	CROSS BY MS. BLANCHETTE	189
7	DENNIS SANDERS	
8	IN REBUTTAL - DIRECT BY MS. BLANCHETTE	191
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

EXHIBIT INDEX

MAR ADM

Applicant's

1	1	Lexington County incident report	23
2	2	Search warrant	27
3	3	Arrest warrants	35
4	4	Letter dated 042613	39
5	5	SLED drug analysis report	43 51
6	6	SLED report	51
7	7	Exceedance reports	110
8	8	ACSO Lab report	122
9	9	Arrest warrants	124
10	10	ADPS incident report	138
11	11	Letter from PD's Office	143
12	12	Notice of Representation - Lyons	172

1 ON TUESDAY, JANUARY 13, 2015 AT 12:11 P.M.:

2 THE COURT: Yes, sir, Mr. Gourley?

3 MR. GOURLEY: Judge, this is Dennis Sanders
4 versus the State of South Carolina. Docket
5 Number 2012-CP-02-01278.

6 This is actually a little bit different
7 PCR, Your Honor. There's actually two PCR
8 applications. Venue was consolidated by Judge
9 Keesley in Lexington, consolidated venue to
10 Aiken. It was a joint guilty plea combining
11 Lexington charges and Aiken charges. We have two
12 PCR applications in one.

13 So we also have Docket Number 2012-CP-
14 32-02136 from the Lexington County charges. The
15 Aiken County charges he was indicted during the
16 February 2011 term of the Aiken County Grand Jury
17 for possession of pseudoephedrine second offense
18 and possession with intent to distribute
19 methamphetamine. During the September 2009 term
20 of the Aiken County Grand Jury he was
21 subsequently indicted for manufacturing
22 methamphetamine a second offense and
23 manufacturing methamphetamine within one-half
24 mile of a school, also possession with intent to
25 distribute marijuana second offense, and two

1 counts of unlawful manufacturing of
2 methamphetamine within the presence of a minor
3 second offense.

4 He was represented on those charges by
5 Mr. Michael Routzong and Mr. Charles Lyons and on
6 the Aiken County or the Lexington -- excuse me.

7 On the Lexington County charges he was
8 indicted at the April 2011 term of the Lexington
9 County Grand Jury for trafficking methamphetamine
10 10 to 28 grams third offense. He was represented
11 by Mr. Carrigg on that charge. And again, Your
12 Honor, on May 21st the Applicant waived
13 jurisdiction in Lexington County, pled guilty in
14 Aiken County to all the charges.

15 Your Honor, that was on September 1st. He
16 pled in front of the Honorable Doyet A. Early the
17 Third. He sentenced the Applicant to a period of
18 20 years confinement for each possession of
19 pseudoephedrine and possession with intent to
20 distribute methamphetamine, 10 years for each of
21 the other offenses. Those sentences were to be
22 served concurrently.

23 He did not appeal his conviction or
24 sentence. Subsequently filed an application for
25 PCR on May 23rd, 2012, both in Lexington and

1 Aiken County, alleging various claims of
2 ineffective assistance of counsel.

3 The State made its return in the Aiken
4 County charges on August 9th, 2012, and the
5 Lexington County charges on June 12th, 2013.

6 He's represented in this matter by
7 Ms. Tricia Blanchette. Filed an amended
8 application on April 8, 2014, Your Honor. And
9 I'll turn it over to Ms. Blanchette at this point
10 in time.

11 And, Your Honor, Mr. Whitmire is here on
12 behalf of the Lexington County charges.

13 MR. WHITMIRE: May it please the Court,
14 Your Honor. My name's Walt Whitmire. I
15 represent the office on all Eleventh Circuit
16 PCRs. Due to Judge Keesley's order of
17 consolidation of venue, I will be here
18 representing the State on those limited PCR
19 claims as they relate specifically to
20 Mr. Carrigg.

21 THE COURT: Ms. Blanchette, are you ready
22 to proceed?

23 MS. BLANCHETTE: Thank you, Your Honor.

24 My name is Tricia Blanchette. I'm here on
25 behalf of Dennis Sanders today. This case is

1 unique in that there are two PCR applications and
2 two separate counties that have been
3 consolidated. It's my understanding we will have
4 one record or one transcript of this case.

5 What I had planned to do was call my client
6 as to the Lexington case and then proceed into
7 the Aiken cases so that those will be separated
8 in his testimony, but I don't intend to actually
9 present two separate cases.

10 THE COURT: Thank you.

11 MS. BLANCHETTE: I figured that would be a
12 waste of time, Your Honor.

13 So I will try to consolidate but yet keep
14 them separate.

15 Your Honor, at this time I would like to
16 call Judy Sanders to the stand. And she just
17 recently broke her hip so if we could be patient
18 with her getting her up to the stand.

19 JUDY SANDERS, having been duly sworn, was
20 examined and testified as follows:

21 THE CLERK: Please have a seat in the
22 witness box and state your full name for the
23 Court.

24

25

JUDY SANDERS - DIRECT BY BLANCHETTE

DIRECT EXAMINATION

BY MS. BLANCHETTE:

Q. Would you please state your name for the record?

A. Yes, ma'am. My name is Judy Sanders.

Q. And, Ms. Sanders, how is it you know the Applicant, Dennis Sanders?

A. He's my son.

Q. And even though he is your son and I know you love him very much, you're here today to tell the truth and only the truth; is that correct?

A. Yes, ma'am.

Q. Now, Ms. Sanders, back when your son got a series of charges in Lexington and Aiken Counties -- and he was out on bond at that time, is that correct, or was he in the county detention center?

A. I can't remember.

Q. That's fine. On his behalf were you trying to make some phone calls to his attorney?

A. Oh, yes, yes.

Q. Okay. And who were you trying to reach?

A. Mr. Lyons.

Q. Okay. And he represented your son on one of his set of charges; is that correct?

A. Yes, ma'am.

Q. And why were you trying to reach Mr. Lyons in his

JUDY SANDERS - DIRECT BY BLANCHETTE

1 office?

2 A. On Dennis' behalf.

3 Q. Okay. And did you ever reach anyone in his office
4 or have a conversation with someone in his office?

5 A. I did.

6 Q. Okay. And what questions -- were you calling --
7 why were you calling his office?

8 A. I was calling to see about the time, about how
9 long. We were checking to see if we wanted to do a jury
10 trial or whatever. So we were checking on the time.

11 Q. Okay. And what were you told as far as -- what was
12 your understanding based upon the conversation as to the
13 amount of time your son would be facing if he took a
14 guilty plea?

15 A. Ten years.

16 Q. Okay. And where did you get that information from?

17 A. From the paralegal. Mr. Lyons' paralegal, Chuck.

18 Q. Okay. And after you had that communication with
19 Mr. Lyons' office, did you have the opportunity to speak
20 with your son?

21 A. Yes, I did.

22 Q. Okay. And did he have a similar understanding as
23 to the amount of time he would be facing if he took a
24 guilty plea?

25 A. Yes, he did.

JUDY SANDERS - DIRECT BY BLANCHETTE

1 Q. What did he communicate to you was his
2 understanding?

3 A. That -- 10 years.

4 Q. Okay. Did he talk with you about wanting a trial
5 potentially?

6 A. Yes.

7 Q. Okay. And do you know of your own personal
8 knowledge that if your son would have thought the plea
9 was for more than 10 years that he would have taken a
10 trial instead of a plea?

11 A. Yes.

12 MS. BLANCHETTE: Your Honor, if I could beg
13 the Court's indulgence one moment.

14 THE COURT: All right.

15 MS. BLANCHETTE: Your Honor, I have no
16 further questions of this witness.

17 THE COURT: Okay, ma'am. You may step
18 down. Thank you.

19 THE WITNESS: Thank you.

20 MR. WHITMIRE: May it please the Court.

21 THE COURT: Hold on a minute. (Pause.)
22 I'm sorry. Go ahead.

23 THE WITNESS: Okay. I'm sorry.

24 THE COURT: You're not done yet. I was
25 reading something. Go ahead.

JUDY SANDERS - CROSS BY WHITMIRE

1 THE WITNESS: Okay. I'm sorry.

2 CROSS-EXAMINATION

3 BY MR. WHITMIRE:

4 Q. Ms. Lyons --

5 A. Sanders.

6 Q. -- was this your son's first trouble with the law?

7 A. Sanders.

8 THE COURT: Ms. Sanders.

9 BY MR. WHITMIRE:

10 Q. My apologies, Ms. Sanders. Was this your son's
11 first troubles?

12 A. No, sir.

13 Q. How many times has he been arrested in the past?

14 A. I'm hesitating because I'm trying to remember how
15 many times, sir.

16 Q. Approximately?

17 A. Approximately? Four.

18 Q. And how many of his attorneys were you previously
19 involved with or talked to during his cases?

20 A. None.

21 Q. This is the first time?

22 A. This is the first time; yes, sir.

23 MR. WHITMIRE: No further questions, Your
24 Honor.

25 THE COURT: Anything further,

JUDY SANDERS - REDIRECT BY BLANCHETTE

1 Ms. Blanchette?

2 MS. BLANCHETTE: Just very briefly, Your
3 Honor. I've never done a record like this
4 before. I need it to be clear.

5 REDIRECT EXAMINATION

6 BY MS. BLANCHETTE:

7 Q. Do you know what charges Mr. Lyons represented him
8 on, whether those were Aiken charges or Lexington
9 charges?

10 A. The ones that -- they were Aiken charges.

11 Q. Okay.

12 MS. BLANCHETTE: Your Honor, I have no
13 further questions. I just wanted to clarify that
14 for the record.

15 THE COURT: Relating to Aiken or
16 Lexington?

17 MS. BLANCHETTE: Yes, this is Aiken.

18 THE COURT: Anything else from the State?

19 MR. GOURLEY: No, Your Honor.

20 THE COURT: Ms. Sanders, you may now step
21 down.

22 THE WITNESS: Thank you, sir.

23 THE COURT: That's all right.

24 MR. WHITMIRE: Your Honor, may we approach
25 just briefly?

DENICE SANDERS - DIRECT BY BLANCHETTE

1 (Off-the-record discussion.)

2 MS. BLANCHETTE: Your Honor, my next
3 witness would be Denice Sanders.

4 DENICE SANDERS, having been duly sworn, was
5 examined and testified as follows:

6 THE CLERK: Please have a seat in the
7 witness box and state your full name for the
8 Court.

9 THE WITNESS: My name is Denice Sanders.

10 DIRECT EXAMINATION

11 BY MS. BLANCHETTE:

12 Q. Ms. Sanders, how is it that you are related to
13 Dennis Sanders, the Applicant in this case?

14 A. He's my brother.

15 Q. Okay. And even though he's your brother and you
16 love him very much, you're here today to tell the truth;
17 is that correct?

18 A. That's correct.

19 Q. Now when he was arrested and received a series of
20 charges, did you ever try to contact an attorney on his
21 behalf?

22 A. Yes, because my mother could not get ahold of
23 Charles Lyons so I did.

24 Q. Okay. And do you know what county, what charges
25 Charles Lyons represented your brother on?

DENICE SANDERS - DIRECT BY BLANCHETTE

1 A. Aiken County.

2 Q. Okay. And you said you tried to get in touch with
3 Charles Lyons or his office. Were you ever successful in
4 doing that?

5 A. Yes, I spoke with him.

6 Q. Okay. And after speaking with Mr. Lyons, what was
7 your understanding as to the amount of time your brother
8 would be facing if he accepted a guilty plea?

9 A. He said he was going to be facing 10 years.

10 Q. And did you have an opportunity to speak with your
11 brother after that?

12 A. Yes, I did.

13 Q. Okay. And did he convey to you what his
14 understanding was as far as the amount of time he'd be
15 facing if he took a guilty plea?

16 A. Ten years.

17 Q. Did he ever tell you -- did your brother ever
18 convey to you that he wanted a trial and not a guilty
19 plea?

20 A. He -- if it was more than 10 years, yes.

21 Q. Okay. And were you present on the date that he
22 ended up pleading guilty?

23 A. Yes, I was.

24 Q. Okay. Had you communicated to any of the attorneys
25 that you would like to speak on your brother's behalf?

DENICE SANDERS - DIRECT BY BLANCHETTE

1 A. Yes. I sure did.

2 Q. And what response did you receive to that request?

3 A. Mr. Lyons said that he thought that it would be
4 better if I didn't speak. And the public defender let me
5 speak on my brother's behalf. He wasn't going to let me.

6 Q. Okay. Now, after the plea in which your brother
7 received 20 years, was there anything that you tried to
8 do on his behalf after that?

9 A. Yes. I asked the judge and pled for hisself for --
10 because he had a problem.

11 Q. Okay. So actually at the plea you spoke on his
12 behalf; is that correct?

13 A. Yes. Yes, I did.

14 Q. Okay. And then he received 20 years and after the
15 plea -- so after everything was over at the plea, did you
16 try to do anything on your brother's behalf?

17 A. Yes. I tried to call Charles Lyons again.

18 Q. Okay. And were you ever successful in reaching
19 him?

20 A. No. No return phone calls.

21 MS. BLANCHETTE: Your Honor, if I could beg
22 the Court's indulgence one moment.

23 THE COURT: Yes, ma'am.

24 (Pause.)

25 MS. BLANCHETTE: Your Honor, I have no

1 further questions of this witness.

2 THE COURT: All right.

3 MR. GOURLEY: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. GOURLEY:

6 Q. Ms. Sanders, do you recall the month or the time
7 that you spoke with Mr. Lyons?

8 A. Excuse me?

9 Q. Do you recall when you spoke with Mr. Lyons?

10 A. No, sir.

11 Q. You don't have any recollection about that?

12 A. No, sir.

13 Q. Okay. Were you present at any of the other -- your
14 brother's prior convictions?

15 A. Yeah, I believe I was present for the conviction in
16 Aiken County.

17 Q. Okay. What about any of his other prior
18 convictions?

19 A. They ran them together.

20 Q. Okay. He had a 2004 conviction though, correct,
21 Ms. Sanders?

22 A. I'm not sure if I was present or not.

23 Q. Okay. That's all the questions I have.

24 Thank you, Your Honor.

25 THE COURT: Anything further from the

1 State?

2 MR. WHITMIRE: (Shakes head.)

3 MR. GOURLEY: No, Your Honor.

4 THE COURT: All right. Ms. Blanchette,
5 anything else?

6 MS. BLANCHETTE: Nothing, Your Honor.

7 THE COURT: Ma'am, you may step down.

8 THE WITNESS: Thank you.

9 MS. BLANCHETTE: Your Honor, if I may ask
10 on the record if these witnesses could be
11 released just in case Ms. Sanders is in any
12 discomfort from her injury.

13 THE COURT: Any objection from the State?

14 MR. GOURLEY: No, Your Honor.

15 THE COURT: So granted.

16 MS. BLANCHETTE: Thank you, Your Honor.

17 THE COURT: Call your next witness.

18 MS. BLANCHETTE: I call Dennis Sanders to
19 the stand.

20 DENNIS SANDERS, having been duly sworn, was
21 examined and testified as follows:

22 THE CLERK: Please have a seat in the
23 witness box. State your full name for the Court.

24 THE APPLICANT: My name is Dennis Sanders.

25

DENNIS SANDERS - DIRECT BY BLANCHETTE

DIRECT EXAMINATION

BY MS. BLANCHETTE:

Q. And, Mr. Sanders, I'm going to ask you about two different PCR applications. First, did you file a PCR application in Lexington County that's docketed at 2012-CP-32-2136?

A. Yes, ma'am.

Q. Did you file a second PCR application in Aiken County that was docketed at 2012-CP-02-1278?

A. Yes, ma'am.

Q. Now let me turn back to the Lexington application. On that application, what is the relief that you're asking the Court for today?

A. For a new trial.

Q. Okay. And the incident date that was at the heart of the charges in the Lexington case, that occurred on January 25th, 2011; is that correct?

A. Yes, ma'am.

Q. And after that incident occurred you were arrested?

A. Yes, ma'am.

Q. And who represented you after you were arrested?

A. John Carrigg.

Q. And did you ultimately enter a plea in that case?

A. No, ma'am.

Q. Did you enter a plea in this case?

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 A. Yes, ma'am.

2 Q. Okay. And that was a joint plea with the Aiken
3 charges; is that correct?

4 A. That's correct.

5 Q. Did you have a co-defendant in your Lexington case?

6 A. Yes, ma'am.

7 Q. And who was that?

8 A. John Michael Hagelston.

9 Q. And what was the sentence you received as a result
10 of your guilty plea in this case?

11 A. Twenty years.

12 Q. Now we are here today about three cases. Which
13 case occurred first, and what attorney represented you on
14 that case?

15 A. The traffic stop on Pinelog Road occurred first and
16 that would have been Charles Lyons.

17 Q. Okay. So when did you hire Mr. Carrigg?

18 A. I hired Mr. Carrigg after I'd made the bond in
19 Lexington County.

20 Q. Okay. So he would be your second attorney of the
21 three attorneys that we're discussing today?

22 A. Correct.

23 Q. Now when did you first meet Mr. Carrigg?

24 A. Previous to me hiring him for the case, it was for
25 a bond reduction.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Q. So he handled a bond reduction for you. And then
2 did you retain his services further?

3 A. Yes, ma'am.

4 Q. Now, did you attend a roll call in this case and
5 was Mr. Carrigg present at that roll call?

6 A. I attended a roll call and, no, he wasn't present.

7 Q. What transpired once you discovered he wasn't
8 present?

9 A. The solicitor, Mr. Eargle, in Lexington County had
10 directed me to get in contact with him. His office is
11 right across the street. So, therefore, I went -- I
12 believe I called him by phone or walked over there and
13 spoke with Mr. Carrigg or he come straight, I think he
14 come straight over to the courthouse in Lexington. And
15 then we went -- Mr. Carrigg, I and the assistant
16 solicitor all spoke in the solicitor's chambers about the
17 case.

18 Q. Okay. And at that time were you informed if you
19 needed to attend court further?

20 A. No. He said I wouldn't have to attend court any
21 further. My lawyer would be in contact with me,
22 Mr. Carrigg.

23 Q. Okay. And were you aware that your attorney was
24 provided any documents or any discovery at that point?

25 A. I believe -- I believe there was a disk give.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Q. Okay. And did he provide you with a copy of what
2 he got during that meeting?

3 A. I don't believe I got a copy at that time.

4 Q. Okay. Throughout the course of his representation,
5 did he provide you with any documents pertaining to your
6 case?

7 A. No, ma'am.

8 MS. BLANCHETTE: Your Honor, may I approach
9 the witness?

10 THE COURT: Yes.

11 BY MS. BLANCHETTE:

12 Q. Mr. Sanders, as part of my PCR representation you
13 requested that I obtain a copy of each of your attorneys'
14 file; is that correct?

15 A. Yes, ma'am.

16 Q. And when I received a copy of each of those files I
17 made copies and either delivered or mailed those to you
18 at the institution where you were located; is that
19 correct?

20 A. Yes, ma'am.

21 Q. Can you identify what you have in your hand there?

22 A. This is the incident report from the Lexington
23 County charges.

24 Q. Okay. And it's actually a 34-page incident report
25 but this is just a couple pages from it; is that correct?

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 A. Yes, ma'am.

2 MS. BLANCHETTE: Your Honor, at this time I
3 would move the Lexington County incident report
4 as Applicant's Number One.

5 MR. WHITMIRE: Without objection. Her
6 stipulation that it did come from counsel's file.

7 THE COURT: Without objection. So
8 admitted.

9 MS. BLANCHETTE: Your Honor, would you
10 like a copy as well?

11 THE COURT: Yes.

12 (Document handed to the Judge.)

13 (Applicant's Exhibit No. 1, Lexington
14 County incident report, received into evidence.)

15 BY MS. BLANCHETTE:

16 Q. Mr. Sanders, I just want to ask you a couple of
17 questions about this incident report. You've already
18 said you didn't have a chance to review it with counsel
19 prior to the entry of your plea; is that correct?

20 A. That's correct.

21 Q. You've had the opportunity though since you've
22 received a copy of his file to review it for today?

23 A. Yes, ma'am.

24 Q. Okay. Now in this incident report, would you agree
25 that it indicates that both yourself and your

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 co-defendant, Mr. Hagelston, denied driving the vehicle
2 that was in question?

3 A. That's correct.

4 Q. Okay. The incident report also indicates that the
5 officers had reviewed a store video and they saw an
6 Explorer come into the parking lot and then they saw
7 yourself and the co-defendant walking from the direction
8 of that vehicle.

9 Did you ever have the opportunity to review that
10 store video?

11 A. Never have.

12 Q. Do you dispute that that's what may or may not have
13 been on the store video?

14 A. Yeah, I dispute it.

15 Q. Okay. Was that an issue that you ever got to
16 discuss with Mr. Carrigg prior to the entry of your plea?

17 A. No, ma'am.

18 Q. Now, on the incident report it also indicates that
19 the keys were in the ignition of the vehicle and the
20 window was broken. Do you recall seeing that occur?

21 A. Yes, I was there. The keys were in the vehicle.
22 As they said the vehicle was locked up. And they said
23 they was going to get a search warrant to obtain entry
24 into the vehicle. And they bust the window out with a
25 baton.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Q. And do you have any personal knowledge as to
2 whether or not that vehicle was impounded?

3 A. Yes, it was impounded that night.

4 Q. Okay. And what happened to you there at the scene?

5 A. I was taken to the Lexington County Detention
6 Center.

7 Q. Okay. Did you ever discuss with your attorney what
8 happened with that vehicle, any possible defenses or
9 arguments that needed to be raised?

10 A. In light -- we discussed the, one of the sentences
11 I had with him initially when I believe I paid the
12 retainer fee that he made the comment that they should
13 have maybe brought a dog to sniff the vehicle before they
14 would have gained entry into the vehicle just to see if
15 it was drugs involved.

16 Q. Okay. And just for clarification for the record
17 and for the Court, what events took place that led to
18 them searching this vehicle? What occurred? Why were
19 you at that location? And just take us through what
20 happened.

21 A. I was inside the CVS purchasing some household
22 products for the house. And I guess my cousin, the
23 co-defendant, was attempting to purchase a box of
24 pseudoephedrine, they said, in the store. And so they --
25 that's the reason why the vice cops come. Any

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 questions -- to detain us and ask us questions.

2 Q. Okay. And so you were detained at that point?

3 A. Yes, ma'am.

4 Q. And as a result of being detained then they
5 obtained a search warrant and searched that vehicle; is
6 that correct?

7 A. Yes, ma'am.

8 Q. Okay. Did you ever have an opportunity to review
9 the search warrant with your attorney prior to the entry
10 of your plea?

11 A. No, ma'am.

12 Q. Mr. Sanders, as part of my representation on your
13 PCR did you ask that I obtain a complete copy of
14 Mr. Carrigg's file?

15 A. Yes, ma'am.

16 Q. And when I obtained that, did I send you a copy of
17 all of those documents?

18 A. Yes, ma'am.

19 Q. Okay. Let me hand you this. Can you identify that
20 for the record, please?

21 A. This is a search warrant for Lexington County.

22 Q. Okay. And was that one of the documents that I
23 provided to you as a copy of Mr. Carrigg's file?

24 A. Yes, ma'am.

25 MS. BLANCHETTE: Your Honor, at this time

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 I'd move this as Applicant's Number Two.

2 THE COURT: Any objection?

3 MR. WHITMIRE: Without objection.

4 THE COURT: Without objection. So
5 admitted.

6 (Applicant's Exhibit No. 2, search warrant,
7 received into evidence.)

8 BY MS. BLANCHETTE:

9 Q. Mr. Sanders, if you could turn to the third page of
10 the search warrant. They give the reasons for the need
11 for the search. And they discuss a number of items that
12 they say are in plain view in the vehicle.

13 A. Yes, ma'am.

14 Q. And in the incident report that we've already
15 introduced they actually list those items as a large blue
16 plastic container, a package of filters, starter fluid,
17 Coleman fuel that could be used in the manufacturing of
18 meth?

19 A. Yes, ma'am.

20 THE COURT: And that's Applicant's Exhibit
21 Number One.

22 MS. BLANCHETTE: Yes. Thank you, Your
23 Honor.

24 Q. Now if you could turn to page four of Applicant's
25 Exhibit Number One. And, I'm sorry, these somehow got

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 miscopied. Four is the last page, the second-to-last
2 page.

3 And if you could review there. Does it state that
4 they actually did not find enough items that amounted to
5 the precursors for manufacturing meth to charge you with
6 that?

7 A. That was the -- yeah. Yes, ma'am. It said there's
8 enough precursors to charge for the manufacture of
9 methamphetamine.

10 Q. But yet that was the basis for the search warrant,
11 those items in Applicant's Exhibit Two in the search
12 warrant?

13 A. Yes, ma'am.

14 Q. Did you discuss this search warrant with
15 Mr. Carrigg?

16 A. I never had the opportunity.

17 Q. So you never discussed whether there were any
18 arguments or defenses or any way in which the evidence
19 that was received as a result of this search warrant
20 could be suppressed?

21 A. Right. Yes, ma'am.

22 Q. Now, if you could turn to your plea transcript.

23 And I'll actually provide you my copy because

24 unfortunately I don't appear to have an extra copy today.

25 If you could turn to page 21 of the plea transcript.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 There the State is giving the facts and do they also --
2 do they say there, the solicitor, that there were all
3 these items in plain view which was the basis of the
4 search warrant?

5 A. Hold on. (Reading document.) Can you repeat the
6 question again, please?

7 Q. Does the State indicate that the search warrant was
8 obtained because there were a lot of items in plain view
9 that were suspicious?

10 A. Initially. Yes, ma'am.

11 Q. Okay. But does anyone ever tell the Court that
12 those items were never taken and you weren't charged with
13 anything for having those items?

14 A. No, ma'am. There was not in the return on the --
15 in the evidence return --

16 Q. Okay.

17 A. -- what led them to the vehicle.

18 Q. So going back to the search warrant, Applicant's
19 Exhibit Two, those items are not listed in the return; is
20 that correct?

21 A. Yes, ma'am. That's correct.

22 Q. Okay. And speaking of that return, where it says
23 "signature of a judge," is that signed?

24 A. No, ma'am.

25 Q. Were either of those issues that you discussed with

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 your attorney prior to the entry of your plea?

2 A. Never had the opportunity.

3 Q. Now also on page 21 the solicitor states that they
4 had to break the window because you wouldn't hand over
5 the key. Is that consistent with the incident report
6 that says they had to break the window because the keys
7 were in the ignition?

8 A. No, it's not consistent.

9 Q. Did anyone point that out at the plea?

10 A. No, ma'am.

11 Q. Now, on page 30 of the transcript. On page 30 of
12 the transcript, Mr. Lyons is actually speaking on your
13 behalf. And he indicates to the Court there that you
14 could have challenged the search in Lexington. That's by
15 line 13.

16 A. Yes, ma'am. He does.

17 Q. Now Mr. Lyons was your attorney on one of the Aiken
18 charges; is that correct?

19 A. The traffic stop. Yes, ma'am.

20 Q. Okay. But he states that to the Court, I'm
21 assuming on Mr. Carrigg's behalf, but did Mr. Carrigg
22 ever explain to you those challenges that you had to the
23 search warrant?

24 A. No, ma'am. Never had the opportunity.

25 Q. Okay. All right. If you could flip back to page

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 four of your guilty plea, please.

2 A. Four of the transcript?

3 Q. Yes.

4 A. All right.

5 Q. There the issue of venue is discussed. And that
6 jurisdiction, there's going to be a waiver venue and you
7 were going to waive that so all of the cases could be
8 handled in a joint plea in Aiken County. And it
9 indicates that you had signed that that day.

10 Prior to the day of your guilty plea, had any of
11 your attorneys discussed waiver of jurisdiction and where
12 venue would be proper for your cases?

13 A. No, ma'am.

14 Q. When was that first brought up to you?

15 A. The day that they said I was either going to go on
16 with a plea or they was going to pull a trial, or pull a
17 jury.

18 Q. And was that thoroughly explained to you? Or just
19 kind of take us through what happened as far as venue was
20 addressed to you.

21 A. I believe from my understanding they wouldn't
22 transfer the Aiken charges to Lexington, but the Aiken
23 would allow the Lexington charge to come to Aiken.

24 Q. Okay. And then another matter that comes up, I
25 believe it was about page nine of the transcript. No,

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 it's also on page four.

2 A. Uh-huh.

3 Q. They discuss whether or not the new law or the old
4 law was going to be used. And in your amendment we made
5 note of the fact that a new drug law for lack of a better
6 word was passed and put into effect in June of 2010.
7 These charges were for September 1st of 2011, but one of
8 your Aiken charges were prior to June 1st of 2010; is
9 that correct?

10 A. Yes, ma'am.

11 Q. Did ever -- did any of your attorneys prior to the
12 day of your guilty plea ever discuss with you whether you
13 were going to be charged and sentenced under the new law
14 or under the old law?

15 A. It was in limbo. And my understanding it was still
16 in limbo up until I got all the proper information I
17 needed to go over my cases and understand it.

18 Q. Okay. Now when you met with Mr. Carrigg the day of
19 your plea what was his advice to you?

20 A. He had a plea agreement from Colleen Dixon from the
21 solicitor's office in Lexington 20 years. I'm assuming
22 it was to go along with the negotiated plea that was
23 offered to me by the solicitor's office in Aiken which I
24 turned down.

25 Q. Okay. And what was the amount of time on the plea

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 that you had turned down in Aiken?

2 A. Twenty years.

3 Q. Okay. So when he presented that 20-year offer to
4 you, what did you tell him?

5 A. I didn't take it.

6 Q. Okay. And then what ultimately happened?

7 A. I ended up going in front of Judge Early with an
8 open plea of five to 30 because I was under the
9 understanding that if I had pushed for a trial that
10 they'd have tried to try three different cases and
11 ultimately I'd probably end up with LWOP which is life
12 without parole in prison.

13 Q. And as a result of the advice you received from
14 your attorney, you decided to enter a guilty plea; is
15 that correct?

16 A. Against my better judgment. Yes, ma'am.

17 Q. Mr. Sanders, would you have gone to trial on these
18 charges in Lexington County?

19 A. Knowing the facts I do now, yes, ma'am.

20 Q. Did your attorney ever meet with you and prepare
21 for a trial?

22 A. No, ma'am.

23 Q. On the day you entered your plea based upon your
24 understanding, was your attorney prepared to go to trial?

25 A. No, ma'am.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Q. Okay. Mr. Sanders, I'm going to hand you a package
2 of documents. Can you identify those for the record,
3 please?

4 A. That's the affidavit for warrants, arrest warrants.

5 Q. Okay. And how many arrest warrants are contained
6 in this document I just handed you?

7 A. Four from Lexington County.

8 MS. BLANCHETTE: Your Honor, at this time
9 I'd move these four arrest warrants from
10 Lexington County in as Applicant's Number Three.

11 THE COURT: Any objection?

12 MR. WHITMIRE: Without objection, provided
13 that this is something from Mr. Carrigg's file.
14 I believe there's a foundation laid on this one
15 exhibit.

16 MS. BLANCHETTE: Your Honor, I can ask a
17 further question if needed.

18 THE COURT: Go ahead.

19 BY MS. BLANCHETTE:

20 Q. Mr. Sanders, did you have these prior to the entry
21 of your plea? Did you have your arrest warrants?

22 A. Yes, ma'am.

23 Q. Okay. So these were documents you had in your
24 possession; is that correct?

25 A. Yes, ma'am.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 MS. BLANCHETTE: Your Honor, subject to that
2 additional question, I'd move them in at this time.

3 MR. WHITMIRE: Without objection.

4 THE COURT: So granted, Applicant's Number
5 Three without objection.

6 (Applicant's Exhibit No. 3, four arrest
7 warrants, received into evidence.)

8 BY MS. BLANCHETTE:

9 Q. Mr. Sanders, the transcript is part of the record
10 and the Judge has the transcript. So I'll just summarize
11 it, but there were a number of charges both in Lexington
12 and in Aiken that the solicitor said they were nolle
13 prossing or dismissing as part of the benefit of your
14 plea agreement; is that correct?

15 A. Yes, ma'am.

16 Q. And these four arrest warrants go to several of
17 those charges that were dismissed; is that correct?

18 A. Yes, ma'am.

19 Q. So these were charges you were facing at the time
20 you entered your guilty plea?

21 A. Yes, ma'am.

22 Q. Now if you could turn to page 21 through 22 of your
23 transcript there. It is put in the record that the
24 officers found four plastic bags of marijuana, 61
25 suspected doses of Ecstasy, seven folded coffee filters

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 with white substance, drug paraphernalia, razor blades,
2 lighters, scales, pipes and rolling papers, 600 pills in
3 plastic bags containing 12.3 grams of methamphetamine.

4 Now in this case you were just pleading to
5 trafficking in methamphetamine or cocaine base 10 to 28
6 grams; is that correct?

7 A. Yes, ma'am.

8 Q. But the solicitor put in the record that all of
9 those other items were found as a result of the search of
10 the vehicle; is that correct?

11 A. That's correct.

12 Q. And that is a search of the vehicle that your
13 attorney never discussed with you or never talked about
14 whether or not that search was proper and the items found
15 could have been suppressed?

16 A. Yes, ma'am.

17 Q. Now she indicates further on page 22 through 23
18 that all the charges stemming from those items are going
19 to be nolle prossed. There were three charges, and that
20 you actually had pled to a paraphernalia charge?

21 A. Yes, ma'am.

22 Q. And those are the four charges represented by these
23 arrest warrants; is that correct?

24 A. Yes, ma'am.

25 Q. Now, first, Arrest Warrant 627840, that was for

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 possession with intent to distribute marijuana?

2 A. Yes, ma'am.

3 Q. And then Arrest Warrant 627842, that was for
4 paraphernalia?

5 A. Yes, ma'am.

6 Q. Arrest Warrant 627846, that was for possession of
7 Ecstasy?

8 A. Yes, ma'am.

9 Q. And then Arrest Warrant 627848 was for possession
10 of a schedule two, three or four narcotic which was 600
11 units of prescription drugs; is that correct?

12 A. That's correct.

13 Q. Did you ever have the opportunity to review the
14 SLED reports or any drug analysis for these drugs that
15 were reported to be found in these arrest warrants and
16 were the basis of the charges that were being dismissed
17 at your guilty plea?

18 A. No, ma'am. Not at the guilty plea, no.

19 Q. As part of my representation, did you request that
20 I contact SLED to try to obtain a copy of your file?

21 A. I sure did.

22 Q. And as a result of that, were we able to obtain a
23 copy of your file?

24 A. Yes, we were.

25 Q. And did I provide you a copy of the letter that

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 SLED sent to me along with the complete file?

2 A. Yes, ma'am, you did.

3 Q. Is it also your understanding that I provided those
4 documents to the Attorney General's Office so that we
5 would be able to utilize those as part of your PCR
6 hearing today?

7 A. Yes, ma'am.

8 MS. BLANCHETTE: Your Honor, if I could beg
9 the Court's indulgence one moment.

10 (Pause.)

11 BY MS. BLANCHETTE:

12 Q. Mr. Sanders, could you identify this for the
13 record, please?

14 A. This is a Freedom of Information Act from
15 Ms. Blancheck where she had to pay to get the drug
16 analysis.

17 Q. And that came from SLED; is that correct?

18 A. Yes, ma'am. State Law Enforcement Division.

19 Q. And you received a copy of this letter from myself
20 along with all of your SLED documentation; is that
21 correct?

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

23 MS. BLANCHETTE: Your Honor, at this time I
24 would move this letter in dated April 26, 2013,
25 from the State Law Enforcement Division to

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 myself, Tricia Blanchette, as Applicant's Number
2 Four.

3 THE COURT: Any objection?

4 MR. WHITMIRE: Without objection limited to
5 the letter.

6 THE COURT: So admitted.

7 (Applicant's Exhibit No. 4, letter dated
8 042613, received into evidence.)

9 MS. BLANCHETTE: And, Your Honor, I
10 apologize. I only have one copy. I didn't
11 intend on having to introduce that today.

12 THE COURT: Can I see that Madam Clerk,
13 please?

14 (Document handed to the Judge.)

15 BY MS. BLANCHETTE:

16 Q. Mr. Sanders, along with a copy of that letter did
17 you also receive a copy of the drug analysis from your
18 Lexington case from my office?

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

20 Q. And did you have an opportunity to review those?

21 A. Yes, we did.

22 Q. Mr. Sanders, I'm going to hand you that. Could you
23 identify what it appears to be for the record?

24 A. This is the forensic services laboratory report
25 from South Carolina Law Enforcement Division for the

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 drugs in question on -- let's see.

2 Q. Could you state the date that has the drug analysis
3 there?

4 A. Let's see. The date of the drug analysis. All
5 right. On February 10th, 2011, this was received by
6 Lexington Police Department.

7 Q. Okay. And under the words "drug analysis" at the
8 very top, what's the date on this report? Just so we can
9 keep these clear for record.

10 A. March 3rd, 2011.

11 Q. And what is the SLED lab number on this?

12 A. L11-01555.

13 MS. BLANCHETTE: Your Honor, at this time I
14 would move the SLED drug analysis in as
15 Applicant's Number Five.

16 MR. WHITMIRE: I'm going to object, Your
17 Honor, specifically on the basis that there's no
18 custodian to authenticate it. The letter which
19 was purportedly sent to counsel and Applicant
20 through SLED doesn't indicate the number of pages
21 each report has. They're not Bates numbered.
22 That's the first basis of my objection.

23 The second basis would be potentially --
24 well, it's relevance. This witness is not
25 qualified to give an opinion, specifically

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 regarding the scientific analysis of the SLED
2 document.

3 THE COURT: Ms. Blanchette?

4 MS. BLANCHETTE: Your Honor, if I may. I
5 provided these documents, I believe, to the State
6 originally a year ago when this was scheduled to
7 go forward last February. They had them prior to
8 today.

9 Just this morning I was notified that the
10 State intended to object to this document.
11 That's why I was able to pull that letter out of
12 my file. If I had been given any notice I would
13 have had the SLED custodian here if that was
14 needed.

15 My intention of providing this to him is to
16 show that this was something we had to obtain
17 after the guilty plea and something he did not
18 review with his counsel.

19 We're not questioning the testing done by
20 SLED. I have no questions that'll go into
21 whether they did the proper procedures at SLED or
22 anything that the person that did the analysis
23 would have to answer. It just merely goes to our
24 allegation that counsel failed to review this
25 with him. And this is information he would have

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 wanted to have reviewed prior to the entry of his
2 guilty plea.

3 THE COURT: If that's the basis of you
4 admitting it in, I'm going to sustain the
5 objection. He's testified to it. You've
6 presented it, the purpose for that. I don't need
7 to see it.

8 MS. BLANCHETTE: Okay. So am I allowed to
9 go ahead and ask him questions about the
10 document, Your Honor?

11 THE COURT: You've already asked him about
12 whether or not his lawyer went over it, didn't
13 you?

14 MS. BLANCHETTE: Yes, I wanted to ask him
15 what he found when he reviewed this document
16 once I provided it to him.

17 THE COURT: Okay. Go ahead. For
18 identification purposes so the record is clear on
19 that.

20 MS. BLANCHETTE: Thank you, Your Honor.

21 Q. Mr. Sanders, you had the opportunity to review this
22 document, is that correct, once we receive it from SLED?

23 THE COURT: And it's marked for
24 identification already, Ms. Blanchette?

25 MS. BLANCHETTE: No, it is not, Your

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Honor. I'm sorry.

2 THE COURT: Mark it for identification so
3 you can reference that and make sure the record
4 is clear on it, please.

5 (Applicant's Exhibit No. 5, SLED drug
6 analysis, marked for identification.)

7 THE COURT: Thank you.

8 MS. BLANCHETTE: Thank you, Your Honor.

9 Q. Mr. Sanders, let me hand you back this SLED report
10 that has been marked as Applicant's Number Five for
11 identification purposes only. Have you had the
12 opportunity to review this report as part of our
13 preparation for your PCR hearing here today?

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

15 Q. Okay. And this report goes over the analysis
16 for -- what items does it appear to go over?

17 A. The Ecstasy that --

18 MR. WHITMIRE: Objection. Hearsay.

19 THE COURT: Objection's sustained.

20 BY MS. BLANCHETTE:

21 Q. Mr. Sanders, in reviewing this report in
22 conjunction with your case file and along with the SLED
23 lab number and the case number and everything that's
24 indicated on this report, what were you able to ascertain
25 from this report as what was being reviewed and what the

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 findings were?

2 A. There was no controlled substance.

3 Q. This report that --

4 MR. WHITMIRE: Objection. Hearsay, and
5 also relevance. This witness is not qualified to
6 give scientific testimony.

7 THE COURT: Well, I sustain the objection
8 as to relevance.

9 Ms. Blanchette, if you'll limit your
10 questioning to whether or not, one, he ever saw
11 the document, two, whether or not his lawyer ever
12 provided it to him, whether his lawyer ever
13 discussed it with him, whether his lawyer ever
14 went over it with him.

15 Those are the issues that go to the
16 effectiveness or ineffectiveness of counsel at
17 the time of his guilty plea. Whether or not it
18 was -- whatever the findings were, I don't think
19 are relevant for purposes of this today.

20 Go ahead.

21 MS. BLANCHETTE: Your Honor, may I respond
22 to that?

23 THE COURT: Yes.

24 MS. BLANCHETTE: Your Honor, my point here
25 is to show this report says there's no controlled

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 substances found. We've already put in that the
2 State put in the record as part of the guilty
3 plea they were nolle prosequing the charge
4 connected to these drugs.

5 If there were no controlled substances
6 found, there was no basis for that charge and
7 that was never told to the plea court, nor did
8 his counsel ever advise him of that. That was
9 supposed to be part of the benefit of this plea
10 was that that charge was being dismissed. If
11 there was no basis for that charge, that should
12 have been part of the benefit of that plea and
13 that was to his understanding when he entered
14 this plea that that was a valid charge. His
15 attorney never advised him there was no
16 controlled substance found so he could have moved
17 for dismissal of that charge separately from this
18 guilty plea.

19 THE COURT: All right. Go ahead.

20 BY MS. BLANCHETTE:

21 Q. Mr. Sanders, did your attorney ever tell you that
22 he reviewed the SLED lab report dated March 3rd, 2011, as
23 it related to your case?

24 A. Never.

25 Q. Did he ever tell you that that report indicated

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 that there was no controlled substance found for what is
2 reported as butterfly-shaped tablets?

3 A. No, ma'am.

4 Q. At the time you entered your guilty plea, was it
5 your understanding that as part of the benefit the State
6 was going to dismiss the Ecstasy charges for some
7 butterfly-shaped tablets that were allegedly found in the
8 vehicle?

9 A. That's correct.

10 Q. Was it your understanding that that could be a
11 valid charge that you would potentially be --

12 MR. WHITMIRE: Objection. Leading.

13 THE WITNESS: Yeah --

14 THE COURT: Hold on.

15 MR. WHITMIRE: Specifically just because
16 it's asking for his specific opinion.

17 THE COURT: Hold on. Rephrase your
18 question, please, ma'am, whether or not he
19 knows. Whether or not he knows; he does, fine,
20 if he doesn't, fine.

21 Please rephrase your question.

22 MS. BLANCHETTE: Thank you, Your Honor.

23 Q. Did anyone advise you whether or not the State
24 could pursue the Ecstasy charge against you if you went
25 to trial or if you didn't accept this guilty plea?

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 A. No. No one ever advised. I was under the
2 assumption the charge was legitimate and that the drug
3 analysis come back and stated that it was, but it wasn't.

4 Q. Mr. Sanders, I'm going to hand you another
5 document. Can you identify this for the record, please?

6 A. This is the South Carolina Law Enforcement Division
7 Forensic Services Laboratory Report, drug analysis, dated
8 February 24th, 2011, SLED Lab Number L11-01556. It's
9 pertaining to prescription drugs found in the vehicle.

10 MR. WHITMIRE: Objection as, same as
11 before, specifically to the contents of the
12 report.

13 MS. BLANCHETTE: Your Honor, I have not
14 moved it in at this time.

15 MR. WHITMIRE: The testimony --

16 THE COURT: Objection's noted. Please
17 proceed. Ms. Blanchette, it may be a legitimate
18 objection in a minute, but go ahead.

19 MS. BLANCHETTE: Thank you, Your Honor.

20 Q. And it reports on here that this is from a
21 Lexington case dated February 10, 2011; is that correct?

22 A. Yes, ma'am.

23 Q. As part of my representation on your PCR you
24 requested that I obtain a copy of your file from SLED
25 because you had not received that from Mr. Carrigg; is

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 that correct?

2 A. That's correct.

3 Q. And at that time I submitted a request to the State
4 Law Enforcement Division on your behalf. Do you have
5 knowledge of that?

6 A. Yes, ma'am.

7 Q. And at some point I came to the prison and provided
8 you a copy of the letter I received from SLED along with
9 several hundred pages that we received from them; is that
10 correct?

11 A. Yes, you are.

12 Q. And it actually had come on a CD that I had to
13 print out for you; is that correct?

14 A. Yes, ma'am.

15 Q. Was this one of those documents that I provided to
16 you?

17 A. Yes, ma'am.

18 MS. BLANCHETTE: Your Honor, at this time I
19 would move this as Applicant's Number Six and I
20 would say for identification purposes only at
21 this time.

22 THE COURT: All right.

23 MR. WHITMIRE: Which I don't have. I'm
24 sorry. My apologies.

25 MS. BLANCHETTE: (Document shown to State's

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 counsel.)

2 Your Honor, I guess I should have moved it
3 into the record so the State can make their
4 objection. I apologize.

5 MR. WHITMIRE: Beg the Court's indulgence
6 just one moment, Your Honor.

7 THE COURT: Yes.

8 (Pause.)

9 MR. WHITMIRE: The same objection as
10 before. It's just specifically as to the
11 contents of this document, but I would stipulate
12 or not object to the fact that this was not
13 obtained by counsel.

14 THE COURT: What ID number is it? Six?

15 THE CLERK: This is Six.

16 MS. BLANCHETTE: Your Honor, may I just say
17 one thing for the record? And I'll be very
18 brief.

19 THE COURT: Yes.

20 MS. BLANCHETTE: I would like to put on the
21 record that I did provide these to the State
22 ahead of today's hearing. I was never informed
23 that there would be an objection and that the
24 custodian of records or in here the FOIA person
25 that provided these to me, signed the letter,

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 would need to be here today. If it is going to
2 be in any way prejudicial to my client, I would
3 ask for time to obtain that person to get them
4 here to introduce these documents.

5 THE COURT: Hold on. Let me ask this
6 question of the State.

7 MR. WHITMIRE: Yes, Your Honor.

8 THE COURT: Certainly pursuant to law,
9 Banister V State in particular, it says that the
10 rules of evidence -- the burdens on them to
11 certainly show and the rules of evidence
12 certainly apply. And I understand your
13 objection.

14 The other side of it, though, is: Are the
15 documents being offered for the truth of the
16 matter asserted? Are they? That's my question
17 to you.

18 MR. WHITMIRE: I said, my understanding --

19 THE COURT: And that is whether or not it's
20 true that there were -- there was no drugs found
21 or they weren't positive for drugs, et cetera.
22 Are they being offered at this time for the truth
23 of that matter?

24 In the Court's opinion, they are not. They
25 are simply going in as to whether or not defense

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 counsel reviewed such with him and if he didn't,
2 if they did or did not, did that in any way
3 affect his decision to plead guilty; is that
4 right, Ms. Blanchette?

5 MS. BLANCHETTE: Absolutely, Your Honor.
6 In the 10 years I've been doing this I've never
7 bothered a SLED agent to come and do this because
8 I'm not introducing them for the truth of the
9 matter asserted. I'm just trying to establish
10 exactly what Your Honor said; that this document
11 existed, it was not reviewed and what he would
12 have wanted his attorney to do with it.

13 THE COURT: That goes to the effectiveness
14 or lack thereof, counsel; and so therefore after
15 further consideration over your objection, I'm
16 going to allow them in. Go ahead, ma'am.

17 MS. BLANCHETTE: Thank you, Your Honor.

18 (Applicant's Exhibit No. 6, SLED report,
19 received into evidence.)

20 THE COURT: So now what was previously
21 marked as Applicant's Number Five for
22 identification is admitted as well as well as
23 Number Six.

24 (Applicant's Exhibit No. 5, SLED drug
25 analysis report, received into evidence.)

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 MS. BLANCHETTE: Your Honor, I have a copy
2 of Number Six for you.

3 (Document handed to the Court.)

4 BY MS. BLANCHETTE:

5 Q. Mr. Sanders, I apologize if I'm being repetitive.
6 I'm just not sure if I've asked. Did you review this
7 report with your counsel prior to the entry of your
8 plea?

9 A. No, ma'am.

10 Q. Okay. And have you had the opportunity to review
11 it once we obtained it from SLED?

12 A. Yes, ma'am.

13 Q. And, does this appear to be a report from some of
14 the prescription drugs that were found in the vehicle
15 that is at the basis of your case?

16 A. Yes, ma'am.

17 Q. And what, if anything, from this report would you
18 have wanted your attorney to review with you prior to the
19 entry of your plea?

20 A. It not being chemically tested, it just being a
21 visual examination of the prescription drugs that they
22 claim.

23 Q. And the charge that stemmed from what refers to be
24 the drugs here was one of the arrest warrants that we
25 have previously introduced; is that correct?

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 A. Yes, ma'am.

2 Q. And that was one of the charges that was dismissed
3 as part of the plea agreement in this case?

4 A. Yes, it was.

5 Q. Now if you could just finally turn to page 37 of
6 the transcript and look at lines 16 through 19. Prior to
7 that your attorney had made comments in mitigation that
8 the money that was found on you was actually your
9 co-defendant's money and that you were simply making
10 methamphetamine to use it. But there on line 16 through
11 19, what does the judge question him about?

12 A. The judge says, "How do you reconcile that with the
13 marijuana and all the pills and the Ecstasy and all of
14 that other stuff that's in there with it."

15 Q. So -- sorry. Go ahead.

16 A. I guess basically he was saying: How can you say
17 that this man is in here for making meth for his own
18 personal use, for his habit, when he's got all these
19 other drugs in here. But after the fact getting the
20 paperwork, I find out that some of the stuff wasn't even
21 drugs considered.

22 Q. And that, these reports were never presented to the
23 Court; is that correct?

24 A. No, ma'am.

25 Q. They were never discussed with your counsel?

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 A. Never.

2 Q. As far as you knew, did your counsel have any
3 knowledge of these reports?

4 A. None.

5 Q. But after mitigation is offered and then Judge
6 Early's comments he brings up the Ecstasy and the pills;
7 is that correct?

8 A. Yes, he does.

9 Q. It was an open plea; is that correct?

10 A. Yes, ma'am.

11 Q. And these are one of the last factors that he
12 brought up before making his sentence; is that correct?

13 A. Yes, ma'am.

14 Q. Now after you were sentenced to 20 years, what was
15 your reaction to that, Mr. Sanders?

16 A. Well, for one thing, I couldn't believe I got the
17 20 years after I went through with Lyons about not taking
18 the recommendation from the State for the 20 years to
19 begin with, and then going with the open plea after my
20 family had talked with the trial lawyer over the case, I
21 guess you'd say, Mr. Lyons, and he assured them I was
22 looking at 10 years.

23 Q. And what was your understanding as to the amount of
24 time you were facing when you entered your guilty plea?

25 A. Ten years.

1 Q. And if you would have known that this open plea was
2 going to result in 20 years and that your attorney had
3 not reviewed all of these documents with you prior to
4 advising you to enter the plea, would you have accepted
5 that plea?

6 A. No, ma'am. I probably would have pushed forward
7 with a trial and then at that point in time I would have
8 been knowledgeable of all of this information that's come
9 to light this day.

10 MS. BLANCHETTE: Your Honor, at this point I
11 have no further questions regarding the Lexington
12 charge. I can continue through the two Aiken
13 charges, or I do not know if you wanted to break
14 for some cross-examination at this point.

15 MR. WHITMIRE: May it please the Court --

16 THE COURT: Let me respond before you go
17 down that road so to speak.

18 (Pause.)

19 THE COURT: Now you may respond.

20 MR. GOURLEY: May it please the Court, Your
21 Honor.

22 THE COURT: Yes.

23 MR. GOURLEY: Mr. Lyons has indicated that
24 he has a doctor's appointment this afternoon. He
25 is apparently a Georgia attorney as well and his

1 office is in Georgia. My subpoena did not have
2 an effect. Mr. Lyons has indicated that he
3 basically needs to get out of here. If we could
4 potentially take his testimony out of order.
5 It's up to Your Honor.

6 THE COURT: What time do you have a
7 doctor's appointment, Mr. Lyons?

8 MR. LYONS: Judge, I got two o'clock, and
9 it's in Georgia. So it's going to take me a good
10 50, 45. Judge, I could go and come back this
11 afternoon and -- but I rescheduled this
12 appointment once and so I could go to the
13 appointment and just come back, Judge.

14 THE COURT: Who else do you have?

15 MR. GOURLEY: Your Honor, I have multiple
16 witnesses.

17 THE COURT: Mr. Carrigg and --

18 MR. GOURLEY: And Mr. Routzong.

19 And, Judge, I apologize. I wasn't aware of
20 Mr. Lyons' doctor's appointment and did not --

21 THE COURT: I mean, it's not his
22 responsibility to let you know and your
23 responsibility to let me know, you know. I
24 understand he got here this morning and he didn't
25 realize we were going this late --

1 MR. GOURLEY: Yes, sir.

2 THE COURT: -- with that. What time do you
3 think you can be back here?

4 MR. LYONS: Probably be close to four,
5 Judge.

6 MS. BLANCHETTE: Your Honor, if I may, I
7 was supposed to be back in Columbia for five
8 P.M., but it's not something as pressing as a
9 doctor's appointment. So I understand
10 completely. I was going to put in that I'm going
11 to go through Mr. Lyons' case next and that I
12 would be happy to break with his testimony if
13 that would be more, you know, convenient.

14 THE COURT: You go ahead and go to your
15 doctor's appointment. Give him your phone
16 number --

17 MR. GOURLEY: Yes, sir.

18 THE COURT: -- to call you when he gets
19 out.

20 MS. BLANCHETTE: Your Honor, just to be
21 clear, I'm happy for him to be called next. I
22 feel it's no prejudice to the Applicant if he has
23 short testimony.

24 THE COURT: Hold on. I mean, I understand,
25 but he's got a two o'clock appointment. He's

1 telling me that it's going to take him at least
2 45 minutes to get to.

3 MR. LYONS: Yes, sir.

4 THE COURT: You've hit on a bunch of issues
5 with Mr. Johnson that have lasted, I don't know,
6 45 minutes now.

7 MS. BLANCHETTE: With Mr. Sanders, yes.

8 THE COURT. Excuse me; Mr. Sanders.

9 MS. BLANCHETTE: Regarding Mr. Carrigg,
10 yes.

11 THE COURT: There's no way he's going to be
12 done in 20 minutes or 25 minutes. I'd be
13 surprised. Okay. So, I mean, I'm not going to
14 hold him up. I'm not going to put him in a
15 situation to be pressed to try to get to his
16 doctor's appointment.

17 Sir, go ahead and go.

18 MR. LYONS: Yes, sir. Judge, obviously he
19 can see me as quick as he can so I can get back.

20 THE COURT: If you'll do that, I appreciate
21 it.

22 MR. LYONS: Thank you, Judge.

23 (Mr. Lyons leaves courtroom.)

24 THE COURT: Here's a concern I have now. I
25 mean, he needs to be here for this testimony so

1 he can hear what he's saying what Mr. Sanders is
2 saying he did wrong so he can respond to it. At
3 least the way if I was in this gentleman's shoes
4 I'd want to be left with that.

5 MS. BLANCHETTE: Yes, Your Honor. I had
6 advised the State this was going to be a long
7 case and I'm not in charge of calling the cases
8 and the order.

9 THE COURT: You had advised the State
10 what?

11 MS. BLANCHETTE: I had advised the State
12 that this could potentially be a half-day case
13 because it was a consolidation of three cases.

14 THE COURT: Well, and as you well know,
15 defendants get here all the time and decide they
16 don't want to go forward.

17 MS. BLANCHETTE: Uh-huh. I understand,
18 Your Honor.

19 THE COURT: If I had known that -- anyway,
20 sir. Step down. Do not discuss your testimony.
21 I'm going to take a break, you know, Mr. --

22 MR. WHITMIRE: Whitmire.

23 THE COURT: Sir?

24 MR. WHITMIRE: No.

25 THE COURT: Mr. Sussman, he had asked, are

1 you going to be ready to go at one? You have --
2 is the other lawyer here?

3 MR. SUSSMAN: Mr. Chessser is here.

4 THE COURT: He may have to wait. We've got
5 some other lawyers ahead.

6 MR. SUSSMAN: That's fine. That's the way
7 it works. We're fine.

8 THE COURT: When he gets done with his
9 doctor's appointment to call you. It may be five
10 o'clock this afternoon. I have no idea. As you
11 all know, quite often I go to the doctor's
12 appointment and sit in their office for two hours
13 before I'm ever called back.

14 MR. GOURLEY: Yes, sir.

15 THE COURT: If I had known that from the
16 outset I'd probably continued this case. Now
17 we've gone into an hour and a half or an hour of
18 testimony that they may end up on a case that may
19 end up having to be continued for whatever reason
20 at this point. I mean, that's an hour plus of
21 wasted time of all these lawyers. And I'm not
22 fussing at y'all. I'm just saying.

23 MR. GOURLEY: Yes, sir.

24 THE COURT: That's just the bottom line of
25 what it comes to.

1 MS. BLANCHETTE: Your Honor, may I ask?
2 Would we reconvene at five o'clock? I just have
3 two young daughters and my husband has a school
4 board meeting tonight so I'd have to make
5 arrangements for this evening. I have someone to
6 watch them until five o'clock. It's just a night
7 where he will not be home so if we were going to
8 reconvene at that hour I need to make
9 arrangements.

10 THE COURT: I would ask that you do so at
11 this point. I mean, the Department of
12 Corrections has brought him all the way here.
13 Where did you come from, sir?

14 THE OFFICER: Lieber Correctional,
15 Charleston.

16 THE COURT: I mean, I'm sorry, but I think
17 that's the nature of it. So.

18 MS. BLANCHETTE: Okay. I just wanted to
19 ask Your Honor so we wouldn't be in a position --

20 MR. GOURLEY: Judge, are we breaking with
21 this case so I can call some other cases in
22 between or how would you like to proceed?

23 THE COURT: I'm going to stand down for
24 just a moment.

25 MR. GOURLEY: Okay.

1 MR. WHITMIRE: Your Honor, Mr. Carrigg's
2 here, present for it. He just suggested to me
3 it's a possibility...

4 THE COURT: I'm sorry. Tell me that
5 again.

6 MR. WHITMIRE: We could do Mr. Carrigg'
7 case now or whenever Your Honor wants pertaining
8 to the --

9 THE COURT: Is Mr. Sanders done on his
10 Lexington County stuff?

11 MS. BLANCHETTE: He is, Your Honor. So it
12 would be -- I would be agreeable Mr. Carrigg
13 being called at this time.

14 THE COURT: I'm going to allow them to
15 cross-examine your client on the Lexington County
16 stuff and then they can call Mr. Carrigg provided
17 you don't have any additional witnesses. I see
18 Mr. -- well, we'll see where we are at that
19 point.

20 MS. BLANCHETTE: Your Honor, if I just
21 may. I'm not trying to be difficult. I assume
22 we're on the record here, but when I made the
23 argument to Judge Keesley about combining
24 jurisdiction -- and it's in his order -- it was
25 that all three attorneys would need to be

1 present. You know, that when we get to some
2 further matters that I haven't gotten to yet
3 about the advice, all three of them gave that
4 advice together.

5 So as long as the Court is confident that
6 we can break it up in this way I just feel
7 somewhat cutting against the argument that we
8 made to Judge Keesley as to why this needed to be
9 combined and I'm not trying to make more
10 difficult an already-difficult situation. I just
11 want to make sure that we have a proper record in
12 this case.

13 I also would like to put on the record that
14 Banister versus State says that if you're going
15 to have a witness you have to have that witness
16 under subpoenaed. The State has already admitted
17 they did not have Mr. Lyons under subpoena. I
18 don't believe that --

19 THE COURT: No, what he said was that a
20 South Carolina subpoena is not valid across the
21 river over there. He didn't say it like that but
22 that's the way I'm saying it.

23 MS. BLANCHETTE: So he didn't validly have
24 him under subpoena. If the Applicant validly had
25 someone under subpoena but had a doctor's

1 appointment and couldn't be here in the middle of
2 the case, I would submit that the case would not
3 be continued or handled in this matter. And I'm
4 not -- that's no disrespect to the Judge. If you
5 would do that for the applicant, I apologize for
6 making that assumption. But here Mr. Lyons has
7 said he wasn't properly under subpoena but yet
8 this case --

9 THE COURT: That's not what he said.
10 That's not what he said.

11 But, anyway, I'll take it under
12 consideration. I'm going to stand down for just
13 a minute.

14 MR. GOURLEY: Okay, judge.

15 THE COURT: We'll go from there.

16 (Break taken at 1:36 p.m. At 1:39 p.m.,
17 the hearing resumed as follows:)

18 THE COURT: With regards to this matter of
19 Mr. Sanders, I'm going to set this aside for
20 right now until we can complete that hearing in
21 its entirety.

22 And for those lawyers that are here on
23 this, I'm sorry but we're going to finish this
24 thing today rather than have you all come back
25 another day.

1 I've been advised by Mr. Gourley we get two
2 of these weeks a year in this circuit, two, to
3 dispose of them and if we don't do it today that
4 means the State's got to bring Mr. Sanders back
5 and start the whole thing over again which is not
6 a good and efficient use of the State's
7 resources.

8 I understand defense lawyers, the pain that
9 you all feel so to speak in having to be here.
10 When I practiced law I did a lot of state and
11 federal criminal defense work. I've been in your
12 shoes. I've been on that stand as a lawyer and
13 I've had to get back on that stand once since I
14 was elected as a Judge to deal with a PCR that I
15 was PCR'd on. Unfortunately for you all, it's --
16 it comes with the business so to speak.

17 And I apologize for you all having to wait
18 here, but, sometimes we get questioned as to why
19 you got so many on the roster for today. We've
20 got two tomorrow, three on the roster. You
21 never know what a defendant may do or an
22 applicant may do. Every one of them could come
23 in here this morning and say "We want to
24 withdraw," and then having everybody here then
25 there's nothing to do if all of them withdraw

1 that.

2 So whether it be the luck of the draw or
3 however you want to coin that situation, we
4 haven't had anybody withdraw the last two days.

5 MR. GOURLEY: No, sir.

6 THE COURT: Anyway, we're going to stand
7 aside on Mr. Sanders' case and we'll reconvene it
8 later on today.

9 I have told Ms. Blanchette in chambers, and
10 as well as always the other attorneys involved in
11 this case on the State's behalf, they can stand
12 down on this for right now and we'll reconvene as
13 quickly as we can. Okay?

14 MR. GOURLEY: All right. Thank you, Judge.

15 (Case stood in recess at 1:41 p.m., while
16 other hearings were conducted. At 3:09 p.m., the
17 hearing of this cause continued:)

18 THE COURT: We are back on the record in
19 regards to Mr. Sanders. We stood down.
20 Mr. Lyons had to leave. He's still gone but the
21 attorneys asked me in chambers if we could go
22 forward and finish Mr. Carrigg.

23 MR. CARRIGG: Thank you very much.

24 THE COURT: And I indicated I had no
25 objection. It makes all the sense in the world

1 to me to go ahead and do that.

2 Ms. Blanchette, I'm going to recognize
3 you. I had your client, Mr. Sanders, step down
4 when we got to that point a little while ago. I
5 just want to make sure that you've asked your
6 client everything that you need to ask him at
7 this time as it relates to Mr. Carrigg.

8 MS. BLANCHETTE: Your Honor, with you
9 asking that question I was not in my mind
10 thinking we were ending at that point. If I
11 could just put him on the stand to ask him one
12 conclusory --

13 THE COURT: The State's has their
14 opportunity so to speak. Any cross-examination
15 to Mr. Sanders as it relates to her
16 representation, then if you want --

17 MR. CARRIGG: If I can ask a question, Your
18 Honor?

19 THE COURT: Yes.

20 MR. CARRIGG: I got here at 11:30, quarter
21 to 12. I had no idea I'd still be here.

22 THE COURT: I understand.

23 MR. CARRIGG: I've got a full day trial in
24 family court that's been scheduled for several
25 months, like, four months. And I've got a phone

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 call with my expert doctor at four o'clock. So I
2 got to -- I need to be away -- as long as I'm in
3 my car, I can make the call.

4 THE COURT: You need to be where?

5 MR. CARRIGG: I need to be able to get to
6 my phone to make my phone call --

7 THE COURT: By four o'clock?

8 MR. CARRIGG: Five to four.

9 THE COURT: I'm going to do my best to get
10 you there.

11 MR. CARRIGG: Thank you, Judge.

12 THE COURT: Go ahead, Ms. Blanchette.

13 MS. BLANCHETTE: Your Honor, I recall
14 Dennis Sanders, ask that he retake the stand.

15 THE COURT: Mr. Sanders, I remind you
16 you're still under oath, sir.

17 THE APPLICANT: Yes, sir.

18 DIRECT EXAMINATION (CONTINUED)

19 BY MS. BLANCHETTE:

20 Q. Mr. Sanders, you have assisted me in preparing for
21 this evidentiary hearing today. We have gone over your
22 case file and prepared the amendment that has been
23 submitted to the Court. I've asked you a number of
24 questions.

25 Is there anything else that you'd like to tell the

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Court in support of your PCR allegations today?

2 A. No, ma'am. I hope I get granted for a new trial.

3 Q. And with you saying that, you understand there's
4 risks in asking for a new trial but you still want a new
5 trial?

6 A. I fully understand it, yes, ma'am.

7 MS. BLANCHETTE: Your Honor, I have no
8 further questions.

9 THE COURT: This is what I'm going to do.
10 I'm going to ask you to step down. I'm going to
11 ask Mr. Carrigg to come take the stand. The
12 State's got a right to cross-examine Mr. Sanders
13 and I'm going to let you come back and cross-
14 examine him. I'm going to try to get Mr. Carrigg
15 out of here so that he can make that phone call.

16 MR. CARRIGG: Thank you, Your Honor.

17 THE COURT: Yes, sir.

18 MS. BLANCHETTE: Your Honor, I call John
19 Carrigg to the stand.

20 THE COURT: Any objection to us going in
21 that manner either from the State or the
22 defense?

23 MR. GOURLEY: No, Your Honor.

24 JOHN CARRIGG, having been duly sworn, was
25 examined and testified as follows:

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 THE CLERK: Please have a seat in the
2 witness box and state your name for the record.

3 THE WITNESS: My name is John Carrigg, last
4 name C-A-R-R-I-G-G.

5 DIRECT EXAMINATION

6 BY MS. BLANCHETTE:

7 Q. Mr. Carrigg, what is your profession?

8 A. I'm an attorney.

9 Q. How long have you been an attorney?

10 A. Since '91.

11 Q. And I see that's in the State of South Carolina?

12 A. Yes.

13 Q. And what is the primary focus of your practice,
14 Mr. Carrigg?

15 A. Now it is probably criminal, domestic, a little bit
16 of personal injury.

17 Q. Okay. And do you recall representing Dennis
18 Sanders on the charges that we've been talking about here
19 today?

20 A. I do.

21 Q. Okay. And how was it that you came to represent
22 him?

23 A. Initially I was contacted by Ms. Maria Raborn to
24 represent him on a bond reduction hearing.

25 Q. Okay. And did you do that?

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 A. I did.

2 Q. And then what happened after that?

3 A. Well, I was successful in that and his bond got
4 reduced so that he could get out. At that point I told
5 her that if she wanted -- if he wanted me to represent
6 him on the charges he needed to come and see me. And I
7 waited for him to come and see me.

8 Q. Okay. And do you recall ever meeting with the
9 solicitor and receiving any documents or discovery in
10 this case?

11 A. Actually what happened was, or he had an appearance
12 and his initial appearance -- give me just a second. His
13 initial appearance was March 24th, okay, and I believe he
14 called me prior to that but had not hired me. And I told
15 him that I wasn't going to court with him because he
16 hadn't hired me to represent him on the charges.

17 He apparently went to court and got a sheet from Al
18 Eargle, indicated that he had appeared without his lawyer
19 and had a second appearance on April 14th, 2011. I think
20 he came over to my office on that day and he must have
21 had what they give which is the discovery packet.

22 Now the discovery packet in this case was some
23 printed documentation with a cover letter dated March 4th
24 which would have been given to him on the March 24th
25 date, I assume, by Al Eargle.

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 The next appearance was April 14th. I also have a
2 disk that was apparently burned on April 14th for me by
3 Al Eargle. So that's where I got that discovery and I
4 did appear with -- it appears I did appear with
5 Mr. Sanders on April 14th at the notice of appearance.

6 Q. After that did you have the opportunity to sit down
7 and meet with Mr. Sanders and go over the discovery?

8 A. We sat down briefly after that. I believe after
9 that court appearance -- or maybe, I actually think we
10 sat down before that court appearance. And after that I
11 had no contact with him whatsoever.

12 Q. Did you have the opportunity to review the incident
13 report in this case as part of your work in preparation
14 in this case?

15 A. Yeah, I did review the incident report.

16 Q. Okay. Did you have the opportunity to review the
17 search warrant in this case?

18 A. I did review that.

19 Q. Do you know if you ever sat down and went over
20 those two discovery documents with Mr. Sanders prior to
21 the entry of his plea?

22 A. I'm trying to remember if he brought those with
23 him. What I can't remember, and I want to be accurate,
24 is if we met after the March 14th, or excuse me, the
25 April 14th appearance or before.

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 We may have met after the April 14th appearance in
2 which case we would have probably gone through and looked
3 at the documents on the disk that I had gotten from Al
4 Eargle. I did explain to him, because I think I had
5 already seen the search warrant, that I thought the
6 search warrant was very weak.

7 I think he can testify that I mentioned to him that
8 there was no drug dog or anything, you know. The
9 officers merely testified in their affidavit that they
10 saw coffee filters, a plastic bucket, and a Coleman
11 lantern or Coleman lantern fuel, which didn't really, in
12 my mind, give them, you know, even reasonable suspicion
13 to get a search warrant.

14 I think what they also factored into that is
15 Mr. Sanders had been there and had tried to over-purchase
16 ephedrine that day at the drugstore. Then once the
17 officers got there he consented to a search. They found
18 some shoplifted items and \$10,000 on him. At that point
19 they detained him and tried to get a search warrant.
20 They asked him if that was his vehicle. He told them --
21 apparently told them no. They ran the license plate. It
22 turned out it was registered to his father. So.

23 And that a little was too much of a coincidence for
24 them, clearly. I think at that point the report
25 indicates that they looked at the videotape from the

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 drugstore and saw that he and whoever he was with got out
2 of that vehicle. Yeah, so I did look at it.

3 Q. Were you actively preparing this case for a trial
4 or was your focus more on mitigation or obtaining a plea?

5 A. I was -- actually, after we met that one time I had
6 zero contact with Mr. Sanders. He went underground. I
7 made attempts to call him, his phone. Ultimately I left
8 message after message after message with no return call.
9 I called family members. I actually called and spoke
10 with -- I called Maria Raborn who told me they had broken
11 up and he was with another girl now who, I think,
12 ultimately was the person, the co-defendant he was
13 arrested with here in Aiken. I contacted that Maria
14 Raborn. I talked to Jennifer Sanders. I talked to
15 Dempsey Sanders. Had another number for Dempsey Sanders,
16 I think I talked to maybe a stepmother at one point.

17 I finally got an address from somebody with his
18 family that gave me an address in Pelion at Fox Trot
19 Trail, wrote letters to it, wouldn't give me a phone
20 number. I never heard anything from him.

21 So honestly at that point I was going to move to be
22 relieved and give him back whatever money he had given
23 me. He clearly did not want me to represent him. I
24 can't represent someone who won't call me back, wouldn't
25 communicate with me in any fashion and literally falls

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 off the face of the earth.

2 MS. BLANCHETTE: Your Honor, may I approach
3 the witness?

4 THE COURT: Yes.

5 BY MS. BLANCHETTE:

6 Q. Mr. Carrigg, I'm going to hand you a document
7 here.

8 A. Yes.

9 Q. And give you a minute to look over it. And let me
10 know if that appears to be a document that you had in
11 your file.

12 A. This is search results person summary. I can tell
13 you real quick. (Reviewing documents.) No, I do not
14 have this in my file.

15 Q. Okay. And you mentioned that you believed this all
16 started because law enforcement was called when

17 Mr. Sanders attempted to purchase pills or exceeded it?

18 A. Apparently he tried to purchase Suda -- ephedrine
19 in excess of the amount the law allows on a daily basis
20 and something pops up on their system, they call law
21 enforcement.

22 Q. Okay. And does this appear to be the exceedance
23 reports for Dennis Sanders?

24 A. I don't know.

25 Q. Okay.

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 A. I mean, I honestly -- that's the first time I've
2 ever seen it. I don't know what it is.

3 Q. Okay. Do you know if you looked into whether or
4 not that had shown up that he had attempted to purchase
5 the pseudoephedrine and that was an exceedance issue?

6 A. I know it was in the report. I never got anything
7 from the solicitor's office indicating that they had
8 evidence of that.

9 Q. Okay. Now, when was it that you did have
10 communication again with Mr. Sanders?

11 A. September the 1st of 2011.

12 Q. And just tell me what happened. Did he contact you
13 or --

14 A. No, he never called me in fact. And, honestly, at
15 that point I had really not done a lot more in this case
16 because I just assumed he didn't want me to represent
17 him. I mean, you know, anyone who's going to pursue a
18 defense and defend themselves is going to communicate
19 with their attorney. And so, I didn't know if he had
20 another attorney. I didn't know what had happened.

21 I just knew he was not making any effort to return
22 my phone calls, respond to my correspondence or respond
23 to messages I left with his family members.

24 The next communication I got was a phone call to my
25 office and I don't want to butcher Mr. Routzong -- how do

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 you pronounce --

2 Q. Root-song (phonetically).

3 A. Routzong. Routzong. From the Aiken County Public
4 Defenders Office and he informed my paralegal who
5 e-mailed me that: Mr. Routzong with the Aiken County
6 Public Defenders Office called regarding Dennis Sanders.
7 They have an offer of 20 years for Dennis and they would
8 like for that to include all charges from Lexington and
9 Aiken. He has spoken with Mr. Lyons who represents
10 Mr. Sanders on the Aiken charges, and would like to speak
11 to you about the Lexington charges. Wants to know if you
12 think Dennis would be helpful to law enforcement here in
13 Lexington. Please call him and discuss today as he would
14 like to take the plea to the solicitor on Thursday.

15 I got this message Tuesday, August 30th.

16 You can reach him at his office and here's
17 his cell number.

18 I had my personal handwritten notes where I
19 called Michael Routzong. I called Charles Lyons
20 and I had called Colleen Dixon who's the
21 solicitor in Lexington.

22 Q. Okay. And as a result of that, what happened next?

23 A. The only other piece of documentation I have is, I
24 think I went over and met with Colleen Dixon at the
25 Lexington County Solicitor's Office or the 11th Judicial

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 Circuit Solicitor's Office. And told her that I had not
2 spoken with my client but he had two lawyers down in
3 Aiken that seemed they wanted to try to put together a
4 plea with a 20-year cap or some kind of plea to 20 years
5 for all his charges for Richland -- I mean, not Richland,
6 but Lexington and Aiken combined, and would she go along
7 with that.

8 I was copied on some correspondence between her and
9 Colleen -- excuse me, between her and Beth Ann Young. I
10 don't know Beth Ann Young. It appears that, that Colleen
11 wrote Beth Ann and I don't know who wrote who first.

12 It looks like Colleen wrote Beth Ann and said:
13 Beth Ann, I would be happy -- or excuse me. Maybe Beth
14 Ann wrote first. I don't know. Maybe I don't have the
15 whole series.

16 I have this, they copied me on. She said --
17 Ms. Dixon says: I'll be happy if he just pled to
18 manufacturing meth second on mine, meaning the Lexington
19 charge, and I will dismiss the other charges that I have
20 pending. I can get the paperwork done and ready for you
21 if you want me to. The indictment has been true billed,
22 she says, and I will do a sentencing sheet as well. We
23 have waiver of jurisdiction forms that I can provide you
24 unless you have your own that you intend to use. I
25 heard that the plea was to go to 20 years from John

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 Carrigg so I don't know if he is on any of your cases or
2 not but that's the info I have. Just let me know what
3 paperwork you need blah blah blah. And also it says:
4 Thank you for helping, stuff like that.

5 And then there's an e-mail from Beth Ann to
6 Colleen: All of that sounds great to me. I just wanted
7 to make sure I understand your position before I call the
8 two defense attorneys. Is he pleading to 20 for you or
9 straight up on manufacturing second. I know they will
10 ask. I don't have a waiver form so if you can get a copy
11 that would be great. Usually we do it verbally but a
12 form would definitely be a better practice. The
13 assistant solicitor who I was going to send to collect
14 all the paperwork has family court pretty early. Would
15 you have trouble letting one of the defense attorneys
16 pick it up.

17 I think I actually brought the file from Lexington.
18 One of mine lives in Lexington also. He said he could do
19 it. I need the indictment, the sentence sheets and a
20 copy of the investigator summary or something to put the
21 facts on the record.

22 And then Colleen writes back saying: I'm good
23 either way, straight up or 20 years. Whatever deal you
24 work out you can just wrap mine up into it. I will let
25 you know who is picking the stuff up. I will put it at

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 the front desk with your name on. Thank you for your
2 help.

3 I'm copied on this and I'm obviously following up
4 with calls to probably Mr. Lyons and Mr. Routzong, and
5 the plea is going to be the following day.

6 So, you know, basically I had been in contact with
7 him in April. Absolutely radio silence until August the
8 30th.

9 Q. Okay. And going back to that communication, it
10 appeared you were going back and forth about a
11 manufacturing charge, is that correct, that she said was
12 true billed?

13 A. That's what's in the e-mail.

14 Q. Okay. And I'll show you a copy of the indictment
15 that's already in the record in this case.

16 A. I remember waiving presentment when we got here.

17 Q. Well this indictment here that he actually pled out
18 to, what is that for?

19 A. Trafficking meth 10 to 28, third offense.

20 Q. Okay. And that indictment is true billed?

21 A. That is true billed.

22 Q. Okay.

23 A. Yeah.

24 Q. And if you could turn to the front of that, it
25 says: Sentencing sheet. And what does it say he was

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 sentenced for?

2 A. He was sentenced to trafficking meth second
3 offense.

4 Q. Okay. So it appears from those communications that
5 she was talking about a manufacturing methamphetamine
6 charge but he actually pled out to a trafficking
7 methamphetamine charge?

8 A. That's correct.

9 Q. And did you realize at any point in the proceeding
10 that you all had been communicating about a different
11 charge than he ultimately pled out to?

12 A. I think I knew that they never brought the
13 manufacturing charge in Lexington. I think I knew that.

14 Q. And did you --

15 A. I mean, she did say that manufacturing -- she did
16 put in manufacturing but I was, I'm pretty much sure I
17 knew that they never -- because they didn't have anything
18 to indicate manufacturing.

19 Q. Okay. But I've already put his arrest warrants in
20 the record. You weren't aware of any arrest warrant or
21 any indictment for manufacturing methamphetamine?

22 A. No. That's what the e-mail said.

23 Q. Did you ever correct her on that to make sure that
24 you were negotiating on the proper charge?

25 A. No, I did not correct her on that.

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 Q. Now let's fast forward to the day of the plea. You
2 were doing all of that the day before, correct?

3 A. Right. I get notice on the 30th to do it on
4 September 1st, two days later. And I'm scrambling to see
5 if it can be done without having the benefit of a client
6 and without having the benefit of any communication with
7 a client for the last four months.

8 Q. Were you aware that he was incarcerated in the
9 County following his charges in Aiken County?

10 A. Yeah, I knew that and I was in communication with
11 his lawyers up here but, I mean, I was relying on what
12 they were telling me.

13 Q. Okay. So when did you first meet with him again?

14 A. I next met with him in an anteroom off the
15 courtroom across the hall.

16 Q. Okay. And was that the ideal condition to meet
17 with your client? And what happened that day?

18 A. It's a terrible condition to meet with your client.
19 The -- and I'm not being offensive, but everything is
20 very oppressive around here. The security is very
21 oppressive. The fact that you can't talk above a whisper
22 is very oppressive. The fact that when you try to speak
23 to your client you're constantly interrupted by deputies
24 telling you to shush. You're next in the courtroom.
25 They didn't have an appropriate place we could talk

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 openly.

2 Q. And is that the time in which you had advised him
3 about these plea negotiations?

4 A. That was the only place I had to advise him.

5 Q. Did you all ever talk about what you thought his
6 chances were if he proceeded to trial or what a trial
7 would look like in this case?

8 A. We discussed the fact that the Lexington charges, I
9 felt, were weak. I thought the search warrant was weak,
10 and that the whole thing could get tossed.

11 But by the same token he was facing so much, so
12 much other stuff that was going to put him in the same
13 predicament if he pled here in Aiken and they didn't get
14 tossed in Lexington, he would be facing life without
15 parole.

16 Q. Did you have the opportunity to talk with him about
17 any of the evidence, specific evidence against him that
18 day or how long was your meeting? Was it a long meeting
19 where you went over everything?

20 A. I think we had ample time to discuss it. I mean,
21 it seemed to me we were up here for an hour or two. We
22 were told be here at, like, 10 o'clock. I think they got
23 to us after lunch. I honestly can't remember. I'll
24 look to see.

25 But I remember having -- I mean, I remember being

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 here for a good little while.

2 Q. Okay. Do you recall feeling rushed at all though?

3 A. No, I wasn't rushed. The -- I mean, it's just
4 real, like I said, it's very oppressive circumstances to
5 try to have it -- I mean, to discuss with your client. I
6 mean, that's not my fault. That's not my client's
7 fault. It's just the way things are here, you know. I
8 don't mean it in a bad way. It's just the way things
9 are. I mean, this is the only county they're like that
10 in the whole state.

11 The plea, the transcript does not have -- since we
12 started 11:14, I thought we, we maybe got here at nine.
13 So -- because that would have been about right.

14 Q. But you had a lot to discuss, right, because he was
15 waiving venue first of all?

16 A. Waiving venue, folding these charges into a plea in
17 Aiken along with the other Aiken charges which I think
18 were manufacturing charges. I'm not sure what the Aiken
19 charges were. I know -- yeah, there was some. I think
20 there was a manufacturing, some manufacturing, some PWID,
21 some possession with intent to distribute.

22 In any event, yeah, I mean, we discussed the
23 benefits of having it all done together. We discussed
24 the fact that he could, you know, hold out on these.
25 They might just go away. I explained to him that there

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 was a chance of that, but it was a chance. It was a
2 chance it wouldn't go away. And if it didn't go away and
3 he got convicted that would be, you know, a serious
4 issue.

5 I did not have the drug report or the drug report
6 indicating that there was, were no -- that the Ecstasy
7 was counterfeit basically.

8 Q. And I was going to hand you what's been previously
9 marked as Applicant's Number Five and Six and ask: Did
10 you see these SLED reports prior to advising him to enter
11 the guilty plea?

12 A. I saw them for the first time today.

13 Q. Okay. And part of the benefit of his guilty plea
14 was that the Ecstasy charge and the prescription pill
15 charge was going to be dismissed; is that correct?

16 A. And the marijuana charge, I think.

17 Q. Correct. But those were two of the charges that
18 were going to be dismissed?

19 A. The marijuana had come up positive. They had
20 tested that at Lexington.

21 Q. But you didn't know the outcome of the test for the
22 prescription pills or for the Ecstasy; is that correct?

23 A. Right. I didn't -- now, I'm not saying the
24 solicitor didn't. I don't know if they knew it or not.
25 What's -- the drug report's in evidence and it came back

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 long before August. So, unless SLED just held it over
2 there, and I can't imagine they would do that, that
3 should have been in the solicitor's file that these were
4 counterfeit drugs.

5 Q. And as far as you know that information was never
6 given you to?

7 A. No, as far as I know -- I absolutely know it was
8 never given to me. I mean, I wouldn't have dealt on a
9 charge that they couldn't have made. I mean, what's
10 that? You know, dismissing a charge you can't make is
11 nothing. That doesn't have any value to it.

12 Q. And if I could just give you Plaintiff's Exhibit
13 Number Five which talks about the butterfly-shaped
14 pills. What's the date on that report at the top there
15 under the words "drug analysis"?

16 A. Drug analysis. The date on it is March -- drug
17 analysis March 3rd, but that's not the date they did it,
18 I don't think.

19 Q. On the second page there, there will also be a
20 date, I believe.

21 A. I guess, March 3rd, 2011; yeah.

22 Q. And in your experience as a criminal attorney, is
23 that typically the date that report would have been
24 issued, the date on there?

25 A. That should be accurate. I thought maybe there was

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 a different date on the back. I thought that maybe might
2 be the intake date, but the result indicated no
3 controlled substances. Submitted on March 3rd. Yeah.
4 It was done on March 3rd.

5 Q. And this plea was entered on September 1st of 2011;
6 is that correct?

7 A. Pardon?

8 Q. This plea, Mr. Sanders' plea --

9 A. Right.

10 Q. -- was entered on September 1st of 2011.

11 A. But the thing about this is is this report was
12 addressed to Cameron Mortenson. Cameron Mortenson is the
13 detective at the Town of Lexington. He's not with the
14 solicitor's office. So, like I said, the solicitor's
15 office may not have had this thing either. I don't know
16 how it took the town to hand it over to -- the Town of
17 Lexington to hand it over to the solicitor's office for
18 them to give it to me.

19 Q. Okay. But your understanding as far as how Brady
20 works is that the solicitor's office is responsible for
21 everything in law enforcement's file and making sure it
22 gets to you; is that correct?

23 A. I believe that's the way it works.

24 Q. Did you ever ask to see these reports?

25 A. I'll be honest with you, specifically I cannot

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 remember going and asking them. I did obviously go have
2 a conversation with Colleen -- and, well, let me get that
3 accurate. Give me one second.

4 -- with Ms. Dixon, Colleen Dixon. Obviously I went
5 over and spoke to her. And at that brief meeting I may
6 have asked her about it, but, you know, clearly, I mean,
7 I don't remember if I would have. I mean, I probably --
8 I mean, I thought I would have asked her if there's
9 anything else that she had that Al Eargle had not given
10 me.

11 And the reason I phrased it that way is Al Eargle
12 was the original solicitor assigned to this and at some
13 point because -- and I can tell that when I was doing my
14 notes I scratched through Al Eargle and wrote in
15 Colleen's name. So at some point he was taken off -- he
16 was -- the case was reassigned to her.

17 Q. Did you ever give Mr. Sanders an idea of the amount
18 of time that you thought he would receive as part of this
19 guilty plea?

20 A. Yes.

21 Q. And what was that?

22 A. I told him that he could get as little as five and
23 as much as 30. I didn't think the 20 was a bad offer.
24 He wanted to try to get it down to 15. I heard the
25 testimony earlier about 10. I never recall 10 being even

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 in the framework of things.

2 I recall one of the other lawyers, and I believe it
3 was Mr. Lyons, telling, you know, or discussing with him
4 that, as we were talking to him that we would try -- we
5 could take the guaranteed 20 and you couldn't get over,
6 or we could try to get him down but 15 was probably going
7 to be the best. I mean, that would be a big win to get
8 it down to 15 with all these charges.

9 I mean, just really not anything that's being
10 dismissed or anything that was being nolle prossed, just
11 what he was pleading to.

12 Q. Uh-huh.

13 A. Okay. My recollection with him in discussions was
14 that, you know, clearly there was a big risk if he held
15 off the Lexington charges and they were able to actually
16 prove something. I mean, the problem was they could, you
17 know -- you still had the marijuana that tested positive.
18 We didn't have -- I don't know that we had anything back
19 on the meth, but it would not have been a very wise
20 decision to carve off the Lexington stuff. The best
21 thing for him was to put it all in together.

22 My explanation to him was that I thought it would
23 be near the upper end. I thought that he was really
24 gambling dropping the 20, you know. I don't know how it
25 ultimately ended up being exactly 20 which is what the

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 solicitor wanted, but it did.

2 Q. And would you agree the solicitor never stated that
3 on the record, Mr. Lyons was the one who said the State
4 wanted 20?

5 A. Correct. I think that's accurate. I think what
6 Mr. Lyons said is he wanted 10, the State wanted 20.
7 And, I mean, I think that worked -- that inured to the
8 benefit of the client. I don't think that that was in
9 any way sabotaging the client because I think the context
10 of that was Mr. Lyons was saying in the transcript:
11 Look, he's a young man with a drug problem, you know,
12 he -- you can give him 10 or you can give him 20 which is
13 what the State wants, how about give him somewhere in the
14 middle which is what he wanted was somewhere in the
15 middle.

16 Q. As far as the record, the solicitor presented it as
17 an open plea. She never made a recommendation?

18 A. Right. Because the deal offered was a 20-year
19 plea, just to go plead to a 20-year sentence or five to
20 30. Take your chances. He wasn't -- he wanted the five
21 to 30. He wanted to take his chances.

22 Q. And in doing that an important part of the case was
23 to present mitigation, was to try to get the judge down
24 to the five; is that correct?

25 A. Well, I don't think it was ever any opportunity to

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 get him down to the five, but to get it down as much as
2 possible.

3 Q. And you made a series of comments to the judge.
4 And I'm going to show you page 36 and 37 of the
5 transcript.

6 A. I think I have a copy of it. If you just refer me
7 to it.

8 Q. Okay. If you look at page 37 after you've made
9 your mitigation comments line 15 through 19, there the
10 Court says: How do you reconcile that with the marijuana
11 and all the pills, the Ecstasy and all of that other
12 stuff that's in there with it.

13 A. Right.

14 Q. At that point did you tell the judge, I haven't
15 received the SLED reports back, I don't know that those
16 are valid charges? Did you say anything in response to
17 that?

18 A. No. I told him, I said, well, Your Honor, I mean,
19 I understand. I know all the pieces of the puzzle don't
20 fit together, but he says: Mr. Carrigg, I've been right
21 down there where you're standing for 30 years. I know
22 exactly where you're coming from. Toughest job I have up
23 here is a man looks at me and just won't straighten up
24 and fly right. Every -- he's had opportunity after
25 opportunity.

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 And Judge Early goes into a long, I mean, he goes
2 into a little bit of a speech which I won't read.
3 Says: I have to -- he concludes with: I have to judge
4 his future by his past actions, which doesn't really, you
5 know, it doesn't center -- I mean, he's really there, I
6 think, more relying on his criminal history and he's
7 going to have to be severely punished. I don't know what
8 else to do to get him out of society. But, go ahead. I
9 didn't mean to cut you off.

10 Well, he did mean to cut me off. He did cut me
11 off. And I said: No, Your Honor, I think someone from
12 the family wanted to speak. And that's it.

13 Q. But he did specifically ask you about those Ecstasy
14 pills as part of your mitigation?

15 A. He was kind of on a little bit of a -- I mean,
16 he -- I don't know that he was berating me but he was
17 kind of jumping on me a little bit. I think it was more
18 for my benefit than to be -- I mean, to be an insult to
19 my client, Mr. Sanders.

20 Q. After the plea, did you have any further
21 communications with Mr. Sanders?

22 A. I think I got a letter from him that he, it was --
23 I did not respond to it. It was -- I had a letter from
24 him, looks like, in October of 2011 saying: I'm writing
25 in regards to my case you handled it in Aiken at the

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 Second Judicial Court. It is my -- it may be some help
2 to me if you will mail me a copy of my Rule Six drug
3 analysis report along with any statements you may have on
4 file. And I didn't have any of that.

5 Also request to know if you have knowledge of any
6 new law that is supposed to allow an 85 percent violent
7 drug offender parole after serving at least one-third of
8 their total service. Thank you for your time and
9 assistance. Dennis Sanders.

10 Q. Did you ever file a motion for reconsideration or
11 an appeal on his behalf?

12 A. I did not. He never asked me to.

13 Q. Okay. Is it your typical practice to present an
14 offer and advise a client to accept a plea offer before
15 you have a complete file in a case?

16 A. No. I mean, this was -- there was nothing usual
17 about this case. I mean, there was a lot unusual about
18 part of the case, at least.

19 First, you know, I had a client who literally -- we
20 had one meeting and no more contact, by his own
21 decision. I mean, I was reaching out to him. I was
22 making calls to his phone number. I was writing letters
23 to the address that I had for him. I was calling his
24 family members. So I was doing everything I could to get
25 in touch with him. He didn't want to get in touch with

JOHN CARRIGG - DIRECT BY BLANCHETTE

1 me. So as far as I'm concerned he decided not to get in
2 touch with me.

3 And, at that point I was trying to locate him so I
4 could hopefully just get him to either agree or file a
5 motion to be relieved because I can't represent -- I
6 cannot possibly effectively represent someone who won't
7 communicate with me. It's impossible. No lawyer can do
8 that.

9 But that was his own decision. The, the next
10 thing that happened was I get a call from these lawyers
11 in Aiken saying: He's incarcerated here, they've got a
12 deal worked out, can I come down there and get it done.
13 And apparently the solicitor down here is already working
14 a deal with the solicitor in Lexington County to lump it
15 all together; can I come down there and do it.

16 So, I realized that there's a tremendous benefit to
17 Mr. Sanders to lump it all together regardless of the
18 weakness of some of the charges. And so I come down to
19 do it. And I meet here and I tried to explain
20 everything to him and I think I mentioned to him, you
21 know, put me in a bad position because he wouldn't return
22 my calls.

23 Q. And the incident date on the third and final case
24 in Aiken County was June 22nd, 2011, and Mr. Sanders was
25 arrested and put in the detention center at that point?

JOHN CARRIGG - CROSS BY WHITMIRE

1 A. Right.

2 Q. So the June 22nd to the plea in September 1st, did
3 you have any interaction with him at the county detention
4 center?

5 A. He never called me one time to tell me he was
6 there. Not one of his family members -- I've been in
7 touch with his father. Nobody told me he was there.

8 Q. Did you receive any letters from him to trying to
9 reach out to you to let you know he was there?

10 A. I'm pretty sure I didn't, but I'll look. (Looking
11 through documents.)

12 I had one letter from him but that was when he was
13 in jail in Lexington when I was getting the bond
14 reduction done. That's it.

15 Q. Okay.

16 A. And, plus, the other letter I mentioned.

17 MS. BLANCHETTE: Your Honor, beg the
18 Court's indulgence one minute.

19 THE COURT: Yes.

20 (Pause.)

21 MS. BLANCHETTE: Your Honor, I have no
22 further questions of this witness.

23 THE COURT: Cross-examination?

24 MR. GOURLEY: May it please the Court.

25 Just a few very brief questions.

JOHN CARRIGG - CROSS BY WHITMIRE

CROSS-EXAMINATION

BY MR. WHITMIRE:

Q. Good afternoon, Mr. Carrigg. I do appreciate your patience.

A. Absolutely.

Q. Do you recall, you said your first substantive meeting with your client on this case was in August of 2011?

A. My first meeting was April of 2011.

Q. I'm sorry. April.

A. April 14th.

Q. After the second appearance?

A. Right.

Q. Did he give you his version of the events relative to his arrest?

A. You know, he gave me -- I do recall him giving me a very short version. I don't know that he had a lot of time that day and I think we honestly planned to spend -- with most of my clients I'll, initially I'll get them back in. As we get discovery in and additional documents in, I get them in to make sure that they have copies of them. We go over with them and things like that. It's just with no cooperation for him to contact me, I didn't have an opportunity to do any of that.

Q. You testified that Ms. Raborn solicited you to

JOHN CARRIGG - CROSS BY WHITMIRE

1 represent him all the way through the case?

2 A. No. Ms. Raborn only hired me for the bond
3 reduction. And that's why he went to the first
4 appearance without me. I think -- my recollection is he
5 had called me and said, you know, do you -- are you
6 coming with me to the appearance. I got an appearance
7 tomorrow. And it wasn't like called me, like, two or
8 three days ahead of time. He called me, like, the day
9 before and said: Oh, I got to go to court tomorrow at
10 nine o'clock. Are you going with me. And I said: No,
11 I'm not going with you. You haven't hired me.
12 Ms. Raborn hired me. I did the bond reduction. You're
13 out of jail.

14 Q. Did you receive any other communication, facts
15 about the case from Mr. Raborn or any of his other family
16 members at this juncture?

17 A. No. I may have gotten some little bit of
18 information from, from Ms. Raborn about the case. She
19 may have known something about it.

20 Q. At some point you were told that he was holding
21 onto \$13,000 for her, correct?

22 A. I think at some point, yes, that -- and I mentioned
23 that at the plea that I think she had told me that there
24 was \$13,000 that he had that belonged to her.

25 Q. And how much of that money did the police recover

JOHN CARRIGG - CROSS BY WHITMIRE

1 at the CVS back in January 2011?

2 A. According to their reports they recovered \$10,000.

3 Q. Did the Applicant explain his version of, you know,
4 where this money went?

5 A. Honestly, I never asked him.

6 Q. Did it lead you to come up with any conclusions
7 concerning the other pills in his car?

8 A. I mean, I could only speculate.

9 Q. And I believe you testified this was a very unusual
10 case. Ultimately was it in his benefit to plead guilty
11 even knowing all the facts you've testified to?

12 A. Yes. I believe in all honesty it was, it was much
13 to his benefit because I fear that the case would not
14 have gotten thrown out of the water as weak as it was.
15 And if that happened he was on his way to getting a
16 conviction. So, I mean, that would have been for the
17 trafficking meth.

18 So that would have put him in a life-without-parole
19 situation, if he had pled here in Aiken or been tried and
20 convicted here in Aiken and then tried and convicted in
21 Lexington.

22 Q. Just based on your experience, extensive experience
23 as in criminal defense work in Lexington County?

24 A. Right. I mean my, my concern was, one, I mean,
25 he's got an extensive criminal record so, you know, he

JOHN CARRIGG - CROSS BY WHITMIRE

1 wasn't going to be able to testify.

2 And the evidence that they found if they got past
3 the search issues he was, there was a likelihood -- all
4 the Ecstasy pills and all of that aside, that didn't
5 really make a difference. There was a strong likelihood
6 he was going to get convicted of trafficking
7 methamphetamine.

8 Q. A few questions regarding the plea hearing itself.
9 Did your client ever stop you during the solicitor's
10 recitation of facts and say that's wrong or that's
11 incorrect?

12 A. I do not recall him doing that although in all
13 honesty I don't know he would have been able to do it.

14 Q. Did he express any trepidation to you or anyone at
15 counsel table regarding -- during that plea?

16 A. We weren't at counsel table. We were up at the
17 bench. Okay. And you're up at the bench in front of the
18 judge and in this case it was Judge Early and I don't
19 think he would have been in a position to, even if he was
20 scared to death, to relate it to me.

21 MR. WHITMIRE: Beg the Court's indulgence.

22 No further questions. Thank you, Mr.
23 Carrigg. Mr. Carrigg is released from his
24 subpoena whenever Ms. Blanchette is done.

25 THE COURT: Yes, ma'am?

JOHN CARRIGG - REDIRECT BY BLANCHETTE

1 MS. BLANCHETTE: Very briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. BLANCHETTE:

4 Q. Mr. Carrigg, just for the benefit of understanding
5 your testimony exactly. How was it that the strikes were
6 going to be used to give him life without parole? Did he
7 have a prior strike?

8 A. He didn't but it was my understanding that the
9 charges in Aiken would have resulted in a strike.

10 Q. And where did you get that understanding from?

11 A. I believe, I never looked -- see, I had no file on
12 the charge in Aiken. I'm assuming one of his defense
13 attorneys here in Aiken told me.

14 Q. All right. So you based your advice to him about
15 life without parole based -- you say pursuant to a
16 conversation with one of his attorneys in Aiken? You
17 were able to follow that? I'm sorry.

18 A. That would have been the only place that I would
19 have gotten that information that he was subject to get a
20 strike here.

21 Q. But you didn't sit down yourself and examine that
22 and determine where the strikes would come from before
23 you advised him he could be facing life without parole?

24 A. No, ma'am.

25 Q. And would you agree that there's a possibility you

JOHN CARRIGG - RECROSS BY WHITMIRE

1 could have been incorrect on that advice?

2 A. I could have been. Yes, ma'am

3 MS. BLANCHETTE: Your Honor, I have no further
4 questions.

5 MR. WHITMIRE: Beg the Court's indulgence.

6 THE COURT: Yes.

7 MR. WHITMIRE: If Your Honor would indulge
8 me and counsel and maybe ask one on recross.

9 THE COURT: Go ahead.

10 MR. WHITMIRE: May I approach the witness?

11 THE COURT: Yes.

12 RECROSS-EXAMINATION

13 BY MR. WHITMIRE:

14 Q. Mr. Carrigg, I'm showing you a copy of the plea
15 transcript page 27. I'd like you to publish lines 19
16 through 16 {sic}.

17 A. This is the Court speaking: Do you know what drug
18 that was. Ms. Young states: I don't, Your Honor. The
19 Court: '98. Ms. Young: That's correct --

20 MR. WHITMIRE: I beg the Court's
21 indulgence. If I may approach one more time. I
22 might have given you the wrong line.

23 THE WITNESS: Nine, you think?

24 BY MR. WHITMIRE:

25 Q. Yes, nine.

JOHN CARRIGG - RECROSS BY WHITMIRE

1 A. Ms. Young: With regards to Mr. Sanders' prior
2 record, Your Honor, he had a conviction for carrying a
3 pistol, unlawfully carrying a pistol in 1990; a pistol
4 violation; night hunting deer, '91; DUS, '93; night
5 hunting deer, '95; night hunting second offense, '97;
6 unlawful use of phone, obscene calls and CDV, '98;
7 manufacturing and possession with intent to distribute
8 schedule one, two, or three controlled substance. The
9 court: Hold on a second. Manufacturing. Ms. Young: Or
10 PWID. The Court: Do you know what drug that was. I
11 don't, Your Honor. The Court: '98. That's correct.
12 And the Court goes on: Starting into drugs.

13 Q. Very good. Thank you.

14 A. But I'm also and I can't find the exact cite but
15 the Court talks to him about life without parole
16 extensively. Now Judge Early talked to him about that.

17 Q. And the final question. Did you have extensive
18 discussions with another attorney regarding prior serious
19 offenses used for enhancement, that would have been used
20 for enhancement?

21 A. I mean, we talked about it. I mean, I don't know
22 how extensive. When we met up here that morning, and we
23 had had some phone conversations before that time.

24 MR. WHITMIRE: No further questions, Your
25 Honor. Thank you, Mr. Carrigg.

DENNIS SANDERS - CROSS BY WHITMIRE

1 THE WITNESS: Is this yours?

2 THE COURT: Sir, you may step down.

3 THE WITNESS: May I be excused, Your
4 Honor?

5 THE COURT: Yes, sir.

6 THE WITNESS: Thank you.

7 THE COURT: Any objection, Ms. Blanchette,
8 to him being excused?

9 MS. BLANCHETTE: No, Your Honor.

10 MR. WHITMIRE: None, Your Honor.

11 THE COURT: Now, Mr. Sanders.

12 THE APPLICANT: Yes, sir.

13 THE COURT: How about come back up here?
14 We'll allow cross-examination of you pertaining
15 to your allegations. All right. State's
16 recognized.

17 MR. WHITMIRE: May it please the Court.

18 THE COURT: Yes.

19 DENNIS SANDERS, having been duly sworn,
20 testified further under oath as follows:

21 CROSS-EXAMINATION

22 BY MR. WHITMIRE:

23 Q. Good afternoon, Mr. Sanders.

24 A. How are you doing, sir?

25 Q. With you and your prior record, you have a '97

DENNIS SANDERS - CROSS BY WHITMIRE

1 conviction for possession with intent to distribute?

2 A. Yes, sir.

3 Q. Was that a plea or a trial?

4 A. That was, I believe that was a plea in Lexington
5 County by Judge Cottingham.

6 Q. Do you recall who your attorney was?

7 A. No, I don't.

8 Q. Now, 2003, you have some more convictions for
9 distribution?

10 A. Yes, sir.

11 Q. Where was that?

12 A. McCormick County. One in McCormick County, one in
13 Aiken County.

14 Q. Do you recall who your attorney was for that?

15 A. Rosel Randall Williams out of Greenwood, South
16 Carolina.

17 Q. And was that a trial or a plea?

18 A. That was actually a plea.

19 Q. You pled guilty to any other felony charges outside
20 of those that you can recall?

21 A. No, sir.

22 Q. Now was there anything different about
23 Mr. Carrigg's representation in this case from your
24 perspective than those prior attorneys?

25 A. Yes, the prior attorneys had adequate information

DENNIS SANDERS - CROSS BY WHITMIRE

1 when I had the plea. They had the drug analysis. They
2 had the information of the confidential informant that
3 would have been testifying against me. They had some
4 information that would have prevented me from going to a
5 trial because I would have ended up with a maximum
6 sentence.

7 Q. Mr. Sanders, when was the last time that you met
8 with Mr. Carrigg before you got arrested here in Aiken
9 close to the plea?

10 A. I met with him when I initially paid him the
11 retainer fee. And I know he says he tried to contact me
12 but I, I didn't hear anything from him from the day we
13 went to the Court with Eargle. I went down and crossed
14 the street and he come over there and got the CD. And he
15 told Eargle, Al Eargle said: You don't have to come for
16 any more appearances, Mr. Carrigg would be in contact
17 with you.

18 That was, I believe, in March of 2011, like, right
19 after I got out on the bond, \$235,000 bond, which
20 ultimately two months later I'm back in the County and I
21 have no way to communicate through the lawyer that I
22 previously hired.

23 Q. Was this conversation, did it occur at
24 Mr. Carrigg's office?

25 A. Which? The conversation me and him -- when I paid

DENNIS SANDERS - CROSS BY WHITMIRE

1 him the retainer fee was at his office and then, yes,
2 sir.

3 Q. His paralegal or did he get you to fill out a
4 client information sheet?

5 A. To be honest with you, I'm not so certain. But he
6 had a paralegal there and, I mean, she took the money and
7 gave me a receipt for it.

8 Q. Do you recall if Mr. Carrigg asked for your phone
9 number or any other means of contacting you?

10 A. I had to give him a cell phone number. He had my
11 house number in Pelion.

12 Q. And to the best of your recollection, Mr. Carrigg
13 never attempted to call either of these numbers?

14 A. No.

15 Q. Did any of your family members contact you and say
16 your attorney in Lexington is looking for you?

17 A. No.

18 Q. Why didn't you call or contact Mr. Carrigg when you
19 got arrested here in Aiken?

20 A. When I got arrested in Aiken I could not call him
21 so I had wrote a letter to Charles Lyons before I had
22 even got Mr. Routzong as the public defender and I
23 explained to him that, you know, I got previous charges,
24 I got charges pending in Lexington County. I can't get
25 in touch with Mr. Carrigg. I don't have no way to get in

DENNIS SANDERS - CROSS BY WHITMIRE

1 touch with him. Is there any way that you can
2 communicate and try to consolidate these charges all at
3 one time.

4 Q. A few questions concerning your plea. When Judge
5 Early asked if you had any questions for him, why didn't
6 you then take the opportunity to tell him that you had
7 some concerns?

8 A. Well, see, at that point in time I was under the
9 impression that the best thing I could do was go in there
10 and I was looking at 10 years, even though it was a five-
11 to-30 plea. And the best thing for me to do was just
12 keep my mouth shut and just grin and bear it. Had I
13 tried to step outside the boundaries of what was, the
14 agreement with the lawyers, and I guess the solicitor at
15 that point in time, you know, the LWOP was in effect.
16 You know, I got numerous drug charges and all, but not an
17 abundance of drug charges. I mean, what I had were
18 basically for private use, I mean, to just keep up with
19 my own habits.

20 Q. Mr. -- I believe you testified -- this is my last
21 question.

22 A. Yes, sir.

23 Q. The reason you took that plea was you didn't want
24 to face potential LWOP with all those potential cases
25 disposed of in three separate trials?

DENNIS SANDERS - REDIRECT BY BLANCHETTE

1 A. Right. From my understanding they said it's three
2 strikes to get life without parole, correct. They got to
3 be violent offenses. I didn't know none of that at the
4 time. I'm thinking that three drug charges would have
5 been three strikes, not three possession with intent or
6 three manufacturing or whatever but three drugs charges.

7 Ultimately after I come to prison and I hire
8 Ms. Blanchette I find out LWOP would have never been in
9 effect because I got convicted of, I think, one violent
10 offense.

11 MR. WHITMIRE: Beg the Court's indulgence.

12 THE COURT: All right.

13 MR. WHITMIRE: No further questions.

14 THE COURT: Anything further?

15 MS. BLANCHETTE: Yes, Your Honor. Beg the
16 Court's indulgence. I'm sorry.

17 REDIRECT EXAMINATION

18 BY MS. BLANCHETTE:

19 Q. Mr. Sanders, let me show you this document and if
20 you could, please identify it for the record.

21 A. This is the printout for Sudafed transactions
22 through the federal government.

23 Q. And whose document? It's at the top of that.

24 A. Most recent file name, Dennis Sanders.

25 Q. And the date of birth there, is that your date of

DENNIS SANDERS - REDIRECT BY BLANCHETTE

1 birth?

2 A. Yes, ma'am.

3 Q. Okay. And, Mr. Sanders, how did you come into
4 possession of this document?

5 A. Whenever I filed for the -- from the solicitor's
6 office.

7 Q. Okay. So you -- did you write a request to the
8 solicitor's office?

9 A. To -- Beth Ann Young sent me the whole packet under
10 the Freedom of Information Act.

11 Q. And you yourself wrote that and requested that and
12 you received that from the solicitor's Office in Aiken
13 County; is that correct?

14 A. This is after I was sentenced. Yes, ma'am.

15 MS. BLANCHETTE: Your Honor, at this time I
16 would move this in as Applicant's Number Seven.

17 THE COURT: Seven.

18 MR. WHITMIRE: Objection, Your Honor.

19 Ms. Young, I don't know if she's present or is in
20 the courtroom. I'm just not aware of this.

21 THE COURT: What is it?

22 MR. WHITMIRE: I understand it's a proffer.

23 THE COURT: Let me see it, please, sir.

24 (Document handed to the Judge.)

25 THE COURT: What is the relevance of this?

DENNIS SANDERS - REDIRECT BY BLANCHETTE

1 MS. BLANCHETTE: Your Honor, this is the
2 compilation of his exceedance reports. Any time
3 that we all attempt to purchase --

4 THE COURT: Right.

5 MS. BLANCHETTE: -- any type of controlled
6 substance, they take our driver's license and
7 this report is compiled. And this is for the
8 dates regarding the charges in question.

9 It was my understanding it was in each
10 attorneys' file because this is his entire
11 exceedance reports during the time period for
12 each of these charges.

13 The reason why I'm trying to introduce it
14 at this point is Mr. Carrigg referenced that he
15 had tried to purchase pills and that he had
16 exceeded -- it was his client's testimony that it
17 was his co-defendant that --

18 THE COURT: Did he go into that on cross-
19 examination?

20 MR. WHITMIRE: It's from Mr. Routzong's
21 file, so it's fine.

22 THE COURT: Okay. I mean, I didn't hear
23 him go into that on cross-examination. I'm
24 trying to limit you on that in your redirect, but
25 if he's not objecting to it I'll allow it.

DENNIS SANDERS - REDIRECT BY BLANCHETTE

1 MR. WHITMIRE: Your Honor, I have no
2 objection out of efficiency.

3 THE COURT: Seven admitted without
4 objection then.

5 (Applicant's Exhibit No. 7, exceedance
6 reports, received into evidence.)

7 BY MS. BLANCHETTE:

8 Q. Okay. Mr. Sanders, this is the exceedance
9 reports, for lack of better terminology, for the dates in
10 question. Is it your position that you were not the one
11 who attempted to purchase the pills at the CVS pharmacy
12 on the incident date of February 24th -- I'm sorry, on
13 the incident date of January of 25th, 2011?

14 A. Yes, ma'am.

15 Q. And in reviewing this report, is there any incident
16 reported on here where you attempted to purchase
17 controlled substance on January 25th, 2011?

18 A. No, ma'am.

19 Q. Okay. Was this a document that you reviewed with
20 Mr. Carrigg?

21 A. No, ma'am.

22 Q. Okay. Now, I just want to clarify one other
23 matter, Mr. Sanders, and make sure I get this properly
24 marked with the clerk.

25 THE COURT: She's waiting on you, had the

DENNIS SANDERS - REDIRECT BY BLANCHETTE

1 sticker in her hand.

2 BY MS. BLANCHETTE:

3 Q. In response to the State's questions, the reason
4 why you took the guilty plea, you spoke about life
5 without parole. Was it your understanding that you
6 could be facing life without parole a result of the
7 advice you had received from your counsel?

8 A. Right.

9 Q. Did you come up with that reason on your own?

10 A. No, ma'am.

11 Q. Okay.

12 A. It was discussed in the meeting behind the chambers
13 right there outside the holding cell with the deputies
14 and all present with all three lawyers sitting there.

15 Q. And you would agree that was a factor for deciding
16 to accept the guilty plea on that day?

17 A. Yes, ma'am, because the last case that Mr. Routzong
18 was on, he -- there was never a search warrant produced
19 and he was willing to go to trial on that case though
20 Lyons and Carrigg had informed me that if I had pushed
21 forward with going to trial on any one of the cases, they
22 had broke the cases up, and ultimately I'd have ended up
23 with life without parole had I been convicted.

24 Q. You are asking the Court today for a new trial; is
25 that correct?

DENNIS SANDERS - RECROSS BY WHITMIRE

1 A. Yes, ma'am.

2 Q. And knowing that you want to accept the risk of a
3 trial?

4 A. Yes, ma'am.

5 Q. And were you willing to accept the risk of the
6 trial that day but your attorneys were advising you to do
7 something else?

8 A. Right. Exactly. Yes, ma'am.

9 Q. So just to be clear, you did want the trial prior
10 to entering your guilty plea?

11 A. Yes, ma'am.

12 MS. BLANCHETTE: Your Honor, I have no
13 further questions regarding this portion of the
14 case.

15 MR. WHITMIRE: Beg the Court's indulgence.
16 Maybe one recross question concerning the
17 exhibit.

18 THE COURT: All right.

19 MR. WHITMIRE: May it please the Court.
20 May I approach?

21 THE COURT: Yes, sir.

22 RECROSS-EXAMINATION

23 BY MR. WHITMIRE:

24 Q. Mr. Sanders, I'm showing you the exceedance report
25 your attorney just introduced on page two of five. Will

DENNIS SANDERS - RECROSS BY WHITMIRE

1 you publish that very last date?

2 A. January 24th, 2011, at the Target on Sunset
3 Boulevard, not the CVS that I was arrested at.

4 MR. WHITMIRE: No further questions at this time,
5 Your Honor.

6 THE COURT: All right. Sir, you may step
7 down. Mr. Lyons? How about this gentleman as it
8 relates to the Aiken stuff?

9 MS. BLANCHETTE: I can begin the Aiken
10 case as relates to Mr. Routzong at this time with
11 Mr. Sanders.

12 THE COURT: How intertwined is all of
13 that?

14 MS. BLANCHETTE: I would defer to the State
15 if they feel that their witnesses are in any way
16 intertwined.

17 MR. GOURLEY: I have no idea, Your Honor. I
18 have no idea what she's trying to allege; so.
19 Outside of her allegations, of course.

20 THE COURT: Mr. Lyons should be here any
21 minute?

22 MR. GOURLEY: Yes, sir.

23 THE COURT: Do you agree with that,
24 Mr. Gourley?

25 MR. GOURLEY: I do, Your Honor. He called

DENNIS SANDERS - RECROSS BY WHITMIRE

1 me. Your Honor, I'm sorry for pulling out my
2 phone.

3 THE COURT: All right. Well, let's stand
4 down for just a minute.

5 MR. GOURLEY: He called me at 3:27, Judge.

6 THE COURT: I don't know where he had to go
7 to his doctor's appointment; do you know? It was
8 in Georgia. How far away from Georgia, 25
9 minutes?

10 MR. WHITMIRE: It's 45. It's in Evans,
11 Georgia. I grew up about a mile from where his
12 location is right now or was.

13 THE COURT: We'll stand down for a few
14 minutes.

15 MR. GOURLEY: Thank you, Judge.

16 MS. BLANCHETTE: Thank you, Your Honor.

17 (Break taken at 4:15 p.m., until 4:31 p.m.,
18 and the hearing continued:)

19 THE COURT: Ms. Blanchette?

20 MS. BLANCHETTE: Your Honor, it's my
21 understanding that the Assistant Attorney
22 General, Walt Whitmire, and myself that are
23 handling the Lexington case, there is one matter
24 we need to put on the record very briefly.

25 The amendment that I filed included an

DENNIS SANDERS - RECROSS BY WHITMIRE

1 allegation pursuant to Rule 15(B) that we can
2 move to amend to any testimony or evidence that
3 was presented today.

4 We do have concern that a Brady violation
5 was alluded to in Mr. Carrigg's testimony and if
6 this Court sees fit I have agreed that I think it
7 would be prudent for the State to get an
8 affidavit from the solicitor to determine if
9 those SLED reports were in her file or not, and
10 then we could supplement the record in that way.

11 THE COURT: Mr. Whitmire?

12 MR. WHITMIRE: For the record, we learned
13 this at the exact same time, speaking with the
14 witness. And out of fairness it's only fair she
15 can proceed on it today but just to get a yes or
16 no from the solicitor that handled this case.

17 THE COURT: All right. That will be fine.

18 MS. BLANCHETTE: Thank you, Your Honor.

19 MR. WHITMIRE: Thank you, Judge.

20 MS. BLANCHETTE: Turning to the Aiken
21 County PCR that is docketed at 2012-CP-02-1278.

22 Your Honor, we do have one amendment that
23 we need to put on the record and that is
24 ineffective assistance of counsel regarding
25 mitigation at the guilty plea. And we are

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 alleging that counsel was ineffective in handling
2 the mitigation at the guilty plea.

3 THE COURT: Any objection, Mr. Gourley?

4 MR. GOURLEY: No, Your Honor.

5 THE COURT: All right.

6 MS. BLANCHETTE: Your Honor, at this time I
7 would recall Dennis Sanders to the stand.

8 THE COURT: All right. Go ahead.

9 DENNIS SANDERS, having been duly sworn,
10 further testified under oath as follows:

11 DIRECT EXAMINATION

12 BY MS. BLANCHETTE:

13 Q. Mr. Sanders, on February 24th, 2010, were you
14 arrested as part of a traffic stop in Aiken County?

15 A. Yes, ma'am, I was.

16 Q. Okay. And as a result of that traffic stop and
17 your arrest, did you remain in the county detention
18 center or did you make bond?

19 A. I made a bond.

20 Q. Okay. And then you were out on bond; is that
21 correct?

22 A. Yes, ma'am.

23 Q. Until what time?

24 A. Until January 24th, 2011, when I was arrested in
25 Lexington.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Q. Okay. And did you retain an attorney to assist you
2 with the charges that you received from the February 24,
3 2010, Aiken County traffic stop?

4 A. Yes, ma'am. The Hawk Law Firm out of Augusta,
5 Georgia.

6 Q. And did you ever meet with anybody from the Hawk
7 Law Firm out of Augusta, Georgia?

8 A. I spoke with Jocque Hawk when I retained him for
9 the case and he said he'd be in contact with me.

10 Q. Okay. And when did you first realize that Mr. Hawk
11 would not be the one representing you?

12 A. I had got a phone call that I was supposed to
13 appear in court for a roll call, I suppose. And
14 Mr. Lyons was then -- he informed me then that he was
15 handling the case as an associate of the Hawk Law Firm.
16 That was through a telephone call.

17 Q. And do you know specifically when Mr. Lyons entered
18 his appearance on your behalf?

19 A. No, ma'am.

20 Q. Okay.

21 A. Not at the time, I believe. Not at the time I
22 didn't, but since now I believe it was in July of 2011.

23 Q. Okay. And did you ever receive any type of notice
24 that you were up for trial --

25 A. No, ma'am.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Q. -- in this case?

2 A. Oh. Yes, ma'am. Yes, ma'am.

3 Q. Okay. And when did you receive notice that you
4 were up for trial?

5 A. About three or four days, the week before September
6 the 1st.

7 Q. Okay. So just shortly before your guilty plea --

8 A. Yes, ma'am.

9 Q. -- you received notice that you were up for trial?

10 A. Yes, ma'am.

11 Q. Now, Mr. Sanders, in the record is a copy of the
12 arrest warrants and indictments on the two charges that
13 you pled to in this case. And you pled guilty to
14 Indictment Number 2011-GS-02-094 for possession with
15 intent to distribute methamphetamine; is that correct?

16 A. I believe so. Yes, ma'am.

17 Q. And you pled guilty to 2011-GS-02-095 for
18 possession of pseudoephedrine less than 27.9 grams?

19 A. Yes, ma'am.

20 Q. And that was a second offense?

21 A. Yes, ma'am.

22 Q. And what sentence did you receive?

23 A. Twenty years.

24 Q. And I'm going to provide you a copy of what is my
25 understanding is in the judge's packet of the arrest

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 warrants and indictments that correspond with the two
2 charges that you pled out to.

3 Now the first arrest warrant is 092393 and that
4 states it's for possession of pseudoephedrine. And in
5 that it alleges that you possessed 12 packs of pills with
6 a combined weight of 14.4 grams of pseudoephedrine within
7 a half mile of a school.

8 The second arrest warrant is 092394 trafficking in
9 methamphetamine. And it alleges that there was
10 methamphetamine found under the seat of the vehicle that
11 exceeded 10 grams within a half mile of the school.

12 Those arrest warrants were then indicted as
13 Indictment 095 which was possession with intent to
14 distribute methamphetamine. That was true billed on 2-17
15 of 2011, and in that it alleged that you possessed a
16 quantity of methamphetamine.

17 The second indictment was 094, possession of
18 pseudoephedrine. That was true billed on 2-17 of 2011.
19 Did you ever have the opportunity to go over those two
20 arrest warrants and indictments with your attorney prior
21 to the entry of your guilty plea?

22 A. No, ma'am.

23 Q. What, if anything, would you have wanted to discuss
24 regarding those with your attorney prior to the entry of
25 your guilty pleas?

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 A. Well, I believe the possession with intent to
2 distribute methamphetamine was actually the trafficking
3 charge, if I'm not mistaken. Right? It was a
4 trafficking charge but it ultimately ended up being a
5 plea to PWID because there was only 7.1 grams of
6 methamphetamine in the drug analysis.

7 Q. So there in the arrest warrant it says trafficking
8 in methamphetamine but you ultimately pled out to a
9 possession with intent to distribute and a possession of
10 pseudoephedrine?

11 A. Yeah. I pled out to it because it wasn't but 7.1
12 grams.

13 Q. Okay. And did you have the opportunity to discuss
14 that with your attorney, the drug amounts?

15 A. No. I mean, I did after the fact that when I got
16 the drug analysis from him when he come to see me the
17 week of the trial or three days before. And I did the
18 math on it and it come up to 7.1 grams.

19 So I had my mother contact Mr. Lyons' office and I
20 guess in lieu he contacted the solicitor's office and had
21 it brought down to a PWID.

22 Q. And, Mr. Sanders, could you identify this, please,
23 for the record?

24 A. This is a drug analysis for methamphetamine from
25 the Aiken County Sheriff's Forensic Lab date April 15th,

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 2010, Lab Number L10-0163.

2 Q. And is this the report that you just testified you
3 received from Mr. Lyons?

4 A. Yes, ma'am.

5 MS. BLANCHETTE: Your Honor, at this time I
6 would move this report in as Applicant's Number
7 Eight.

8 MR. GOURLEY: Your Honor, beg the Court's
9 indulgence one moment, please.

10 (Conferring with co-counsel.)

11 MR. GOURLEY: I have no objection, Your
12 Honor.

13 THE COURT: Without objection, Eight
14 admitted into evidence.

15 (Applicant's Exhibit No. 8, ACSO Lab
16 Report, received into evidence.)

17 BY MS. BLANCHETTE:

18 Q. Mr. Sanders, you have this report there in front of
19 you. This is the report that you utilized to add up the
20 amount of drugs?

21 A. Yes, ma'am.

22 Q. Okay. And you were initially arrested for
23 trafficking. And what did you have to point out to your
24 attorney?

25 A. That there was only 7.1 grams of methamphetamine in

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 the drug analysis and 10 grams or more constitutes
2 trafficking.

3 Q. Okay. And, Mr. Sanders, if I may hand you an
4 additional document here. Could you identify what this
5 group of documents appears to be for the record?

6 A. Yes. This appears to be the documents that are
7 dismissed or nolle prossed in, I guess, in -- for the
8 plea deal.

9 Q. Okay.

10 A. They dismissed these charges.

11 Q. Are these your additional arrest warrants that were
12 stemming from this incident date?

13 A. The traffic stop. Yes, ma'am.

14 MS. BLANCHETTE: Your Honor, at this time
15 I'd move these arrest warrants and disposition
16 sheets, Your Honor -- actually, I'm sorry. I
17 have to ask another question.

18 Q. Mr. Sanders, how did you come into possession of
19 these documents?

20 A. These? Through you.

21 Q. Okay. And were these part of the requests to
22 receive a copy of your attorney's file as far as you
23 know?

24 A. Yes, ma'am.

25 Q. Okay. Had you ever written the clerk's office

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 yourself and requested these yourself as well?

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

3 Q. Okay. And did you receive these from the clerk's
4 office?

5 A. I believe I did after, after I had hired you.

6 MS. BLANCHETTE: Okay. Your Honor, at
7 this time I would move this in, these arrest
8 warrants in as Applicant's Number Nine.

9 THE COURT: Any objection?

10 MR. GOURLEY: No, Your Honor.

11 THE COURT: Without objection Number Nine
12 admitted into evidence.

13 (Applicant's Exhibit No. 9, arrest
14 warrants, received into evidence.)

15 BY MS. BLANCHETTE:

16 Q. And these are in the record now so I'll just
17 summarize what each one is and the charge. The first
18 arrest warrant is 092386, and that was for possession
19 with intent to distribute marijuana within a half mile of
20 a school; the next is 92387 which was for possession with
21 intent to distribute marijuana; the third is 92389 for
22 possession with intent to distribute crack cocaine within
23 a half mile of a school; the fourth is 92390, possession
24 with intent to distribute crack cocaine; and the final
25 one is 92391, possession with intent to distribute

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 methamphetamine within a half mile of a school.

2 Did you go over these arrest warrants with
3 Mr. Lyons prior to the entry of your plea?

4 A. I believe we had briefly went over these warrants.
5 There was, like I said, there was only, like, three days
6 before the trial was set up to push forward to September
7 1st if I didn't take the negotiated recommendation of 20
8 years from the State.

9 Q. But, specifically, do you remember reviewing those?

10 A. Not them, not -- the proximities, yes, and that was
11 the point in time that I think I brought it to Mr. Lyons'
12 attention that the new -- I had a South Carolina Law
13 Legislative Manual that I had purchased, my family did,
14 and sent to the jail. And it says under 44-53-445 that
15 during a traffic stop in the proximity of a school zone
16 it really didn't stick because the fact that the officer
17 could have waited to pull you over at the convenience of
18 being near a school, playground, et cetera.

19 Q. And you raised that issue to Mr. Lyons?

20 A. Yes, ma'am.

21 Q. But at your plea those charges were dismissed as
22 part of the benefit of the bargain or the benefit of your
23 plea; is that correct?

24 A. Yes, ma'am.

25 Q. And that's how it was presented to the judge. It

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 wasn't presented that those may not be valid charges?

2 A. That's right.

3 Q. Did you discuss with your attorney when you were
4 trying to bring up this issue about what we'll call the
5 new law, did you discuss with him whether you were going
6 to be -- whether you'd be entering a guilty plea under
7 the new law or the old law?

8 A. Yes, it was.

9 Q. Okay. And what were you told?

10 A. From my understanding that some of my charges would
11 have been -- this case here would have been under the old
12 law, and the most recent ones would have been under the
13 new law.

14 Q. And do you have a copy of your transcript there in
15 front of you?

16 A. Yes, I do.

17 Q. Okay. Could you turn to page nine, or I'm sorry,
18 page three to four?

19 A. Yes, ma'am.

20 Q. And there do they put on the record that you were
21 indicted for possession of more than 12 grams of
22 pseudoephedrine?

23 A. Yes, ma'am.

24 Q. But they're allowing you to plead to the lesser
25 included of less than 27 grams?

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 A. Yes, ma'am.

2 Q. Does the solicitor then go on to say that there's
3 been some confusion because the law actually changed and
4 the minimum changed?

5 A. Right. Yes, ma'am.

6 Q. Was any of that explained to you prior to the entry
7 of your plea?

8 A. This was brought -- this here was brought up
9 whenever Carrigg and Routzong and Mr. Lyons all three met
10 for the first time for the brief 15, 20 minutes before I
11 went into the courtroom. My argument was the fact of
12 that it's possession of pseudoephedrine second offense.
13 And the law book the way it's stated is nine grams or
14 more in the old law. I mean, I didn't fully understand
15 it.

16 And somehow Mr. Lyons went to Beth Ann Young and
17 come back where she had handwritten on the sentencing
18 sheet it was a lesser offense to plead to the less than
19 29 grams or over.

20 Q. You had an opportunity to review what's said in the
21 transcript, review the law, you've done a lot of research
22 in the law library. Is it your understanding that it is
23 a lesser included or do you question that at this point?

24 A. I question that.

25 MR. GOURLEY: Your Honor, I'm going to

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 object to that as opinion testimony. It's not
2 correct, proper.

3 THE COURT: Objection is sustained.

4 BY MS. BLANCHETTE:

5 Q. Was it ever explained to you, Mr. Sanders, how or
6 why this would be a proper lesser-included charge?

7 A. No, ma'am.

8 Q. Okay. Now you indicated this was a traffic stop.
9 Were you aware if there was any video from the traffic
10 stop?

11 A. No, but I believe there was -- said there was, but
12 I never did see any myself.

13 Q. Okay. Did you ever discuss with Mr. Lyons the
14 other occupants that were in the vehicle during the
15 traffic stop, and if, so what did you discuss?

16 A. I brought it to his attention that on the
17 pseudoephedrine charge that if you would look at that
18 printout, I never purchased any of pseudoephedrine and if
19 they would have took the time out to look at -- they
20 weren't co-defendants because they let them walk away
21 from the scene, but the guys that was in the vehicle,
22 those guys had actually made the purchases of the
23 pseudoephedrines that was in my vehicle.

24 Q. And who were those individuals that were in your
25 vehicle?

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 A. John Michael Hagelston, Rodney Glenn Hicks, James
2 Marvin Hammack and Benjamin Young.

3 Q. Okay. And were any of them charged in this case?

4 A. No, they got to walk away from the scene.

5 Q. Did you bring that up to your attorney?

6 A. Yes, ma'am.

7 Q. Okay. And what was discussed regarding that?

8 A. Really he didn't understand himself how they let
9 them leave with all the drugs that's supposed to have
10 been in the vehicle. How one man versus the other five,
11 four occupants in the vehicle, one man be charged for all
12 of them.

13 Q. And on page 30 of the transcript Mr. Lyons actually
14 says that there were others in the car that were not
15 charged and you were accepting responsibility for them.

16 A. Yeah.

17 Q. Had you discussed that and told him you were
18 willing to accept responsibility for what the other
19 occupants may or may not have had?

20 A. No, I wasn't accepting responsibility of what
21 their, their stuff in the vehicle. I was never really
22 brought to my -- asked as far as whose Sudafed it was.

23 Q. Now you indicated that Mr. Lyons came to you with
24 the first plea offer. What was that for again?

25 A. Twenty years.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Q. And what was your decision on that?

2 A. No.

3 Q. And did he bring you a second plea offer?

4 A. No, ma'am.

5 Q. When was it that he informed you about the plea
6 that you ultimately entered on September 1st, 2011?

7 A. The five to 30 -- oh, the plea. Let's see. The
8 20-year recommendation from the State, I want to say it
9 was on August the 28th or something. It was three days,
10 four days. It was the week of the trial set.

11 Had I not went ahead and took the recommendation of
12 the State then I would be going to trial on September the
13 1st. They had me on the roster. And that's whenever I
14 took it. That's when the five to 30 come up. If you're
15 not going to take the 20, then we can go with the five to
16 30. That's my assumption with the 10 years and then my
17 family discussed with me because I told my mother I'd
18 just as soon go to trial because I believe I had them
19 beat because of the trafficking charge wasn't going to be
20 on me because it was possession with intent. That was
21 the main charge in the case.

22 Q. And you did want to go to trial in this case?

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

24 Q. Did you ever communicate that to Mr. Lyons?

25 A. Well, he knew I was wanting to go to trial but I

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 think he -- with the other charges, the other cases that
2 was brought up and him not knowing the facts of it, it
3 might have weighed -- the reason why he didn't want to
4 push for the trial. But I believe he felt like if I went
5 to trial I'd have got the maximum sentences and probably
6 boxcar'd him.

7 Q. Were you aware of anything he had done to prepare
8 for a trial?

9 A. No, ma'am.

10 Q. On September 1st, 2011, did you feel confident that
11 if you chose to forego the guilty plea that Mr. Lyons
12 would have been prepared to represent you at a trial?

13 A. No, I don't think he would have. No, ma'am.

14 Q. Now, at your guilty plea proceeding in mitigation
15 he -- pages 31 through 32, he provides a rather lengthy
16 discussion essentially about what the judge summarizes as
17 excusing your conduct. Was that something that was
18 discussed with you prior to him making those comments?

19 A. No, ma'am.

20 Q. On page 32 through 33 he summarizes that the
21 defense team is asking for 15, that you want 10 and the
22 State wants 20. Prior to Mr. Lyons' saying that the
23 State wanted 20 had they put that in the record? Had
24 they told the judge they wanted 20?

25 A. No, ma'am.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Q. Did you know that that's what he was going to say,
2 that the defense team wanted 15, you wanted 10 and the
3 State wanted 20?

4 A. That was never discussed.

5 Q. And in response the judge said he didn't care what
6 you wanted; is that correct?

7 A. That's what Judge Early said.

8 Q. He then pitches the idea of giving the 15 because
9 then you'd have 12 to 15 years you'd have to serve and
10 you'd be 50 before you maxed out that sentence. In
11 response the judge says, on page 34, his only choice is
12 to put people like you in jail and keep them there for a
13 very long time.

14 A. That's -- yes, ma'am.

15 Q. It's essentially the same question. Did he ever
16 explain to you that he was going to pitch to the judge to
17 keep you in jail until you were 50?

18 A. No, ma'am.

19 MS. BLANCHETTE: Your Honor, if I could
20 just beg the Court's indulgence one moment.

21 THE COURT: Yes, ma'am.

22 BY MS. BLANCHETTE:

23 Q. You indicated that your family tried to contact
24 Mr. Lyons and they testified about that today. Why were
25 you having your family try to contact Mr. Lyons?

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 A. Because I left it at my mom's hand basically. I
2 told her I really wanted to go to trial because I really
3 felt in my heart if, if I went to trial I could have, I
4 could have won.

5 So I told her that to talk with Lyons because he
6 was, I guess, the trial lawyer for the cases and to find
7 out how much time was I looking at. If I went with an
8 open plea of five to 30 how much time was I looking at.
9 And ultimately it was mentioned 10 years. All right.

10 So with the 10 years being on the table, yeah, I
11 knew I was wrong, in fact, on some of the parts but --
12 and in the end I would have took a trial if I knowed it
13 woulda been only 10 years I woulda took a trial and took
14 my chances.

15 Q. And Mr. Lyons tells the Court you want 10 but where
16 did you actually get that number of 10 from?

17 A. From him.

18 Q. Okay. So that wasn't something you conceived on
19 your own?

20 A. No, ma'am.

21 Q. After you received the 20 years did you try to
22 communicate with Mr. Lyons in any way?

23 A. Well, after I received the 20 years all three
24 lawyers left the courtroom out the back of the courtroom
25 and I've never spoke with them since. I think I've wrote

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 him once. I wrote Mr. Routzong, Mr. Carrigg. I think
2 one letter come back from Mr. Routzong. I ultimately got
3 my sister to contact Mr. Lyons' office and then she was
4 trying to contact him in virtue of possibly getting a
5 motion of reconsideration because I got 20 years and, you
6 know, my family and I was under the interpretation I was
7 looking at 10 years.

8 Had that been the case I wouldn't have went through
9 all of that trouble, I woulda just took the 20 years
10 recommended by Beth Ann Young, the State.

11 Q. Did you want one of your attorneys to file a motion
12 for reconsideration on your behalf?

13 A. Yes, ma'am.

14 Q. And it was an open plea so there was room for the
15 judge to reconsider your sentence; is that correct?

16 A. Most definitely.

17 Q. And would you have wanted one of your attorneys to
18 file a direct appeal on your behalf?

19 A. Yes, ma'am.

20 Q. Mr. Sanders, you know, we've already done your
21 Lexington application today but I need to make sure I
22 address the Aiken application as well. What is the relief
23 you're asking the Court for?

24 A. For a new trial.

25 Q. And you understand that by asking that you can put

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 yourself in a position where you would open yourself up
2 to getting more time?

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

4 Q. And understanding that risk, you are in fact asking
5 for a new trial; is that correct?

6 A. Yes, I am.

7 Q. Mr. Sanders, we have prepared at length for today.
8 Those are all the questions I have regarding Mr. Lyons.
9 Is there anything else regarding his representation that
10 you would like to tell the Court today?

11 A. No, ma'am.

12 MS. BLANCHETTE: Your Honor, at this time
13 this is one PCR application. So I'm ready to
14 proceed into Mr. Routzong with Mr. Sanders if
15 that's how you'd like me to proceed.

16 THE COURT: Yes, ma'am. Go ahead.

17 BY MS. BLANCHETTE:

18 Q. Finally, Mr. Sanders, let me ask you about an
19 incident that occurred on June 22nd, 2011. What happened
20 on that day?

21 A. I was awoke by house -- people in the house saying
22 that the police was at the door. And whenever we finally
23 come out the house, they detained us and said that --
24 they looked around. I think they did a well being check
25 in the house. Then they come out and the lead

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Investigator Powell or Medlin said that they were going,
2 they asked to search the house. And I said it's -- no,
3 you can't search the house. I'm not giving you consent
4 to search. Get you a warrant.

5 So 30 minutes goes by. They were going to go get a
6 search warrant supposedly. I don't know exactly which
7 one of the detectives left. It was a white car. By the
8 time he come back Channel 12 News was there, the hazmat
9 team was there. He never produced a warrant. I never
10 seen a search warrant. Whenever he pulled up they hauled
11 me across the yard, throwed me in the back seat of the
12 car, took me to the city police station, booked me, took
13 me to the county jail.

14 Q. Once you got to the county jail, did you receive a
15 bond?

16 A. No bond.

17 Q. Were you appointed an attorney to represent you on
18 this case?

19 A. Yes, I was.

20 Q. And who was that?

21 A. Michael Routzong.

22 Q. Did you have co-defendants in this case?

23 A. Yes, I did.

24 Q. And who were those co-defendants?

25 A. Marie Raborn, Rachel Winch and Andrew Sanders.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Q. And the charges stemming from June 22nd, 2011,
2 culminated in a guilty plea on September 1st, 2011, in
3 Aiken County; is that correct?

4 A. Yes, it did.

5 Q. Now as far as meeting with Mr. Routzong, how many
6 times were you able to do that?

7 A. It was just a couple times, right before the plea
8 or trial -- plea.

9 Q. Did he ever provide you with a copy of the
10 discovery that he had received in your case?

11 A. There was no discovery at the time.

12 Q. Subsequent to filing your PCR application and
13 hiring myself, did you ask that I request a complete copy
14 of his file?

15 A. Yes, I did.

16 Q. And did he comply with our request?

17 A. I believe he did. Yes, ma'am.

18 Q. And did I provide you a copy of everything that he
19 gave to me?

20 A. Yes, ma'am.

21 Q. Okay. Now in that, did you see a drug report?

22 A. No, ma'am.

23 Q. Have you ever seen a drug report in your case?

24 A. No, ma'am.

25 Q. In that file, did you see a search warrant?

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 A. No, ma'am.

2 Q. Have you ever seen a search warrant in your case?

3 A. No, ma'am.

4 Q. Now you have had the opportunity to review the
5 incident report in your case; is that correct?

6 A. Yes, ma'am.

7 Q. Mr. Sanders, could you identify this for the
8 record, please?

9 A. This is from Aiken Department of Public Safety
10 incident report, Case Number 2011 dash 00044154
11 pertaining to what led them to the residence.

12 Q. Okay. And you have -- you received this from the
13 copy of Mr. Routzong's file that I received from him; is
14 that correct?

15 A. Yes, ma'am.

16 Q. Okay.

17 Your Honor, at this time I would move this in as
18 Applicant's Number 10.

19 MR. GOURLEY: I have no objection, Your
20 Honor.

21 (Applicant's Exhibit No. 10, ADPS incident
22 report, received into evidence.)

23 BY MS. BLANCHETTE:

24 Q. And, Mr. Sanders, this is essentially the one
25 document that you have as far as the evidence in this

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 case; is that correct?

2 A. Yes, ma'am.

3 Q. Okay. And on this incident report it says that
4 they were looking for an individual by the last name of
5 Correls?

6 A. Yes, ma'am.

7 Q. Did you know at the time of the plea that it was
8 recorded that they were looking for an individual by the
9 name of Correls?

10 A. No, ma'am. This is all after the fact.

11 Q. Okay. You didn't have this information?

12 A. No, ma'am.

13 Q. Did you review that information with your
14 attorney?

15 A. No, ma'am.

16 Q. It also says that based upon information regarding
17 a possible methamphetamine lab, a search warrant was
18 obtained. Again, have you ever seen that search warrant
19 or the basis given for the probable cause for that search
20 warrant?

21 A. No, ma'am.

22 Q. Did you ever talk with your attorney about whether
23 or not that search warrant could be the subject of a
24 motion to suppress?

25 A. Yes. I believe the day of the sentencing.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Actually I think Mr. Routzong really wanted to push
2 forward with a trial hisself but I was shell shocked
3 about the LWOP. So I took it from their advice that it
4 would be best to go ahead and take the plea, five to 30.

5 Q. And you say he wanted to push to trial. Did he
6 explain that to you?

7 A. Well, he just said that he thought that they -- it
8 was an illegal search and seizure. They never obtained a
9 search warrant and whatever led them to the house it was,
10 I guess, to him in his experience with the law, it was
11 done mishandled.

12 Q. And you waived presentment on each of the
13 indictments that you pled guilty to in this case; is that
14 correct?

15 A. Yes, ma'am.

16 Q. Did you discuss with him the charges that
17 alleged -- that carried the within the half mile of a
18 school?

19 A. Yes, I did. I discussed about the distance as far
20 as what constitutes within a half mile, is it the way you
21 travel by a vehicle or the way a crow flies.

22 Q. And why would you have wanted him to look into
23 that?

24 A. Because from the research that I had gathered it
25 was .6 by way of vehicle and .4 by way of crow fly to be

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 within proximity of a school zone.

2 MR. GOURLEY: Your Honor, I'm going to
3 object to that. That's opinion testimony again,
4 and it's not relevant. If you sustain my
5 objection, I would ask that it be stricken from
6 the record.

7 THE COURT: Ms. Blanchette, anything in
8 response?

9 MS. BLANCHETTE: No, Your Honor.

10 THE COURT: I sustain the objection.

11 MR. GOURLEY: Thank you, Your Honor.

12 BY MS. BLANCHETTE:

13 Q. Mr. Sanders, did you have concerns about the half
14 mile of a school charge?

15 A. Yes, ma'am.

16 Q. And did you get to discuss that with your attorney
17 prior to pleading guilty to that charge?

18 A. Not at length. No, ma'am.

19 Q. Okay. Also was there an issue regarding a
20 trafficking charge in this case?

21 A. Yeah. They had charged me with trafficking in this
22 case too, and which I never seen the drug analysis yet
23 but I knew from the co-defendant that pled that there was
24 only 8.1 grams, 8.6 grams supposedly in the house.

25 Q. Mr. Sanders, is there anything else regarding your

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 interaction with Mr. Routzong prior to the entry of your
2 plea that you would like to testify about? Anything else
3 that you all discussed?

4 A. No, ma'am.

5 Q. What was his advice to you regarding the plea and
6 the length of time he thought that you would receive?

7 A. He never did really say.

8 Q. And when you entered the plea, was it your
9 understanding that he was properly prepared to proceed to
10 a trial if you chose to forego the plea?

11 A. I knew he wasn't. He didn't have any of the
12 information that would have helped him.

13 Q. And on page 35 he explains that at that point in
14 his career he had minimal experience. He talks about
15 seeing people getting hooked on drugs and he provides a
16 letter from yourself?

17 A. Yes, ma'am.

18 Q. What was your discussions or plans as far as
19 mitigation with Mr. Routzong?

20 A. As in?

21 Q. Did he have you provide that letter? Did he prep
22 you in writing it?

23 A. No, no, no. I wrote the letter all on my own
24 accord. And I had him hand it to the judge. And it
25 was -- basically in the letter just saying I had had a

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 drug problem since at an early age.

2 Q. And as far as sitting down and meeting with him and
3 going over effective mitigation or facts to present to
4 the Court, did you ever have the opportunity to do that?

5 A. No, ma'am.

6 Q. Okay. After you entered your guilty plea, did you
7 try to reach out to Mr. Routzong?

8 A. Yes, I did. By letter.

9 Q. Okay. And did you try to communicate to him a
10 desire for a motion for reconsideration or a direct
11 appeal?

12 A. Yes, I did.

13 Q. And were either of those filed on your behalf?

14 A. No, there wasn't.

15 Q. Did you receive a response to your letter?

16 A. Yes, I did.

17 Q. Okay. Mr. Sanders, could you identify this for
18 the record, please?

19 A. This is from the Public Defender for the Second
20 Judicial Circuit and to me from Mr. Routzong.

21 Q. What's the date on this letter?

22 A. October 25th, 2011.

23 Q. And is this in response to the letter that you
24 wrote him?

25 A. Yes, it is.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 MS. BLANCHETTE: Your Honor, at this time I
2 would move this in as Applicant's Number 11.

3 MR. GOURLEY: No objection, Your Honor.

4 THE COURT: Without objection, so admitted.

5 (Applicant's Exhibit No. 11, letter from
6 PD's Office, received into evidence.)

7 BY MS. BLANCHETTE:

8 Q. It appears from this response that you must have
9 written him two questions because he answers question one
10 and question two.

11 Could you just explain briefly what the questions
12 were you asked him in your letter?

13 A. Well, my question was: Why wasn't there a motion
14 of reconsideration filed after I caught the 20 years
15 because I was under the interpretation 10 years was what
16 I was looking at. So whenever the 20 years come up I
17 wrote him and I said, you know, why did no one file a
18 motion for reconsideration when I left the courtroom. I
19 mean, I figured then, they'd have done that for the
20 client then and there that day.

21 And the other question was about the parole
22 eligibilities because I still to this day even though
23 having read the law books, there's still a -- there's a
24 fine line that's not understood between me about the new
25 law and the old law.

DENNIS SANDERS - DIRECT BY BLANCHETTE

1 Q. And was it explained to you prior to the day of
2 your plea whether you'd be pleading out under the new law
3 or the old law?

4 A. No, it wasn't. The only thing I understand was I
5 was going to be 85 percent. I was under the
6 interpretation that the drug offenders under the Omnibus
7 Crime Bill Act in June 2010, that they would have been
8 eligible for parole after a third or fourth of their
9 time, not knowing that the trafficking charge that I
10 ended up ultimately pleading to would have been a
11 no-parole offense.

12 Q. But you would agree that Judge Early advised you
13 otherwise at the guilty plea; is that correct?

14 A. Yes, ma'am.

15 Q. And that's what the transcript reflects?

16 A. Yes, ma'am.

17 Q. But you were questioning him about that at this
18 point?

19 A. Right.

20 Q. And it also says at the top of his response that
21 you had requested your drug analysis. Did he provide
22 that with this letter?

23 A. No, ma'am.

24 Q. And then finally does he explain to you that you
25 can file a PCR application?

DENNIS SANDERS - CROSS BY GOURLEY

1 A. Yes.

2 Q. And is that what you did after receiving this
3 letter?

4 A. I did.

5 Q. Okay. Mr. Sanders, as to Mr. Routzong's
6 representation, is there anything further that you would
7 like to explain to the Court in support of your
8 allegations?

9 A. No, ma'am.

10 MS. BLANCHETTE: Your Honor, if I could
11 just beg the Court's indulgence one moment.

12 Your Honor, I have no further questions of
13 this witness.

14 THE COURT: Cross-examination.

15 MR. GOURLEY: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. GOURLEY:

18 Q. Mr. Sanders, we'll start with Mr. Lyons'
19 representation if you don't mind. How many times did
20 you meet with Mr. Lyons prior to your plea?

21 A. It was only, I think it was two times and then the
22 day of --

23 Q. Okay.

24 A. -- at the jail.

25 Q. And did y'all go over any kind of discovery

DENNIS SANDERS - CROSS BY GOURLEY

1 material or anything like that?

2 A. We went over the, I think he had the drug analysis
3 that was brought to my attention at that time. Let's
4 see. He had had the case for a while and he had just got
5 the drug analysis. So whenever I went over it it was new
6 to him, the trafficking, the 7.1 grams. All right. And
7 he's presenting me with this information but yet he's not
8 even acknowledging that it's, it's not a trafficking
9 charge, it should be a PWID charge.

10 Q. Okay. And you brought that to his attention?

11 A. That -- yes, sir. Along with the -- that was on
12 the second visit. The first visit he give me the
13 packet. The second visit I'd researched and that's
14 whenever I questioned him about that and the school
15 zones.

16 Q. And the, what?

17 A. School zones, proximity.

18 Q. Okay. And, what else did Mr. Lyons -- did you
19 bring to Mr. Lyons' attention prior to your plea, if
20 anything?

21 A. I explained -- I told him that the pseudoephedrine,
22 it wasn't mine in the vehicle.

23 Q. Okay.

24 A. That I got charged for possession of
25 pseudoephedrine second which gave me 20 years. So.

DENNIS SANDERS - CROSS BY GOURLEY

1 Q. Okay. Anything else?

2 A. No.

3 Q. Okay. Did y'all go over the arrest warrants,
4 search warrant, everything like that?

5 A. I don't think there was a search warrant --

6 Q. Okay.

7 A. -- for the vehicle.

8 Q. So in regard to the charges Mr. Lyons {sic} was
9 facing, you want a new trial on those charges?

10 A. Yes, sir.

11 Q. What do you feel is your defense to those charges?

12 A. Well, the pseudoephedrine charge, I feel like I
13 should have never -- I was -- basically felt like I was
14 forced into pleading for the whole deal minus what the
15 solicitor was giving me as a token for making the plea
16 five to 30. Hold on. Let's see. It slipped my mind.

17 Q. Take your time.

18 A. What was your question again?

19 Q. What do you feel is your defenses to these charges
20 that Mr. Lyons represented you on?

21 A. Okay. The pseudoephedrine charge I got 20 years
22 for?

23 Q. Yeah.

24 A. I mean, I took it -- that's the charge that I never
25 purchased the prescription narcotics or whatever, the

DENNIS SANDERS - CROSS BY GOURLEY

1 Sudafed. And it was never followed up by anyone of the
2 people that was in the vehicle. They're acting -- the
3 drugs that was in the vehicle, it wasn't my duty to sit
4 there and explain it to them.

5 Q. Did you explain it to them?

6 A. The law enforcement. I mean, I did at the city,
7 the police station, Detective Harmon.

8 Q. What about Mr. Lyons?

9 A. Yeah. Me and him went over and discussed the fact
10 of the Sudafed not being mine.

11 Q. Okay. But you still pled guilty?

12 A. Yeah.

13 Q. Okay. Knowing all of that?

14 THE COURT: Is that a yes or no?

15 THE APPLICANT: Yes, sir.

16 THE COURT: Verbal response for my court
17 reporter, please. Thank you.

18 MR. GOURLEY: I see you shake your head.

19 The record doesn't have that.

20 THE APPLICANT: Yes, sir.

21 BY MR. GOURLEY:

22 Q. And so if I understand you correctly, Mr. Sanders,
23 it was a 20-year plea offer initially with Mr. Lyons'
24 case?

25 A. Yes, sir.

DENNIS SANDERS - CROSS BY GOURLEY

1 Q. And you turned that down?

2 A. Yes, sir.

3 Q. Okay. And then later on -- were you proceeding to
4 trial at that point, or what took place between that
5 time?

6 A. This is, like, in a three-day period, sir.

7 Q. Yeah.

8 A. He come one time and give me my motion to discovery
9 and then he told me I was on the trial roster for
10 September 1st. Here's this 20-year plea agreement. And
11 at that point in time it was no way really pushing
12 forward to a trial then.

13 Q. Right. Okay. And then he came back with the five
14 to 30-year plea offer with Mr. Routzong and Carrigg?

15 A. Right.

16 Q. And ultimately you chose to take that offer and
17 plead guilty?

18 A. Yes, sir.

19 Q. In hopes of getting a 10-year sentence?

20 A. Exactly.

21 Q. Gotcha. Who brought up the 10-year sentence,
22 Mr. Sanders?

23 A. Actually it was Mr. Lyons.

24 Q. Okay. He broached a 10-year sentence with you
25 initially?

DENNIS SANDERS - CROSS BY GOURLEY

1 A. No, he initially approached it with my mother and
2 my sister. My sister talked to Mr. Lyons personally. My
3 mother talked to Chuck which was his paralegal --

4 Q. Right.

5 A. -- any concerns because I was willing to go through
6 on a trial even knowing that they didn't have their stuff
7 together. It would have pushed the case further because
8 they'd have to get all the information together to go
9 forward with a trial and it would have prolonged the
10 court case going forward.

11 Q. So did Mr. Lyons ever specifically tell you that
12 you were going to get 10 years or he told your mother and
13 your mother told you?

14 A. He told my mother.

15 Q. And your sister.

16 A. He said, whenever you come to see me, he said,
17 you're looking at 10 years. You got 10 years.

18 Q. Okay. All right. How many sisters do you have,
19 Mr. Sanders?

20 A. One.

21 Q. One. And do you recall who talked at your plea
22 hearing?

23 A. Sir?

24 Q. Do you recall who spoke at your plea hearing?

25 A. My sister.

DENNIS SANDERS - CROSS BY GOURLEY

1 Q. Your sister did speak at your plea hearing?

2 A. Yes, sir.

3 Q. All right.

4 MR. GOURLEY: Beg the Court's indulgence,
5 Your Honor.

6 Your Honor, I think that would conclude my
7 questions for Mr. Lyons' representation of
8 Mr. Routzong. So I'll go forward now with -- I
9 mean --

10 THE COURT: Representation of Mr. Sanders.

11 MR. GOURLEY: Yes, sir. It's been a long
12 day.

13 THE COURT: Go ahead.

14 MR. GOURLEY: All right. Thank you, Judge.

15 Q. Mr. Sanders, in regards to Mr. Routzong's
16 representation, how many times did you meet with him
17 prior to your plea?

18 A. Two and then the day of, I believe.

19 Q. Okay. And just to kind of summarize. What's your
20 problems with Mr. Routzong's representation?

21 A. I mean, to him -- he never had a chance to even
22 look at any of the information anyway.

23 Q. Okay.

24 A. He was basically -- that day the five to 30 was on
25 the table, I went to court. He was basically, he felt

DENNIS SANDERS - CROSS BY GOURLEY

1 like had he got all the information that he could
2 probably beat the case on the Palm Drive raid.

3 Q. Okay.

4 A. But in the end they still pushed me because of the
5 LWOP. Had I not went ahead and consolidated all three of
6 them I would have broke and done the Lexington in
7 Lexington, Routzong's one case and Lyons' one case. If I
8 had got convicted of all three then I was facing two plus
9 strikes against me.

10 Q. Okay.

11 A. Which would have been life without parole.

12 Q. So Mr. Routzong felt you had a strong case of going
13 to trial and succeeding?

14 A. From my understanding, yeah.

15 Q. And that's what he told you?

16 A. Yes.

17 Q. Okay. And you ultimately chose to go against his
18 advice and plead guilty?

19 A. Right.

20 Q. Out of fear of facing LWOP?

21 A. Sir?

22 Q. Out of fear of facing LWOP?

23 A. Exactly.

24 Q. Okay. Now, you discussed the fact that you had
25 challenges to the search warrant, right?

DENNIS SANDERS - CROSS BY GOURLEY

1 A. Right.

2 Q. The police were looking for this Correels person, I
3 believe.

4 A. Yes. It was a relative of mine but, I mean, he
5 wasn't, he doesn't live at the residence. He wasn't
6 nowhere at my residence to my knowledge. I mean, I was
7 asleep when the police come.

8 Q. Okay. And did you discuss this with Mr. Routzong?

9 A. I never had a chance. I never had any of that
10 information at the time. I didn't know why the police
11 come there. I just knew that the police come there.

12 Q. Do you recall a guilty plea where the solicitor
13 said that you were jumping out the window at the time the
14 police knocked on it?

15 A. Right right.

16 Q. Is that true?

17 A. I didn't jump out of the window. I opened the
18 window to look outside, my bedroom window.

19 Q. Okay. Did you all discuss any kind of motion to
20 suppress, anything like that?

21 A. No, sir.

22 Q. No. But you indicated, and correct me if I'm
23 mistaken, on your direct you thought it was an illegal
24 search and seizure?

25 A. I've never seen a search warrant for the house.

DENNIS SANDERS - CROSS BY GOURLEY

1 Q. Right.

2 A. I never to this day. I've wrote the solicitor's
3 office myself numerous occasions trying to get it under
4 the Freedom of Information Act. I've yet to see it.

5 Q. You obviously didn't see one, it goes without
6 saying, prior to your plea?

7 A. No, I didn't.

8 Q. Okay. Regarding this half mile to a school zone
9 situation, did you discuss this with Mr. Routzong prior
10 to your plea?

11 A. Yes, we had discussed that.

12 Q. Okay. And the trafficking charge situation?

13 A. Yeah. We had discussed it but there was never a
14 drug analysis, you know, saying that.

15 Q. Right.

16 A. The only drug analysis I had was word of mouth
17 through one of the co-defendants that was at the case,
18 that there was 8.5 or 8.6 grams in the drug analysis.

19 Q. Okay. And obviously again it goes without saying
20 that you didn't see any of this prior to your plea?

21 A. Exactly.

22 Q. Okay. Now, Mr. Routzong, {sic} during your plea
23 you told Judge Early that you were satisfied with your
24 attorney, right?

25 A. Oh --

DENNIS SANDERS - REDIRECT BY BLANCHETTE

1 Q. Was that true?

2 A. Well, it was true to the point that if you was
3 faced to do life in prison versus 10 years then, yeah, I
4 felt like I got a good deal.

5 Q. Okay. Well, then Judge Early said in your open
6 plea five to 30, right?

7 A. Yes, sir.

8 Q. Okay. And you didn't stand up and say, hey, 10
9 years?

10 A. How many people have you known to say that, sir?

11 Q. Right. I gotcha. Judge Early did ask you if you
12 had any questions or anything like that, right?

13 A. Right. But I'm not going -- I've never seen a case
14 where a client would stand on the stand and say he was
15 promised 10 years.

16 Q. Okay. Judge Early asked you if you were promised
17 anything though, right?

18 A. Right.

19 Q. Okay. And knowing all that you knew prior to your
20 plea, all the issues with the representation of Mr. Lyons
21 and Mr. Routzong you still elected to plead guilty,
22 right?

23 A. Right.

24 Q. Okay.

25 MR. GOURLEY: Your Honor, I have no further

DENNIS SANDERS - REDIRECT BY BLANCHETTE

1 questions. Thank you, Mr. Sanders.

2 THE COURT: Ms. Blanchette?

3 MS. BLANCHETTE: Just a couple, Your Honor.

4 THE COURT: All right.

5 REDIRECT EXAMINATION

6 BY MS. BLANCHETTE:

7 Q. Mr. Sanders, the State asked you about your mother
8 and sister contacting Mr. Lyons' office. Why did they
9 have to contact Mr. Lyons' office?

10 A. Because I couldn't get in touch with him. You're
11 talking about after I got sentenced?

12 Q. I'm sorry. When he asked you questions about them
13 receiving information about a 10-year plea offer, why did
14 they have to reach out to your attorney at that point?

15 A. My mother -- I had my mother -- I left it in her
16 hands. She's a Christian-orientated lady. She's a
17 schoolteacher 27 years. And I said, "Look, Mom, I've
18 been in trouble with drugs my whole life. I've got a
19 problem." I said, "I'm leaving it in your hands. I'd
20 rather go to a trial. I'm leaving it in your hands."

21 She said, "well, let me talk to your attorney and
22 see how much time you're facing to see." If -- if he'd
23 said the 20 years, I would have went to trial. Anything
24 over 10 years, I would have probably pushed forward to
25 trial.

DENNIS SANDERS - REDIRECT BY BLANCHETTE

1 Q. And you rejected a 20-year plea offer?

2 A. Exactly.

3 Q. Now the advice regarding facing life without parole
4 and your understanding regarding that going into your
5 guilty plea, where did that come from?

6 A. From the lawyers.

7 Q. Okay. And, you were alleging today ineffective
8 assistance of your three counsel that represented you at
9 the joint guilty plea and involuntary guilty plea. Did
10 you have all the information needed and the time with
11 your attorneys to prepare for a trial prior to the entry
12 of your guilty plea?

13 A. No way.

14 Q. Was your plea voluntary on September 1st, 2011?

15 A. I didn't feel like it was voluntary. I feel like
16 it was -- I was basically coerced or forced to punt. I
17 mean, if you're being told by attorneys that you're
18 facing life without parole if you get convicted on three
19 different incidents versus you thinking that you're going
20 to get 10 years, I mean --

21 MR. GOURLEY: Judge, I'm going to object to
22 that. It's opinion testimony whether or not --

23 THE COURT: He's already answered the
24 question.

25 MR. GOURLEY: I know, Judge. I didn't want

1 to interrupt.

2 THE COURT: That's okay. You got to object
3 before he answers or else don't object to it.
4 Okay?

5 Go ahead, Ms. Blanchette.

6 MS. BLANCHETTE: I have no further
7 questions.

8 THE COURT: Any redirect?

9 MR. GOURLEY: No, Your Honor.

10 THE COURT: Excuse me. Recross. You may
11 step down. Thank you.

12 MS. BLANCHETTE: Your Honor, if I could
13 beg the Court's indulgence for one moment to
14 confer with my client.

15 THE COURT: All right.

16 (Pause.)

17 MS. BLANCHETTE: Your Honor, at the
18 conclusion of today's proceedings I do have a
19 legal argument that I have prepared and written
20 up for Your Honor.

21 THE COURT: Okay.

22 MS. BLANCHETTE: And just one case that I
23 hadn't already provided Your Honor yesterday, but
24 otherwise we do not have any further witnesses.

25 THE COURT: All right.

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 MR. GOURLEY: Your Honor, we would call
2 Mr. Lyons to the stand, please.

3 CHARLES H. S. LYONS, III, having been duly
4 sworn, was examined and testified as follows:

5 THE CLERK: Please have a seat on the
6 witness box and state your full name for the
7 Court.

8 THE WITNESS: Charles H. S. Lyons the
9 Third.

10 DIRECT EXAMINATION

11 BY MR. GOURLEY:

12 Q. Mr. Lyons, how long have you been practicing law?

13 A. It will be 30 years November this year.

14 Q. And were you retained or appointed?

15 A. Retained.

16 Q. Okay. And during your representation of
17 Mr. Sanders, how many meetings did you have?

18 A. We didn't meet that many times. I know it probably
19 was less than five. I can't say for certain, but it
20 wasn't that many times.

21 Q. And Mr. Sanders was out on bond during the course
22 of your representation?

23 A. He was.

24 Q. Okay. Did you file for Rule Five and Brady motion?

25 A. Yes.

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 Q. Okay. Did you have the opportunity to review that
2 with Mr. Sanders at any point?

3 A. I did. You know, I think Mr. Sanders was doing a
4 lot of running around at the time. Of course he had a
5 bad drug habit. And, you know, I've listened to his
6 testimony and if I'm at fault in my representation of him
7 I'm going to say it.

8 Q. Yes, sir.

9 A. But I think what he is failing to recognize is that
10 a big part of his problem was his drug problem. He
11 really wasn't concerned about his cases until the heat of
12 the cases actually fell in his lap. And that was a big
13 part of the problem with Mr. Sanders.

14 You know, he talked about being able to contact
15 me. And the big problem was contacting him. I think
16 maybe the first time that I actually met with him was
17 because he had a problem and not coming to roll call and
18 I contacted Mr. Jocque Hawk and said, he's supposed to be
19 over here at roll call. And I think they had to scramble
20 to find him to get him over here. So that was some of
21 the problems that was involved in his case, was probably
22 his drug problem.

23 And evidently Judge Early's belief that he was
24 actually involved in distribution and the sale of drugs
25 that led to this particular situation.

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 Q. Would it be fair to say that Mr. Sanders was a
2 difficult client?

3 A. I mean, personally I didn't have any problems with
4 him --

5 Q. Right.

6 A. -- you know, getting along with me, anything like
7 that. He was fine. But I think his problem was that
8 when he ended up in jail --

9 Q. Uh-Huh.

10 A. -- and everything fell on him at the same time is
11 when he started having big problems.

12 Q. Okay. Did you ever have the opportunity to review
13 the drug analysis in this case?

14 A. I did.

15 Q. Okay. Did you review that with Mr. Sanders?

16 A. I did.

17 Q. Did you feel that there was any issue with the drug
18 analysis?

19 A. I do recall him pointing out that that was a lesser
20 amount of drugs in the actual report. But if I'm not
21 mistaken, I really don't think that was an issue because
22 he wasn't indicted for trafficking. I believe he was
23 indicted for PWID.

24 So, that particular -- the issue -- and he never --
25 that never was going to be any plea to trafficking. I

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 mean, that was clear. So I had no intention of asking
2 him to plead to a trafficking charge at any point and I
3 knew he wasn't going to plead to a trafficking charge.
4 So that really wasn't an issue.

5 Q. Okay. There's been some discussion about whether
6 or not Mr. Sanders' charges as it relates to your
7 representation fell under what we classify as the old law
8 and the new law. Can you briefly describe that?

9 A. There was some confusion at -- when it came down to
10 the sentencing about that.

11 Q. Right.

12 A. And, and I think we resolved it. But the problem
13 was regardless of whether the case I had -- regardless of
14 where it fell, that really wasn't his problem.

15 Q. Uh-huh.

16 A. His problem was these other charges. In fact, I
17 had gotten his case resolved to his liking. I had
18 worked out a plea agreement with the assistant solicitor
19 on the case, and it was just a matter of getting it done.

20 Q. Okay.

21 A. And in the meantime he gets arrested two times
22 after the case I was handling. And after that happened
23 the resolution that I had gotten from the solicitor's
24 office was over.

25 Q. Right.

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 A. So, I mean, these are side issues that really don't
2 mean anything --

3 Q. Right.

4 A. -- because if he had done what he should have done
5 he would have gotten a plea, a favorable plea that we
6 would have worked out. He'd be out of jail by now and
7 everybody would be happy.

8 And I met with him and I could have gone to trial.
9 I mean, I've tried tons of cases and won tons of cases.
10 And I explained to him, his big problem in the case I had
11 was when he got out of the car he ran.

12 So trying to argue about who the pseudoephedrine
13 belonged to, these other people in the car, was a problem
14 that he created for himself because of course flight
15 is -- you got a jury instruction on flight that wouldn't
16 be favorable. And the other people in the car, they
17 didn't run. So the only person that ran was him.

18 And I explained to him, you know, if we go to
19 trial, a smart prosecutor -- and I think Ms. Beth Ann
20 Young is pretty smart -- she's going to say, "well only
21 one person took off and ran. And that was Mr. Sanders."

22 Q. Uh-huh.

23 A. So that created a problem with going to trial
24 because that was an inference of knowledge that there was
25 something in the vehicle that shouldn't have been in the

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 vehicle.

2 Q. Right.

3 A. But at no point in time did I tell him we can't
4 have a trial.

5 Q. During the course of your representation
6 Mr. Sanders got, picked up two new charges?

7 A. Right.

8 Q. And that obviously greatly impacted your strategy
9 as far as representing Mr. Sanders?

10 A. Well, it impacted my strategy because it impacted
11 the solicitor's strategy.

12 Q. Right.

13 A. Because she was ready to do something with this
14 case and she was ready to do something with it sooner.
15 Sooner rather than later.

16 And so when I went to talk to him about resolving
17 his case, he didn't want a plea for 20 years.

18 Q. Okay.

19 A. And I -- at that point I said, "well, I'll go back
20 to them and I'll ask them to let us plead and just leave
21 it open, and just let us argue for something less than
22 20." Because we knew and he knew that they, that the
23 State wanted 20. So, if -- anything less than 20 was a
24 victory.

25 So, I mean, I sat up here and heard him say he

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 didn't know. He knew that we were trying to get anything
2 less than 20 years on the case. And he knew that the
3 prosecutor wanted 20. And that was going to be her
4 position.

5 Q. Okay.

6 A. So when I started arguing for his sentence it
7 became quite clear right from the beginning that Judge
8 Early wasn't being very sympathetic to him because of his
9 past problems.

10 In fact, if you look at the transcript there was
11 the mention about the money that he found. And I'd
12 shared something about, you know, he had been paid or
13 something. I think he was a painter or something. And
14 Judge Early said, "Mr. Lyons, you know, I've been around
15 the block a few times myself." So he really wasn't
16 buying that he was not in the business of selling drugs
17 and that type of thing.

18 So, you know, at that point I realized that
19 probably his best chance was for me to try to argue with
20 the judge, kind of split the baby.

21 Q. Right.

22 A. And that's where that came from.

23 Q. And that's based off of your experience as a
24 seasoned attorney?

25 A. Especially -- I've been in front of Judge Early

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 many times. And I've been successful in getting Judge
2 Early to buy into some of the arguments I've made.

3 Q. Right.

4 A. And that's what I told Mr. Sanders, that I had
5 been. And that's why he agreed to it. But this was a
6 situation of a particular case that Judge Early just
7 wasn't buying into.

8 Q. So Mr. Sanders was aware that you were going to
9 mention to Judge Early that you were, that the State was
10 asking 20 years and he was wanting 10 years?

11 A. Oh, yeah. He knew exactly that because he didn't
12 have anywhere else to go.

13 Q. Right.

14 A. I mean, his hands were tied.

15 Q. Right.

16 A. He couldn't -- like I said, we could try the case
17 but he knew we couldn't try this case because they found
18 the drugs in his car and he got out and ran.

19 Now whatever his defense was going to be, I'd like
20 to know what it is today because I haven't figured it out
21 yet. I mean, the jury was going to be out a hot second
22 and come back and convict him on everything.

23 Q. So you would classify the evidence as overwhelming
24 against him?

25 A. It was a done deal. And on top of it they had

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 three chances. And I told him, I said, "listen, even if
2 you beat this case they ain't going to just give up.
3 They're going to try you again in Aiken County. And if
4 you beat this one, they're going to take you over to
5 Lexington and try you over there."

6 And, you know, one of the big things he wanted, he
7 wanted us to -- me to ask for a change of venue, to try
8 to move the case to Lexington for some reason and try it
9 over there.

10 Q. Right. Can you talk about the LWOP situation
11 here? Was it your understanding that Mr. Sanders
12 potentially faced LWOP if he tried these three
13 separately?

14 A. That was a good possibility, you know. We told him
15 we couldn't guarantee that would happen but it was a good
16 possibility based on how he got these arrests, you know,
17 lined up one after the other, that that was a
18 possibility.

19 And, I don't know how the prosecutor in Lexington,
20 how they felt about it but, you know, like I said, the
21 assistant solicitor here just wasn't happy about the
22 case. And I think that was all because of the charge he
23 had of the meth charge involving his son, producing this
24 meth in front of his son.

25 So, I mean, that was, that made the case bad --

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 Q. Okay.

2 A. -- as far as the solicitor was concerned and also
3 as far as Judge Early was concerned.

4 Q. Okay. Did you ever promise Mr. Sanders that he
5 would receive a 10-year sentence?

6 A. If I'm not mistaken, like I said, before these
7 other cases were made --

8 Q. Uh-huh.

9 A. -- I believe we had an offer for 10 or less. So
10 that may be where he got that from. But, like I said,
11 when these other cases came up, no, there was never any
12 promise at that point because I knew what they were
13 asking for. And I told him what they were asking for.

14 So there was no way in the world I could promise
15 him 10 years when I'm telling him they want 20.

16 Q. Did you feel there was any basis to inform the plea
17 court about possible dismissal of these charges, defenses
18 to the charges that were being dismissed pursuant to the
19 plea?

20 A. Well, if you know Judge Early and I know Judge
21 Early -- I mean, you can get up there and you can try to
22 talk about nonsense. And I'm just the type of lawyer
23 that I don't get into nonsense, you know.

24 And that's why I think I've been able to be
25 successful with Judge Early. So he knows I'm shooting

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 straight with him. And so that's what I was doing. And
2 anything else was just nonsense and so I wasn't going
3 down that road.

4 Q. So it was your strategy not to bring up these
5 possible defenses to these charges that were being
6 dismissed; is that fair to say?

7 A. You're right. I mean, as far as Judge Early is
8 concerned if those charges are being dismissed, they're
9 being dismissed and it doesn't have anything to do with
10 what he's pleading to. That's how Judge Early operates.
11 So it didn't make any difference if he had a million
12 defenses to these charges, he wasn't pleading to them.

13 If you go down that road, Judge Early is going to
14 tell you, "Mr. Lyons, he's not pleading to those
15 charges." Just like if he had -- his criminal history,
16 if he had 30 arrests and one conviction, Judge Early will
17 tell you -- you know, he's looking at his convictions.
18 He's not looking at his arrests.

19 Q. Uh-huh.

20 A. So, I mean, that didn't, that wouldn't play any
21 role with Judge Early as far as how he was going to
22 sentence Mr. Sanders.

23 Q. Okay. And, Mr. Lyons, you may have hit on this
24 before but just to cover everything. Did you discuss the
25 arrest warrants with Mr. Sanders?

CHARLES H S LYONS, III - DIRECT BY GOURLEY

1 A. We talked about his discovery.

2 Q. Okay.

3 A. You know, we went through his discovery and, like I
4 said, I mean, I think we had a, you know, the times we
5 met I think we had a good relationship. And I was just
6 trying to be straight up with him and deal with the
7 situation we had. And I think I did talk to him about
8 the case he had in Lexington, and, and, you know, some
9 possibilities on that.

10 So, I mean, I think under the circumstances, you
11 know, I think I covered the bases.

12 Q. Okay. Did you ever see the letter from Mr. Sanders
13 after the guilty plea requesting an appeal or any kind of
14 motion for reconsideration?

15 A. I know he wrote me.

16 Q. Okay.

17 A. Yeah. He wrote me.

18 Q. Okay.

19 A. And I'll -- like I said, I'm going to be honest.

20 Q. Right.

21 A. I don't recall telling him that he had a right to
22 appeal.

23 Q. Okay.

24 A. I don't -- I mean, you know, I can't say the other
25 lawyers didn't tell him that, but I don't recall telling

CHARLES H S LYONS, III - CROSS BY BLANCHETTE

1 him that.

2 Q. Did you feel that was any kind of extraordinary
3 circumstance that would lead to an appeal?

4 A. No. And I can tell you one thing that's for
5 certain, that Judge Early wasn't going to change his
6 sentence. That was clear.

7 Q. Okay. And Judge Early advised Mr. Sanders of his
8 right to appeal during the guilt plea colloquy, right?

9 A. I would imagine he did.

10 MR. GOURLEY: Your Honor, I have no other
11 questions. Thank you, Mr. Lyons.

12 THE COURT: Ms. Blanchette?

13 MS. BLANCHETTE: Thank you, Your Honor.

14 Your Honor, may I approach the witness?

15 THE COURT: Yes.

16 CROSS-EXAMINATION

17 BY MS. BLANCHETTE:

18 Q. Mr. Lyons, can you identify what that appears to
19 be, please?

20 A. That is a -- my entry of appearance.

21 Q. And that's in the case involving Mr. Sanders; is
22 that correct?

23 A. That's correct. Uh-huh.

24 Q. And do you recognize your signature there on that?

25 A. That's it.

CHARLES H S LYONS, III - CROSS BY BLANCHETTE

1 MS. BLANCHETTE: Your Honor, at this time I
2 would introduce this as Applicant's Number 12.

3 THE COURT: All right. Any objection?

4 MR. GOURLEY: No, Your Honor.

5 THE COURT: So admitted.

6 (Applicant's Exhibit No. 12, Notice of
7 Representation, received into evidence.)

8 BY MS. BLANCHETTE:

9 Q. And, Mr. Lyons, it says on here you dated this July
10 26, 2011; is that correct?

11 A. I did, yes.

12 Q. And it was received August 2nd, 2011, it indicates
13 on here?

14 A. That's what -- yes. That's what the stamp says,
15 yes.

16 Q. Now the guilty plea in this case was September 1st,
17 2011, which would be less than a month later than when
18 this was received?

19 A. Right.

20 Q. And in your direct testimony you talked about your
21 preparation with him, your meetings with Mr. Sanders and
22 that he was out on bond. But from this document it
23 appears that you only represented him one month prior to
24 the guilty plea. Could you please explain that?

25 A. More than likely the discovery was given to me

CHARLES H S LYONS, III - CROSS BY BLANCHETTE

1 prior to filing that, the entry. So it wasn't like we
2 got the discovery a week or so before.

3 Q. Okay. So you had indicated that prior to him
4 getting these additional charges -- because your charges
5 would have been first?

6 A. Uh-huh.

7 Q. -- that you had worked out a favorable plea for
8 less than 10 years. Was that plea communicated to
9 Mr. Sanders?

10 A. Yes.

11 Q. And did he reject that plea?

12 A. Well, he never got a chance to enter the plea.

13 Q. Okay. And when was that plea communicated to him?
14 Was that prior to your entry of your appearance?

15 A. I can't say when it was communicated to him. I
16 don't remember, but that was -- because he only had my
17 case. You know, there was no other cases out there.
18 So, that was something favorable out there that we were
19 going to do.

20 Q. So you were negotiating a guilty plea, had received
21 an offer, communicated that to your client prior to the
22 entry of your appearance in this case; is that correct?

23 A. Well, I'm not sure this entry was filed with my
24 Rule Five.

25 Q. But my question went to, you said that you had

CHARLES H S LYONS, III - CROSS BY BLANCHETTE

1 obtained this favorable 10 year, less than 10-year --

2 A. Right.

3 Q. -- guilty plea offer? Was that negotiated,
4 communicated to you and communicated to your client prior
5 to the entry of your appearance with the Court in this
6 case?

7 A. I don't remember whether it was or not. I don't
8 remember. Usually I file an entry of appearance with
9 Rule Five. Okay. So, either Rule Five was filed
10 separate or with that. I mean, I'd have to look at it
11 and see.

12 Q. And, Mr. Lyons, you provided myself a copy of your
13 file in conjunction with this PCR application; is that
14 correct?

15 A. Correct.

16 Q. And would you agree that this notice of entry of
17 appearance would have been in that file?

18 A. Yes.

19 Q. Do you have any other notices of entry of
20 appearances that came earlier in this case?

21 A. No.

22 Q. Okay. And do you have any indication, again, just
23 any specific notes or anything regarding the date when
24 that favorable plea offer was communicated to Mr. Sanders
25 that he -- you say that he rejected?

CHARLES H S LYONS, III - CROSS BY BLANCHETTE

1 A. I think you said he rejected. I never said he
2 rejected anything.

3 Q. Okay. Then, let me rephrase that question. I may
4 have misunderstood your testimony.

5 First: Was that offer communicated to Mr. Sanders?

6 A. Yes.

7 Q. Secondly: Did he accept or reject that plea offer?

8 A. My understanding was he was going to plead to the
9 plea offer and he was satisfied with it.

10 Q. Okay. And what was that plea offer for?

11 A. I believe it was 10.

12 Q. And why did that not happen?

13 A. Because he was never available to make it happen.

14 Q. And why wasn't he available to make that happen?

15 A. Because he was getting arrested somewhere else.

16 Q. So the two arrests though were prior to the entry
17 of your appearance; you would agree with that?

18 A. Yes.

19 Q. So prior to the entry of your appearance, based
20 upon your testimony then, you would have negotiated and
21 advised him of this favorable plea offer?

22 A. Right.

23 Q. Please correct me if I mischaracterize your
24 testimony in any way, but it's my understanding from
25 direct that you said there was no point essentially in

CHARLES H S LYONS, III - CROSS BY BLANCHETTE

1 telling Judge Early about defenses to charges that were
2 being dismissed. As I know and you know, he's a
3 no-nonsense kind of judge. So there was no point in
4 that.

5 But here we had an open plea. So wouldn't there be
6 a point in either asking the solicitor to explain her
7 reasons for dismissing those or to put that on the record
8 in some capacity since there was an open plea and the
9 judge was hearing there were these other charges that
10 were being dismissed. Don't you think that would have
11 been a factor that could have been favorable to your
12 client?

13 A. No, ma'am. I think Judge Early was very lenient
14 with me and allowed me to fully argue on behalf of
15 Mr. Sanders. When I look back at the transcript there
16 were plenty of times he could have said, "Mr. Lyons, I've
17 heard enough," you know. And he didn't.

18 So I mean, you know, you can dress it up any way
19 you want to. It was what it was. And if he had a
20 million cases that were associated with the ones he pled
21 on and I explained it to the judge why they were not
22 cases that had any merit, it wasn't going to change where
23 Judge Early was headed with the sentence.

24 Q. You testified on direct that yourself and the other
25 attorneys advised Mr. Sanders that he could potentially

CHARLES H S LYONS, III - CROSS BY BLANCHETTE

1 face life without parole and that was part of your advice
2 to him as to why he should go forward with this guilty
3 plea; is that correct?

4 A. That was part of it, but the big part of why he
5 should have gone forward with a guilty plea was because I
6 felt strongly if he went to trial, at least on my case,
7 he was going to get convicted.

8 Q. Now regarding that advice about life without
9 parole. On page 10 of the transcript, line seven, the
10 Court asks the solicitor if Mr. Sanders has any previous
11 strikes and the solicitor says, "He does not, Your
12 Honor."

13 Could you please explain to me the basis on which
14 you had advised Mr. Sanders that he could face life
15 without parole?

16 A. Well, you know, he was looking at a strike. He
17 had three open cases.

18 Q. And where were the other strikes going to come
19 from? You said he was looking at one strike but it's a
20 multiple-strike rule. So could you please explain how
21 you'd get to life without parole?

22 A. On the case that I had, one.

23 Q. Okay. And where would the other strikes come from
24 to get him to life without parole?

25 A. Then he had two other pending cases. They were all

CHARLES H S LYONS, III - CROSS BY BLANCHETTE

1 separate cases.

2 Q. And did you advise him that those charges would
3 amount to a strike?

4 A. We thought those cases could amount to strikes.

5 Q. And, specifically, do you know which cases?

6 A. Well, I know the Lexington case.

7 Q. And did you go through that with him and show him,
8 this case here from Lexington amounts to a strike, this
9 case here amounts to a strike; or how was that done?

10 A. No, I didn't do that because my main concern was
11 the case that I was involved in representing him on.

12 Q. Okay. But here today his main concern was he could
13 be facing life without parole. So what I'm asking you
14 is: How was that conveyed to him?

15 A. Well, I don't agree that that was the main
16 motivating factor for him to plead because whether he
17 received a life-without-parole sentence or whether he
18 received 80 years, that's life without parole. I mean,
19 he -- on my case if he had gotten hit for 30 years, then
20 they tried the other Aiken case and he got 25 years, he
21 tried the Lexington case, got 30 years, I think that's
22 pretty much life without parole.

23 So to me the semantics didn't mean anything. The
24 reality is what meant everything. And the reality was
25 that he had, at least as far as I was concerned, a bad

CHARLES H S LYONS, III - CROSS BY BLANCHETTE

1 case to try here in Aiken. And it appeared that he had
2 problems with the other cases.

3 So, you can call it life without parole. He may
4 have had a problem with life without parole or he may
5 just have had a problem with getting 70, 80 years. The
6 bottom line was going to be the same result; life in
7 prison.

8 My concern wasn't to sit down with him and try to
9 explain that he might get a LWOP because of these other
10 cases. My main concern was to let him know that he had a
11 problem on my case.

12 Q. Now that is your opinion of case but he's testified
13 today that his main concern, and he's testified to it
14 repeatedly, was that he had been advised by counsel that
15 he'd be facing life without parole. And it may be
16 semantics to you but life without parole means life
17 without parole.

18 So how was it that you got to the point, you
19 know -- did anyone sit down and actually show him that or
20 was that just set, I guess is my question.

21 MR. GOURLEY: Judge, I'm going to object to
22 argumentative.

23 THE COURT: I mean, I think the question's
24 been asked, just in a different way, seven
25 different times. He's answered the question.

CHARLES H S LYONS, III - CROSS BY BLANCHETTE

1 And he just said, he didn't -- at least I heard
2 him to say, correct me, Mr. Lyons, if I'm wrong
3 here, that you don't specifically remember
4 sitting down and saying -- are you through
5 talking to him?

6 MS. BLANCHETTE: Yes, Your Honor. I'm
7 sorry. He just had a quick question.

8 THE COURT: I understand. When I'm
9 talking, Mr. Sanders --

10 THE APPLICANT: Yes, sir, Your Honor.

11 THE COURT: -- you need to listen to me.
12 I'll give you an opportunity to talk to your
13 lawyer if you need to. Okay?

14 THE APPLICANT: Yes, sir.

15 THE COURT: We're here handling an
16 important matter to you and I'm trying to explain
17 something to your lawyer on a question that she's
18 got pertaining to something that you testified
19 to. Okay?

20 THE APPLICANT: Yes, sir, Your Honor.

21 THE COURT: What I heard Mr. Lyons to say
22 was that he did not recall specifically going,
23 sitting down and going through each case and
24 determining whether or not a strike applied to
25 see whether or not it fit within the LWOP

1 parameters. What he testified to was his concern
2 was that all of these cases, and he didn't say
3 this word, but he said all of it could amount to
4 80 years. In essence, the judge could have run
5 it consecutive.

6 And while that doesn't fall within the
7 statute of LWOP, I understand what he's saying.
8 And if you have any additional question
9 pertaining to that issue, that you don't think --
10 I think it's clear on that. I think the record's
11 clear on it.

12 MS. BLANCHETTE: Your Honor, I concede it's
13 asked and answered. I will be happy to do that.

14 THE COURT: Let's move on. Thank you.

15 MS. BLANCHETTE: One more question.

16 Q. What charge was it, specifically, on the cases that
17 you were handing that amounted to a strike? Just so I'm
18 clear for the record.

19 A. The meth charge.

20 Q. Okay.

21 Your Honor, if I could just beg the Court's
22 indulgence one moment to confer with my client.

23 THE COURT: Yes, ma'am. Absolutely.

24 (Pause.)

25 MS. BLANCHETTE: Your Honor, I have no

1 further questions of this witness.

2 THE COURT: Any redirect?

3 MR. GOURLEY: No, Your Honor.

4 THE COURT: Thank you, sir. You may step
5 down.

6 THE WITNESS: Thank you, Your Honor. Your
7 Honor, thank you for your leniency in letting me
8 get to that doctor's appointment but I needed to
9 get there. Thank you.

10 THE COURT: I'm glad everything worked out
11 for you. Next time if you have a doctor's
12 appointment -- and these things kind of run all
13 day. As you see it's almost 25 to six. We still
14 got at least one more witness to go -- just let
15 them know first thing in the morning so we can
16 handle that so it doesn't create a situation
17 where we're here at this hour.

18 THE WITNESS: Yes, sir. Thank you.

19 THE COURT: Glad everything worked out for
20 you. Hope everything goes well.

21 Call your next witness.

22 MR. GOURLEY: Your Honor, I call
23 Mr. Routzong, please.

24 MICHAEL D. ROUTZONG, having been duly
25 sworn, was examined and testified as follows:

MICHAEL D ROUTZONG - DIRECT BY GOURLEY

1 THE CLERK: Please have a seat in the
2 witness box. State your name for the record,
3 please.

4 THE WITNESS: My first name is Michael and
5 it's R-O-U-T-Z-O-N-G.

6 DIRECT EXAMINATION

7 BY MR. GOURLEY:

8 Q. Mr. Routzong, how long have you been practicing
9 law?

10 A. I've been at the public defender's office since
11 2007, and a couple years before that in private practice.

12 Q. And were you appointed or retained in this case?

13 A. I was appointed.

14 Q. And do you recall when you were appointed
15 approximately?

16 A. It would have been sometime after June of, June of
17 2011. So it would have been sometime shortly after that.

18 Q. And did you have the opportunity to meet with
19 Mr. Sanders?

20 A. Yes, sir.

21 Q. How many times did you meet with him?

22 A. Less than five. I would say that's probably true.

23 Q. Okay. Did you file Rule Five and Brady motions in
24 this case?

25 A. Yes, sir.

MICHAEL D ROUTZONG - DIRECT BY GOURLEY

1 Q. Did you have the opportunity to review that with
2 Mr. Sanders?

3 A. I don't recall specifically, to tell you the
4 truth. And looking through my notes, I know I talked to
5 him, according to my notes and I'm -- back then I was a
6 notoriously bad note keeper without dates and
7 everything. I'm sure I would have. It wouldn't have
8 made any sense for me not to, but I don't have any good
9 notes to me actually discussing it with him.

10 Q. It's your typical procedure to review your Brady
11 material with your clients prior to --

12 A. Absolutely.

13 Q. Did that include the search warrant and the, the
14 drug report?

15 A. I do not believe I ever received any drug analysis,
16 and I don't find in my incident report a search warrant.

17 Q. Okay. Did you have any discussions with
18 Mr. Sanders about search warrant or drug analysis?

19 A. I'm sure I would have, but I don't have any notes
20 in my file or on my computer.

21 Q. Did Mr. Sanders ever indicate to you that he wanted
22 to proceed to trial in this case?

23 A. I don't have any notes to say that he wanted to
24 proceed to trial. My recollection is that he asked me to
25 see if we couldn't get a global resolution, as it were,

MICHAEL D ROUTZONG - DIRECT BY GOURLEY

1 on his charges.

2 Q. Now, Mr. Routzong, you were here during
3 Mr. Sanders' testimony and he indicated or testified that
4 you were actually pushing to go to trial. Is that your
5 recollection in this case?

6 A. That might be an overstatement. I probably would
7 have framed it along the lines of: You certainly can go
8 to trial and there's probably issues. It's probably an
9 overstatement to say I wanted anybody to go to trial
10 because, like Mr. Lyons and Mr. Carrigg, I would have
11 been concerned about the amount of time he was facing.

12 Q. Okay. Mr. Routzong, did you feel like you had any
13 basis or need to explain to Judge Early that the charges
14 that were being dismissed had possible defenses to them?

15 A. I probably would not have been aware of Mr. Lyons'
16 and Mr. Carrigg's charges, so I -- and I wouldn't have
17 tried to involve myself in them. If Mr. Sanders had
18 asked me, I probably would have said, "You really need to
19 talk to them about it."

20 Q. Okay. Mr. Routzong, a letter was introduced
21 previously. The number's escaping me at this point. But
22 you had written a letter to Mr. Sanders after the guilty
23 plea, correct?

24 THE COURT: For the record, it's Number
25 11.

MICHAEL D ROUTZONG - DIRECT BY GOURLEY

1 MR. GOURLEY: Thank you, Your Honor.

2 Q. Within that 10-day span, did Mr. Sanders ever
3 request that you file a notice of appeal on his behalf?

4 A. I don't have any notes saying he requested an
5 appeal.

6 Q. Okay. And this letter is -- Your Honor, may I
7 approach?

8 THE COURT: Yes.

9 BY MR. GOURLEY:

10 Q. Mr. Routzong, what's the date of this letter?

11 A. October 25th --

12 Q. And is it fair --

13 A. -- 2011.

14 Q. I apologize. Is it fair to say that you're fairly
15 quick on responses to letters filed by -- sent to you?

16 A. I try to be.

17 Q. Okay. And this plea was done on September 1st,
18 2011, correct?

19 A. That's correct.

20 Q. So he would have had approximately till September
21 11th to notify you to request an appeal for it to be
22 timely, correct?

23 A. That's correct.

24 Q. Okay. Mr. Routzong, in your opinion was there any
25 kind of extraordinary circumstance that would lead to the

MICHAEL D ROUTZONG - CROSS BY BLANCHETTE

1 need to file an appeal?

2 A. No, sir.

3 Q. Okay. Did Mr. Sanders ever discuss a potential --
4 filing a motion for reconsideration in this case?

5 A. I don't recall him asking me to do that either.

6 Q. Okay. What was your understanding of the guilty
7 plea going into it?

8 A. Could you be more specific? I'm not quite sure
9 exactly what you're asking me.

10 Q. Was there a specific sentence that y'all had in
11 mind going into it that Mr. Sanders was looking for?

12 A. I think Mr. Sanders felt that he would be able to
13 convince the Court that he should get less than 20
14 years. I think -- I'm very confident of that.

15 Q. And did you attempt to do that to the best of your
16 abilities?

17 A. Yes, sir.

18 MR. GOURLEY: Beg the Court's indulgence,
19 Your Honor.

20 Your Honor, I have no further questions.

21 Thank you, Mr. Routzong.

22 THE COURT: Cross-examination?

23 MS. BLANCHETTE: Yes, Your Honor.

24

25

MICHAEL D ROUTZONG - CROSS BY BLANCHETTE

CROSS-EXAMINATION

BY MS. BLANCHETTE:

Q. Mr. Routzong, on the day of the plea were you prepared to proceed to a trial?

A. No.

Q. Did you need more time to prepare?

A. Yes, ma'am.

Q. On page 35 it reflects your comments to the Court. It appears that you agree with the comments made by the other attorneys. Specifically, could you just point out what you offered in mitigation?

And if you need page 35, I have it right here.

A. It's my recollection and I was trying to actually find it myself in the transcript as well a few moments ago. And it's my recollection -- I think I was looking towards Mr. Carrigg and Mr. Lyons and after, you know, after that point they would have heard just about everything.

And I wanted to pass the letter up. I think I did that. And it was a very well-written letter by Mr. Sanders. I thought it explained his situation and how he came to such a pass.

And in specific answer to your question: I don't think I did anything else in terms of mitigation.

Q. Mr. Sanders has testified today that one of his

MICHAEL D ROUTZONG - CROSS BY BLANCHETTE

1 primary reasons for electing to enter a plea was because
2 he was advised by his counsel that he was facing life
3 without parole. Did you offer that advice to
4 Mr. Sanders?

5 A. It's my recollection I did.

6 Q. And on what basis did you give him that advice?

7 A. Proximity charge would be a strike. And it was my
8 understanding that the -- there was at least one strike
9 from Mr. Lyons' cases and from Mr. Carrigg's cases. That
10 would have been a total of three.

11 Q. And that's the basis on which you gave him that
12 advice?

13 A. Yes, ma'am.

14 MS. BLANCHETTE: Your Honor, if I could beg
15 the Court's indulgence one moment?

16 THE COURT: Yes, ma'am.

17 MS. BLANCHETTE: Your Honor, I have no
18 further questions.

19 MR. GOURLEY: Nothing further, Your Honor.

20 THE COURT: All right, sir. You may step
21 down. Thank you.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: Ms. Blanchette, you indicated
24 you have, I guess, a memo to hand up along with a
25 case or two?

DENNIS SANDERS - IN REBUTTAL - DIRECT BY BLANCHETTE

1 MS. BLANCHETTE: Your Honor, I do. And I
2 apologize because I know of the length of today.

3 But there was some testimony from Mr. Lyons
4 regarding a 10-year plea offer that was
5 communicated to Mr. Sanders. I would like to
6 call him as a reply or rebuttal witness just on
7 that very limited topic if the Court would allow
8 me at this point. It was something I was not
9 aware of prior to the testimony of Mr. Lyons.

10 THE COURT: Come on up. I'm remind you,
11 very briefly and limited as you so stated.

12 MS. BLANCHETTE: I've limited myself.

13 DENNIS SANDERS, having previously been
14 sworn, testified further under oath as follows:

15 IN REBUTTAL - DIRECT EXAMINATION

16 BY MS. BLANCHETTE:

17 Q. Mr. Sanders, you heard Mr. Lyons' testimony that
18 prior to you catching the other two charges he worked out
19 a favorable plea for you. I believe he stated that was
20 for 10 years. Was that offer communicated to you?

21 A. No, ma'am. The only offer ever communicated to me
22 through Mr. Lyons was the 20-year negotiation recommended
23 from the State. I never had the chance to sit down and
24 speak with him prior to me being in Aiken County
25 Detention Center from the last case.

1 Q. If that plea offer would have been communicated to
2 you prior to your other two charges, would you have
3 accepted that guilty plea?

4 A. I may have very well at that point in time accept
5 that plea and thus I may not have been with two other
6 cases pending on me.

7 Q. And if you had accepted that guilty plea as you
8 just alluded to, would you have been on the street and
9 capable of catching those additional charges?

10 A. No, ma'am. I would have been in the Department of
11 Corrections.

12 MS. BLANCHETTE: Your Honor, I have no further
13 questions.

14 THE COURT: Anything further?

15 MR. GOURLEY: No, Your Honor. I think the
16 record speaks for itself.

17 MS. BLANCHETTE: Your Honor, I have nothing
18 further.

19 THE COURT: Hold on a minute. I may ask a
20 question.

21 (Pause.)

22 THE COURT: I'm sorry. Go ahead and step
23 down.

24 THE APPLICANT: Yes, sir, Your Honor.

25 THE COURT: Yes, ma'am?

1 MS. BLANCHETTE: And, Your Honor, based
2 upon that testimony pursuant to Rule 15(B) I did
3 have an allegation in our amendment that we
4 could conform our allegations to any testimony
5 and evidence offered today.

6 I'd ask this Court to further consider
7 this case under what I would call a Davey
8 allegation in Davey versus State. Mr. Davey was
9 not informed of a plea offer. He ultimately
10 pled out to time that was greater than that plea
11 offer and our Supreme Court said that counsel
12 was ineffective for not communicating that and
13 found that Mr. Davey could be sentenced any time
14 less than he was currently serving as a result
15 of the plea he did enter.

16 I provided Your Honor a copy of Davey
17 versus State yesterday. It's also cited to in
18 the three-page legal argument that I had planned
19 to hand up to Your Honor. So the citation is in
20 there.

21 THE COURT: Okay.

22 MR. GOURLEY: I don't have any objection,
23 Your Honor.

24 THE COURT: All right.

25 MS. BLANCHETTE: And, Your Honor, the only

1 additional thing I have is if you would like I
2 have a copy of South Carolina Code Annotated
3 44-53-445 that was referred to by Mr. Sanders.
4 If you would like that.

5 THE COURT: All right. Anything else
6 from either party? Ms. Blanchette, anything
7 further?

8 MS. BLANCHETTE: No, Your Honor.

9 THE COURT: Mr. Gourley?

10 MR. GOURLEY: No, sir.

11 THE COURT: All right.

12 END OF PROCEEDINGS: 6:02 P.M.

13 ***

14

15

16

17

18

19

20

21

22

23

24

25

1
2 CERTIFICATE OF REPORTER

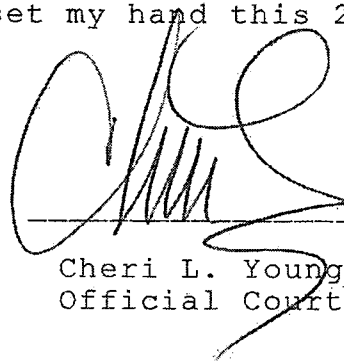
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF AIKEN)

5 I, Cheri L. Young, Registered Professional
6 Reporter and Official Court Reporter for the State of
7 South Carolina, Second Circuit-At Large, do hereby
8 certify that the foregoing proceedings were written
9 stenographically by me using computer-aided translation;
10 further, that the foregoing is a true, accurate and
11 complete record, to the best of my skill and ability, of
12 all the proceedings had and evidence introduced in the
13 hearing of the captioned case, relative to appeal, in
14 the Court of Common Pleas for Aiken County, on the 13th
15 day of January, 2015.

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

18 I have hereunder set my hand this 28th day of
19 March, 2016.

20
21 
22 Cheri L. Young, RPR
23 Official Court Reporter
24
25

03/04/2011 Page 2 of 34

AGENCY I.D.
SC0320400TOWN OF LEXINGTON POLICE DEPARTMENT
INCIDENT REPORTCASE NUMBER
110 1558NOC
X

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
1. 35A - TRAFFICKING METHUEN MARIJUANA POS. SCH. MARCOTCS POS.	☒ YES ☐ NO	☐ YES ☐ NO	18 09		☐ Individual ☐ Both ☐ Financial Inst. ☐ Government ☐ Religious Org. ☐ Social Serv. ☐ Other ☐ Unknown ☐ Police Org.
2.	☐ YES ☐ NO	☐ YES ☐ NO			
3.	☐ YES ☐ NO	☐ YES ☐ NO			

INCIDENT DATE		24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISP. DATE	DISP. TIME	DISP. TYPE	DISP. TIME	LOCATION NO.
01/24/2011		2128		01/25/2011	0148	01/24/2011	2128	2130	0148	M
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)										
MORTENSON, C J										
ADDRESS										
TOWN OF LEXINGTON										
CITY										
LEXINGTON										
STATE										
SC										
ZIP CODE										
29072										
LOCATION NO.										
M										

VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT	RESIDENT	RACE	SEX	AGE	ETH	DAYTIME PHONE	EVENING PHONE
TOWN OF LEXINGTON									
HEIGHT									
WEIGHT									
HAIR									
EYES									
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
ADDRESS									
CITY									
LEXINGTON									
STATE									
SC									
ZIP CODE									
29072									
LOCATION NO.									
S									

VICTIM (NO. 1) USING:		ALCOHOL	YES	NO	UNK	DRUGS	YES	NO	UNK
TWO MAN VEH.		☐	☐	☐	☐	ONE MAN VEH.	☐	☐	☐
DETECTIVE PLASMT.		☐	☐	☐	☐	OTHER	☐	☐	☐
ALONE		☐	☐	☐	☐	ASSISTED	☐	☐	☐
J - This Jurisdiction		☐	☐	☐	☐	B - State	☐	☐	☐
O - Out of State		☐	☐	☐	☐	U - Unknown	☐	☐	☐
SUBJECT NAME (LAST, FIRST, MIDDLE)									
SANDERS, DENNIS F									
RACE									
W									
SEX									
M									
AGE									
38									
ETH									
N									
DATE OF BIRTH									
01/24/2011									
HEIGHT									
6-2									
WEIGHT									
240									
HAIR									
BRO									
EYES									
BRO									
FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
ADDRESS									
CITY									
PELTON									
STATE									
SC									
ZIP CODE									
29123									
LOCATION NO.									
X TROT TRAIL									
SUBJECT (NO. 1) USING: ALCOHOL									
☐ YES ☐ NO ☐ UNK									
ARRESTED NEAR OFFENSE SCENE									
☐ YES ☐ NO									
DATE/TIME OF OFFENSE									
01/24/2011 2128									
DATE/TIME OF ARREST									
01/25/2011 0030									
TOTAL # ARRESTED									
2									

THE LOCATION FOR THIS INCIDENT REPORT IS THE CVS STORE ON SUNSET BLVD.

DETECTIVE MORTENSON WAS CONTACTED BY CVS STAFF AT APPROXIMATELY 21:25 AND WAS TOLD THAT THERE WERE TWO WHITE MALE SUBJECTS, WHO WERE LATER IDENTIFIED AS DENNIS SANDERS (SUBJECT #1) AND JOHN HAGELSTON (SUBJECT #2), WHO HAD ATTEMPTED TO PURCHASE EPHEDRINE BUT HAD BEEN DECLINED DUE TO MAKING A PURCHASE EARLIER IN THE DAY. DETECTIVE MORTENSON RESPONDED TO CVS AND ASKED SGT. HOBBS AND OFFICER PEYINGHAUS TO RESPOND AS WELL.

UPON ARRIVAL TO THE CVS, DETECTIVE MORTENSON ASKED SGT. HOBBS AND OFFICER PEYINGHAUS TO WAIT OUTSIDE THE INCIDENT LOCATION. DETECTIVE MORTENSON THEN WENT INSIDE AND SPOKE WITH CVS STAFF WHO POINTED OUT DENNIS SANDERS AND JOHN HAGELSTON AND STATED THAT SHE BELIEVED THEY HAD JUST SHOPLIFTED A PACKAGE OF SOFT GEL TOE SPACERS. DETECTIVE MORTENSON OBSERVED DENNIS SANDERS AND JOHN HAGELSTON WALK UP AND DOWN THE ROWS OF THE STORE SHOPPING AND THEN MAKE THEIR PURCHASES WITH THE CASHIER. DENNIS SANDERS PURCHASED A COLD PACK AND JOHN HAGELSTON PURCHASED A SMALLER PACKAGE OF EPHEDRINE WHICH WAS ALLOWED.

AS DENNIS SANDERS AND JOHN HAGELSTON WERE EXITING THE CVS STORE THEY WERE CONTACTED BY OFFICERS AND ASKED IF THEY WOULD ANSWERING SOME QUESTIONS. THE TWO SUBJECTS COMPLIED AND BEGAN SPEAKING WITH DETECTIVE MORTENSON, SGT. HOBBS, AND OFFICER PEYINGHAUS.

JURISDICTION OF THEFT		JURISDICTION OF RECOVERY	
LAW ENFORCEMENT AGENCY		LAW ENFORCEMENT AGENCY	
P	TYPE (GROUP)	10-DRUGS/INSTRUMENTS	TOTAL VALUE
R	Robbery		
O	Carjacking		
P	Disorderly Conduct		
E	Reckless Driving		
R	Reckless Driving		
T	Reckless Driving		
V	Unknown		
SUBJECT IDENTIFIED		SUBJECT LOCATED	
☒ YES ☐ NO		☐ YES ☐ NO	
REASON FOR STOP/NOTAL CLEARANCE		REASON FOR STOP/NOTAL CLEARANCE	
1. ☐ OFFENDER DEATH		1. ☐ NO PROSECUTION	
2. ☐ NO PROSECUTION		2. ☐ ESTABLISHED DENIAL	
3. ☐ ESTABLISHED DENIAL		3. ☐ VICTIM DECLINES COOPERATION	
4. ☐ VICTIM DECLINES COOPERATION		4. ☐ AVAILABLE - NO CUSTODY	
5. ☐ AVAILABLE - NO CUSTODY		5. ☐ AVAILABLE - NO CUSTODY	
REPORTING OFFICER(S)		APPROVING OFFICER	
CPL C MORTENSON		CPL C MORTENSON	
DATE		DATE	
01/24/2011		01/25/2011	
UNIT NUMBER		UNIT NUMBER	
1181		1181	
FOLLOW UP INVESTIGATION OFFICER		FOLLOW UP INVESTIGATION OFFICER	
☐ YES ☐ NO		☐ YES ☐ NO	

AGENCY I.D.
8C0320400

TOWN OF LEXINGTON POLICE DEPARTMENT

INCIDENT REPORT

CASE NUMBER		NOC	
110	1558	UNO	ENTD
		X	

DETECTIVE MORTENSON SPOKE WITH JOHN HAGELSTON AND ASKED WHY HE HAD PURCHASED COLD MEDICATION CONTAINING EPHEDRINE EARLIER IN THE DAY AND THEN ATTEMPTED PURCHASING EPHEDRINE AGAIN THIS EVENING. JOHN HAGELSTON STATED THAT HE HAD A COLD AND DID NOT HAVE A VEHICLE SO HE HAD TO PURCHASE HIS LIMIT WHEN HE HAD A CHANCE. JOHN HAGELSTON STATED THAT THEY WERE NOT DOING ANYTHING ILLEGAL. WHEN ASKED HOW THEY GOT TO THE CVS JOHN HAGELSTON STATED THAT A FRIEND DROPPED THEM OFF. DETECTIVE MORTENSON THEN ASKED JOHN HAGELSTON IF HE HAD ANYTHING ILLEGAL ON HIS PERSON TO WHICH HE STATED THAT HE DID NOT AND STATED THAT DETECTIVE MORTENSON COULD SEARCH HIS PERSON. DETECTIVE MORTENSON SEARCHED HIS PERSON AND DID NOT FIND ANY CONTRABAND.

DETECTIVE MORTENSON THEN SPOKE WITH DENNIS SANDERS AND ASKED WHY HE HAD PURCHASED A COLD PACK WHICH IS COMMONLY USED IN METHAMPHETAMINE PRODUCTION. DENNIS SANDERS STATED THAT HE HAD A HURT FOOT AND NEEDED THE ICE PACK FOR THAT PURPOSE. DETECTIVE MORTENSON ASKED DENNIS SANDERS IF HE HAD ANYTHING ILLEGAL ON HIS PERSON TO WHICH HE STATED THAT HE DID NOT AND STATED DETECTIVE MORTENSON COULD SEARCH HIS PERSON. DENNIS SANDERS STATED THAT HE WAS A CONTRACTOR AND THAT HE HAD OVER \$10,000.00 U.S. CURRENCY ON HIS PERSON. DENNIS SANDERS PULLED SEVERAL LARGE AMOUNTS OF U.S. CURRENCY FROM HIS POCKETS. DETECTIVE MORTENSON PLACED THE MONEY INTO THE SHOPPING BAG WITH THE COLD PACK THAT DENNIS SANDERS HAD PURCHASED. WHILE SEARCHING DENNIS SANDERS JACKET DETECTIVE MORTENSON FOUND TWO SOFT GEL TOE SPACERS WHICH WERE THE SAME ITEM THAT THE CVS STORE EMPLOYEE STATED HAD BEEN STOLEN. DETECTIVE MORTENSON ADVISED DENNIS SANDERS THAT HE WAS BEING PLACED IN INVESTIGATIVE DETENTION AND WAS PLACED INTO HANDCUFFS DOUBLE LOCKED. DENNIS SANDERS STATED THAT HE DID NOT STEAL THE ITEM FROM THE CVS. DETECTIVE MORTENSON THEN ASKED DENNIS SANDERS WHERE HIS VEHICLE WAS TO WHICH HE STATED THAT A FRIEND NAMED JENNIFER HAD DROPPED THEM OFF AND WAS PLANNING ON PICKING THEM UP AFTER SHE WAS DONE SHOPPING ELSEWHERE.

WHILE SPEAKING WITH THE SUBJECTS, OFFICERS NOTICED A DARK BLUE FORD EXPLORER, DISPLAYING SOUTH CAROLINA PLATE NUMBER GSR817, THAT WAS PARKED NEAR THE DOORWAY TO THE CVS AND THAT HAD KEYS IN THE IGNITION. WHEN DETECTIVE MORTENSON ASKED THE SUBJECTS IF THEY HAD DRIVEN THE VEHICLE TO THE INCIDENT LOCATION BOTH SUBJECTS STATED THAT THEY HAD NOT. DETECTIVE MORTENSON OBSERVED SEVERAL ITEMS OF CONCERN SUCH AS A LARGE BLUE PLASTIC CONTAINER, A PACKAGE OF FILTERS, STARTER FLUID, COLEMAN FUEL THAT COULD ALL BE USED IN THE PRODUCTION OF METHAMPHETAMINE ALL WITHIN PLAIN VIEW INSIDE THE VEHICLE. WHILE QUESTIONING BOTH SUBJECTS DETECTIVE MORTENSON OBSERVED THAT THEY SEEMED TO BE LYING ABOUT HOW THEY HAD GOTTEN TO THE CVS, WHO THEY HAD COME WITH, AND WHAT HAD HAPPENED PRIOR TO THEIR ARRIVAL AT CVS.

DETECTIVE MORTENSON THEN SPOKE WITH CVS STAFF AGAIN AND VERIFIED THAT THE SOFT GEL TOE SPACERS FOUND IN DENNIS SANDERS POCKET WERE INDEED THE ONES THAT HAD BEEN SHOPLIFTED. DETECTIVE MORTENSON AND CVS STAFF LOOKED AT VIDEO IN THE PARKING LOT OF THE INCIDENT LOCATION AND OBSERVED THE FORD EXPLORER DRIVE INTO THE PARKING LOT AND PARK IN FRONT OF THE STORE. DETECTIVE MORTENSON THEN OBSERVED ON THE INTERIOR STORE VIDEO THAT JOHN HAGELSTON WALKED INTO THE STORE FROM THE DIRECTION OF THE PARKED VEHICLE OUTSIDE. MINUTES LATER DENNIS SANDERS WALKED INTO THE CVS STORE FROM THE SAME DIRECTION AS THE VEHICLE PARKED OUTSIDE.

WHILE IN INVESTIGATIVE DETENTION OFFICER PEYINGHAUS READ TO EACH SUBJECT THEIR MIRANDA ADVISEMENT.

THE VEHICLE INFORMATION WAS RUN THROUGH CENTRAL DISPATCH AND ALSO BY LT. BLEDSOE AND IT WAS CONFIRMED THE VEHICLE WAS OWNED BY DENNIS SANDERS FATHER, DEMPSEY SANDERS, IN MCCORMICK COUNTY, SOUTH CAROLINA. WHEN DETECTIVE MORTENSON SPOKE WITH DENNIS SANDERS ABOUT HIS FATHER'S VEHICLE BEING PARKED OUTSIDE THE CVS STORE HE STATED THAT HE DID NOT DRIVE THE VEHICLE AND DIDN'T KNOW HOW IT HAD GOTTEN THERE.

DETECTIVE MORTENSON THEN TOOK THE VEHICLE INFORMATION AND COMPLETED A SEARCH WARRANT. DETECTIVE MORTENSON WAS ABLE TO GET THE SEARCH WARRANT SIGNED BY JUDGE RAKOWSKY.

DETECTIVE MORTENSON AND LT. BLEDSOE EXECUTED THE SEARCH WARRANT OF THE VEHICLE AT THE INCIDENT LOCATION. DUE TO THE KEYS BEING LOCKED INSIDE THE VEHICLE AND THE BOTH SUBJECTS STATING THAT THEY HAD NO CONNECTION TO THE VEHICLE, LT. BLEDSOE BROKE OUT THE PASSENGER SIDE REAR WINDOW WITH HIS ASP BATON.

ONCE THE WINDOW HAD BEEN BROKEN AND THE VEHICLE DOOR OPENED, DETECTIVE MORTENSON BEGAN A THROUGH SEARCH OF THE ENTIRE VEHICLE. WHILE SEARCHING THE FRONT SEAT PASSENGER AREA DETECTIVE MORTENSON FOUND A PACK OF CAMEL

SUBJECT INFORMATION		ARRESTING AGENCY		ARRESTING AGENCY	
P	TYPE (GROUP)	18-Drug/Narcotic			TOTAL VALUE
R	Brand				
O	Over/Under				
P	Over/Under				
E	Approved				
R	Seized				
T	Seized				
Y	Unknown				
A	SUBJECT IDENTIFIED		SUBJECT LOCATED		
D	☒ YES ☐ NO		☒ YES ☐ NO		
M	☐ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18 ☐ EX-CLEAR UNDER 18		
I	☐ UNFOUNDED		☐ ARRESTED 18 AND OVER ☐ EX-CLEAR 18 AND OVER		
N	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROB SOLUTION 3. ☐ EXTRADITION DENIED 4. ☐ WRITEN DECLINES COOPERATION		5. ☐ AVAILABLE - NO CUSTODY		
R	REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE
I	CPL C MORTENSON	01/24/2011	1161	CPL C MORTENSON	01/26/2011
S	FOLLOW-UP INVESTIGATION OFFICER		DATE		UNIT NUMBER
	☐ YES ☐ NO				

03/04/2011 Page 5 of 34

AGENCY I.D.
8C0320400TOWN OF LEXINGTON POLICE DEPARTMENT
INCIDENT REPORT

CASE NUMBER		NO.	
1,10	1,558	INC.	ENTR.
		X	

ARREST WARRANTS WERE WRITTEN BY DETECTIVE MORTENSON AND SIGNED BY JUDGE JEFFCOAT. LT. DAVIS MET WITH EACH SUBJECT AT L.C.D.C. AND ISSUED TO THEM THEIR WARRANTS.

DETECTIVE MORTENSON ATTEND BOND HEARINGS FOR BOTH SUBJECTS AND EACH RECEIVED A BOND AMOUNT OF \$235,000 FOR THE CHARGES AGAINST THEM.

WARRANTS:

1-827840 - P.W.I.D. MARIJUANA - 3RD OFFENSE
 1-827841 - P.W.I.D. MARIJUANA - 3RD OFFENSE
 1-827842 - POSSESSION OF DRUG PARAPHERNALIA
 1-827843 - POSSESSION OF DRUG PARAPHERNALIA
 1-827844 - TRAFFICKING METHAMPHETAMINE - 3RD OFFENSE
 1-827845 - TRAFFICKING METHAMPHETAMINE - 3RD OFFENSE
 1-827846 - POSSESSION OF ECSTASY - 3RD OFFENSE
 1-827847 - POSSESSION OF ECSTASY - 3RD OFFENSE
 1-827848 - POSSESSION OF SCHEDULE II, III, IV CONTROLLED SUBSTANCE - 3RD OFFENSE
 1-827849 - POSSESSION OF SCHEDULE II, III, IV CONTROLLED SUBSTANCE - 3RD OFFENSE

EVIDENCE:

2011000171 - FOUR CLEAR PLASTIC BAGS CONTAINING A GREEN PLANT MATERIAL
 2011000172 - ONE CLEAR PLASTIC BAG CONTAINING A GREEN PLANT MATERIAL
 2011000173 - B.E.S.T. #8207648 - SEVEN COFFEE FILTERS FOLDED TO CONTAIN A YELLOWISH POWDER SUBSTANCE INSIDE
 2011000174 - B.E.S.T. #8207648 - THREE PILL BOTTLES WHICH CONTAIN CLEAR PLASTIC BAGGIES WHICH CONTAIN A WHITE TO OFF WHITE POWDER SUBSTANCE
 2011000175 - B.E.S.T. #8210373 - SEVEN PILL BOTTLES CONTAINING VARIOUS SCHEDULED PRESCRIPTIONS AND A METAL CASE CONTAINING LOOSE PILLS
 2011000178 - B.E.S.T. #8210374 - CLEAR PLASTIC BAG CONTAINING MULTI COLORED TABLETS
 2011000177 - TWO SMALL CLOTH BACKPACKS
 2011000178 - VARIOUS DRUG PARAPHERNALIA IN TWO SEALED PLASTIC BAGS
 2011000179 - CVS GEL TOE SPACERS WITH PACKAGING
 2011000180 - FOUR BLISTER PACKS CONTAINING EPHEDRINE
 2011000181 - MISC. PAPERWORK FROM THE INTERIOR OF THE SUBJECT'S VEHICLE
 2011000182 - OFFICER PEYINGHAUS'S PATROL VEHICLE DVD VIDEO
 2011000183 - U.S. CURRENCY - \$12,975.00

		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECEIPT LAW ENFORCEMENT AGENCY		TOTAL VALUE
P	TYPE (GROUP)	10-Drugs/Narcotics				
R	Quoted					
Q	Count/Force					
P	Count/Force					
R	Recovered					
R	Seized					
T	Seized					
Y	Unknown					
A	SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ ADM. CLOSED ☐ ARRESTED UNDER 18 ☐ EX-CLEAR UNDER 18	
D	☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED ☐ ARRESTED 18 AND OVER ☐ EX-CLEAR 18 AND OVER	
M	REASON FOR EXCEPTIONAL CLEARANCE					
I	1. OFFENDER DEATH		2. NO PROSECUTION		3. EXTRAJURIS DEATH	
S	4. WITHIN DEPT'S COOPERATION		5. JUVENILE - NO CUSTODY			
T	REPORTING OFFICER(S)	DATE	SET NUMBER	APPROVING OFFICER	DATE	SET NUMBER
	CPL C MORTENSON	01/24/2011	1181	CPL C MORTENSON	01/26/2011	1181
	FOLLOWUP INVESTIGATION OFFICER					
	☐ YES ☐ NO					

AGENCY I.D.
8C0320400

TOWN OF LEXINGTON POLICE DEPARTMENT
INCIDENT REPORT

CASE NUMBER

APC

1,10 1,558

REV. 1

EXTD.

CIGARETTES WHICH CONTAINED A BURNT MARIJUANA ROACH IN A CLEAR CIGARETTE CELLOPHANE WRAPPER. DETECTIVE MORTENSON ALSO FOUND SEVERAL GLASS PIPES USED TO SMOKE METHAMPHETAMINE, MORE BURNT MARIJUANA ROACHES IN THE ASHTRAY, AND NUMEROUS ITEMS OF DRUG PARAPHERNALIA.

WHILE SEARCHING THE BACKSEAT AREA OF THE VEHICLE DETECTIVE MORTENSON FOUND STARTER FLUID AND BUTANE FLUID, A LARGE PLASTIC CONTAINER, AND A PACKAGE OF GLASS JARS.

WHILE SEARCHING THE FRONT SEAT DRIVER SIDE AREA OF THE VEHICLE DETECTIVE MORTENSON FOUND SEVERAL ITEMS OF CONTRABAND THAT WERE IN TWO SMALL CLOTH BACKPACKS. WHILE SEARCHING THE FIRST BACKPACK DETECTIVE MORTENSON FOUND A CLEAR PLASTIC CONTAINER WITH A BLUE LID WHICH CONTAINED FOUR PLASTIC BAGS CONTAINING MARIJUANA AND ANOTHER PLASTIC BAG CONTAINING SIXTY-ONE SUSPECTED DOSAGE UNITS OF ECSTASY. DETECTIVE MORTENSON ALSO FOUND ANOTHER CLEAR PLASTIC BAG INSIDE OF A CLEAR ZIP LOCK BAG WHICH CONTAINED MARIJUANA. DETECTIVE MORTENSON THEN FOUND A METAL CLIP THAT WAS HOLDING SEVEN FOLDED COFFEE FILTERS. WHEN EACH OF THE COFFEE FILTERS WERE OPENED AN OFF WHITE POWDER WAS FOUND IN THE BOTTOM OF EACH FILTER BELIEVED TO BE METHAMPHETAMINE. DETECTIVE MORTENSON FOUND NUMEROUS ITEMS OF DRUG PARAPHERNALIA IN THIS BACKPACK CONSISTING OF A SYRINGE, RAZOR BLADES, BUTANE LIGHTERS, GLASS PIPES, SCALES, AND ROLLING PAPERS. WHEN DETECTIVE MORTENSON OPENED THE SECOND BACKPACK HE FOUND VARIOUS PILL BOTTLES WHICH CONTAINED OVER SIX HUNDRED SCHEDULE II, III, AND IV PILLS SEPARATED INTO SEVEN PILL BOTTLES FOR DISTRIBUTION AND A METAL DEVICE WHICH ALSO HELD SOME LOOSE PILLS AS WELL. DETECTIVE MORTENSON THEN FOUND THREE MORE PILL BOTTLES WHICH CONTAINED CLEAR PLASTIC BAGS WITH A WHITE POWDER SUBSTANCE BELIEVED TO BE METHAMPHETAMINE. DETECTIVE MORTENSON FOUND MORE ITEMS OF DRUG PARAPHERNALIA IN THE BACKPACK INCLUDING SEVERAL SETS OF DIGITAL SCALES AND A PACKAGE OF SMALL CLEAR PLASTIC ZIP LOCK BAGS.

WHILE SEARCHING BOTH FRONT AND REAR SEAT AREAS OF THE VEHICLE DETECTIVE MORTENSON FOUND NUMEROUS ITEMS OF PAPERWORK WITH DENNIS SANDERS NAME ON IT SUCH AS THE RETURN ADDRESS TO LETTERS NOT SENT, LETTERS ADDRESSED TO DENNIS SANDERS WITH HIS NAME AND ADDRESS ON THEM, AND THEN PAPERWORK FROM THE SCHOOL HIS SON ATTENDS WITH HIS NAME AND PHOTOGRAPH ON IT. DETECTIVE MORTENSON ALSO FOUND PHOTOGRAPHS OF DENNIS SANDERS IN THE VEHICLE AS WELL. ALL ITEMS WERE TAKEN AS EVIDENCE.

WHILE SEARCHING THE BACK SEAT AREA OF THE VEHICLE DETECTIVE MORTENSON FOUND FOUR BLISTER PACKS OF EPHEDRINE THAT WERE UNOPENED.

AT THE COMPLETION OF THE VEHICLE SEARCH IT WAS DETERMINED THAT THERE WERE NOT ENOUGH PRECURSOR ITEMS TO CHARGE DENNIS SANDERS OR JOHN HAGELSTON WITH MANUFACTURING METHAMPHETAMINE. DETECTIVE MORTENSON COLLECTED ALL OTHER ITEMS OF CONTRABAND AS EVIDENCE.

LT. BLEDSOE COLLECTED FROM DENNIS SANDERS THE LARGE AMOUNT OF U.S. CURRENCY THAT HE HAD ON HIS PERSON AND BOTH DENNIS SANDERS AND JOHN HAGELSTON WERE TRANSPORTED TO L.C.D.C. BY OFFICER PEYINGHAUS FOR BOOKING PROCEDURES. A HOLD WAS PLACED ON EACH SUBJECT.

OFFICER ALDRICH COMPLETED A TOW SHEET FOR THE VEHICLE. THE VEHICLE WAS TOWED BY AMBURN'S TOWING.

DETECTIVE TOOK ALL ITEMS OF EVIDENCE BACK TO THE LEXINGTON POLICE DEPARTMENT WHERE THEY WERE SORTED, PHOTOGRAPHED, AND PLACED INTO EVIDENCE. LT. BLEDSOE ASSISTED IN COUNTING THE U.S. CURRENCY THAT WAS SEIZED FROM DENNIS SANDERS WHICH TOTALED \$12,975.00.

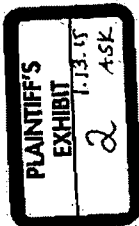
B.E.S.T. KITS WERE COMPLETED FOR ALL ITEMS OF NARCOTICS FOR TESTING EXCEPT THE ITEMS OF MARIJUANA WHICH WERE TESTED BY DETECTIVE CARTER AND FOUND TO CONTAIN THC. SEE THE CERTIFIED MARIJUANA ANALYST REPORTS FOR FURTHER INFORMATION.

IT WAS FOUND BY DETECTIVE MORTENSON THAT EACH SUBJECT HAD MULTIPLE FELONY DRUG OFFENSES ON THEIR RECORDS AND THAT THESE OFFENSES WOULD BE CHARGED AS 3RD OFFENSES. DETECTIVE MORTENSON COMPLETED WARRANTS FOR BOTH SUBJECTS FOR TRAFFICKING METHAMPHETAMINE, P.W.I.D. MARIJUANA, POSSESSION OF ECSTASY, POSSESSION OF SCHEDULE II, III, IV CONTROLLED SUBSTANCES, AND POSSESSION OF DRUG PARAPHERNALIA.

P TYPE (GROUP)		19-Drugs/Narcotics		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY		TOTAL VALUE	
R	Revised								
D	Count/Forced								
P	Over/Unchanged								
E	Returned								
R	Revised								
T	Station								
Y	Unknown								
SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE		ADM. CLOSED		ARRESTED UNDER 18	
☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE:		1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRAJURISDICTION DERIVED		4. ☐ VICTIM DECLINED COOPERATION	
5. ☐ JUVENILE - NO CUSTODY		REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER	
CPL G MORTENSON		01/24/2011		1161		CPL G MORTENSON		01/28/2011 1161	
FOLLOW-UP INVESTIGATION OFFICER		☐ YES ☐ NO							

STATE OF SOUTH CAROLINA

County/Municipality of LEWISTON



1-13-11
with
Sgt. [signature]
[signature]
Arista [signature]
Deputy Clerk

SEARCH WARRANT

Date 01/24/2011

Officer CPL C MORTENSON

000000121

Date Printed: 01/24/2011 11:19:23 PM

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF LEXINGTON

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A BLUE IN COLOR 1991 FORD EXPLORER DISPLAYING SOUTH CAROLINA LICENSE PLATE GSR817, WHICH IS OWNED BY DEMPSEY SANDERS OF STAG ROAD IN CLARKS HILL, SOUTH CAROLINA WHICH IS PARKED IN FRONT OF THE CVS STORE LOCATED AT SUNSET BLVD IN THE LEXINGTON AREA OF LEXINGTON COUNTY, SOUTH CAROLINA.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

OFFICERS OF THE LEXINGTON POLICE DEPARTMENT WILL BE SEARCHING A BLUE 1991 FORD EXPLORER DISPLAYING SOUTH CAROLINA LICENSE PLATE GSR 817, FOR ALL ITEMS OF ILLEGAL DRUGS, DRUG PARAPHERNALIA, AND ANY AND ALL KNOWN PRECURSORS FOR THE PRODUCTION OF METHAMPHETAMINE.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

SCAA/513
(3-78)

Lexington, S.C.

1-24-11

John L. Fakhoury (J.S.)
Signature of Judge

Date Printed: 01/24/2011 11:19:23 PM

COUNTY OF LEXINGTON

AFFIDAVIT

Personally appeared before me, one DETECTIVE C. MORTENSON
who, being duly sworn, says that there is probably cause to believe that certain property subject to seizure under provisions
of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

OFFICERS OF THE LEXINGTON POLICE DEPARTMENT WILL BE SEARCHING A BLUE 1991 FORD EXPLORER DISPLAYING SOUTH CAROLINA
LICENSE PLATE , FOR ALL ITEMS OF ILLEGAL DRUGS, DRUG PARAPHERNALIA, AND ANY AND ALL KNOWN PRECURSORS FOR THE
PRODUCTION OF METHAMPHETAMINE.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

A BLUE IN COLOR 1991 FORD EXPLORER DISPLAYING SOUTH CAROLINA LICENSE PLATE GSR817, WHICH IS OWNED BY DEMPSEY SANDERS
OF STAG ROAD IN CLARKS HILL, SOUTH CAROLINA WHICH IS PARKED IN FRONT OF THE CVS STORE LOCATED AT SUNSET
BLVD IN THE LEXINGTON AREA OF LEXINGTON COUNTY, SOUTH CAROLINA.

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

OFFICERS OF THE LEXINGTON POLICE DEPARTMENT WERE CONTACTED BY AN EMPLOYEE OF THE CVS STORE LOCATED ON SUNSET BLVD.
IN THE LEXINGTON AREA OF LEXINGTON COUNTY, SOUTH CAROLINA. UPON ARRIVAL DETECTIVE MORTENSON SPOKE WITH A CVS
EMPLOYEE WHO STATED THAT TWO MALE SUBJECT, IDENTIFIED AS DENNIS SANDERS AND JOHN HAGELSTON, HAD ENTERED THE STORE
AND HAD ATTEMPTED TO PURCHASE COLD MEDICINE BUT HAD BEEN DECLINED DUE TO BEING OVER THE DAILY LIMIT TO PURCHASE THAT
QUANTITY OF EPHEDRINE DUE TO A PREVIOUS PURCHASE EARLIER THAT EVENING AT ANOTHER STORE. JOHN HAGELSTON THEN BOUGHT
ANOTHER PACK OF EPHEDRINE TYPE PILLS THAT HAD LESS QUANTITY AND WAS ABLE TO MAKE THAT PURCHASE.

DETECTIVE MORTENSON OBSERVED THE SUBJECTS MAKE THEIR PURCHASES AND LEAVE THE STORE WHERE THEY WERE CONTACTED BY
PATROL OFFICERS. OFFICERS THEN COMPLETED A CONSENSUAL CONTACT WITH THE SUBJECTS AND ASKED TO SEARCH THEIR PERSON.
DURING A SEARCH OF DENNIS SANDERS, DETECTIVE MORTENSON FOUND A SMALL RUBBER TOE SPACER THAT HAD BEEN STOLEN FROM THE
CVS. IT WAS ALSO FOUND THAT DENNIS SANDERS HAD IN HIS POSSESSION OVER \$10,000.00 IN U.S. CURRENCY WHICH HE STATED
WAS HIS OWN FROM HIS JOB AS A CONTRACTOR. OFFICERS OBSERVED THAT DENNIS SANDERS HAD PURCHASED A COLD PACK WHICH IS A
KNOWN PRECURSOR FOR METHAMPHETAMINE PRODUCTION.

DURING THE COURSE OF THE INVESTIGATION OFFICERS OBSERVED A BLUE FORD EXPLORER DISPLAYING SOUTH CAROLINA LICENSE
PLATE GSR817 WHICH BELONGED TO THE FATHER OF DENNIS SANDERS. IN PLAIN VIEW DETECTIVE MORTENSON OBSERVED FILTERS, A
LARGE PLASTIC CONTAINER, AND COLEMAN LANTERN FUEL WHICH ARE ALL KNOWN PRECURSORS OF METHAMPHETAMINE PRODUCTION.

Sworn to and Subscribed before me
this 24th day of January, 2011.

Jack R. Boland
Signature of Judge

(L.S.)

[Signature]
Affiant

Address MAIDEN LANELEXINGTON SC 29072Phone 803-359-6260

Date Printed: 01/24/2011 11:19:23 PM

RETURN

I received the attached Search Warrant C. MORTENSON, and have executed it as follows:

On 01/24/2011 at 2355 o'clock PM, I searched

(the person) described in the warrant and (the premises)

I left a copy of the warrant with DENIS SANDERS AT LDC
 Name of person searched or "at the place of search" with.
 Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

- (2) SMALL CLOTH BAGS FOUND ON FRONT DRIVERSIDE OF VEHICLE
- MISC. PAPERWORK / PHOTOS SHOWING DENNIS SANDERS ADDRESS AND IMAGE FOUND IN THE BACKSEAT AREA OF THE VEHICLE.
- (1) PLASTIC CONTAINER WITH FIVE BAGS OF MARIJUANA AND (1) EXSTASY PILL FOUND IN THE FRONT DRIVER SIDE OF THE VEHICLE.
- (1) CLEAR PLASTIC BAG CONTAINING MARIJUANA FOUND IN FRONT DRIVERSIDE OF THE VEHICLE.
- (1) PILL BOTTLES CONTAINING VARIOUS SCHEDULED PILLS FOUND IN FRONT DRIVERSIDE OF THE VEHICLE.
- (1) METAL CONTAINER WITH PILLS INSIDE FOUND IN FRONT DRIVERSIDE OF THE VEHICLE.
- (1) BAGS OF PINK EPHEDRINE FOUND ON THE DRIVERSIDE BACKSEAT OF VEHICLE.
- (1) COKE SUBSTANCE CONTAINING OFF WHITE POWDER FOUND ON THE FRONT DRIVER SIDE OF THE VEHICLE.
- (3) PILL BOTTLES CONTAINING CLEAR PLASTIC BAGS CONTAINING WHITE POWDER FOUND IN THE FRONT DRIVER SIDE OF THE VEHICLE.
- MISC. ITEMS OF DRUG PARAPHERNALIA FOUND IN THE FRONT PASSENGER AREA OF THE VEHICLE.
- (2) DIGITAL MEDIA CARDS

This inventory was made in the presence of L.T. PEDERSON
 AND DET. MORTENSON

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this _____
 day of _____
 _____ (L.S.)
 Signature of Judge

(Signature of Officer Executing Warrant)

Date Printed: 01/24/2011 11:19:00 PM

ARREST WARRANT

I-627840

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LEXINGTON

THE STATE

against



STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LEXINGTON

AFFIDAVIT

Form Approved by
S.C. Attorney General
July 25, 1990
SCCA 518

Personally appear before me the affiant DETECTIVE C. MORTENSON who
being duly sworn deposes and says that defendant DENNIS F SANDERS
did within this county and state on _____ violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of LEXINGTON)
in the following particulars:
DESCRIPTION OF OFFENSE: 44-53-0370(B)(2) / P.W.I.D. MARIJUANA - 3RD OFFENSE

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:

THAT DURING THE COURSE OF AN INVESTIGATION ON THE NIGHT OF JANUARY 24TH, 2011, THE SUBJECT, DENNIS F.
SANDERS, ALONG WITH A CO-DEFENDANT, WERE FOUND TO BE IN POSSESSION OF APPROXIMATELY TWO OUNCES OF
MARIJUANA WHICH WAS PACKAGED IN SEVEN SEPARATE CLEAR PLASTIC BAGS AND APPEARED READY FOR SALE.

THIS MARIJUANA WAS FOUND DURING A LAWFUL SEARCH OF THE DEFENDANT'S VEHICLE WITH A SIGNED SEARCH
WARRANT FOR SAID VEHICLE.

THIS INVESTIGATION TOOK PLACE AT 5608 SUNSET BLVD. IN THE LEXINGTON AREA OF LEXINGTON COUNTY, SOUTH
CAROLINA.

SAID OFFENSE IS WITHOUT LEGAL JUSTIFICATION OR EXCUSE.

DENNIS F SANDERS

Address: FOX TROT TRAIL
PELION SC 29123

Phone: _____ SSN: _____

Sex: M Race: W Height: 6-2 Weight: 240DL State: SC DM: _____DOB: _____ Agency OR#: SC0320400Prosecuting Agency: TOWN OF LEXINGTON POLICEProsecuting Officer: DETECTIVE C. MORTENSONOffense: P.W.I.D. MARIJUANA - 3RD OFFENSEOffense Code: 0189Code/Ordinance Sec. 44-53-0370(B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

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

Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant DENNIS F SANDERSon 1-25-11

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

JOHN RAKOWSKY, MUNICIPAL
MAIDEN LANE
LEXINGTON, SC 29072
(803) 951-4634

PLAINTIFF'S
EXHIBIT

3

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LEXINGTON

Signature of Affiant

Affiant's Address MAIDEN LANE
LEXINGTON SC 29072Affiant's Telephone 803-359-6260

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 _____ defendant DENNIS F SANDERS

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

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

DESCRIPTION OF OFFENSE: DRUGS / MANUF., POSS. OF OTHER SUB. IN SCH. I, II, III OR
FLUNITRAZEPAM, W.I.T.D. - 3RD OR SUB. 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

Signature of Issuing Judge (L.S.)

Judge Code: 5548

DEFENDANT COPY

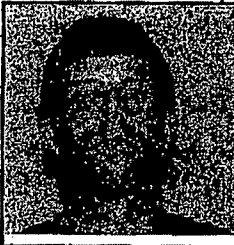
Judge's Address

Judge's Telephone

Issuing Court: ☒ Magistrate ☒ Municipal ☐ Circuit

Case: 11001558

ARREST WARRANT
1-627842
STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
LEXINGTON



THE STATE
against

DENNIS F SANDERS
Address **FOX TROT TRAIL**
PELION SC 29123
Phone: _____ SSN: _____
Sex: **M** Race: **W** Height: **6-2** Weight: **240**
DL State: **SC** DL#: _____
DOB: _____ Agency CR#: **SC0320400**
Prosecuting Agency: **TOWN OF LEXINGTON POLICE**
Prosecuting Officer: **DETECTIVE C. MORTENSON**
Offense: **POSSESSION OF DRUG PARAPHERNALIA**
Offense Code: **133.08**
Code/Ordinance Sec. **00-00-0000**

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

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

Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant **DENNIS F SANDERS**
on **1.25.11**

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
JOHN RAKOWSKY, MUNICIPAL JUDGE
MAIDEN LANE
LEXINGTON, SC 29072
(803) 951-4634

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
LEXINGTON

AFFIDAVIT

Form Approved by
S.C. Attorney General
July 26, 1990
SCCA 518

Personally appeared before me the affiant **DETECTIVE C. MORTENSON** who
being duly sworn deposes and says that defendant **DENNIS F SANDERS**
did within this county and state on _____
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of **LEXINGTON**)
in the following particulars:
DESCRIPTION OF OFFENSE: 00-00-0000 / POSSESSION OF DRUG PARAPHERNALIA

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:
THAT DURING THE COURSE OF AN INVESTIGATION, ON THE NIGHT OF JANUARY 24TH, 2011, THE SUBJECT, DENNIS F.
SANDERS, ALONG WITH A CO-DEFENDANT, WERE FOUND TO BE IN POSSESSION OF MULTIPLE ITEMS OF DRUG
PARAPHERNALIA FOR THE USE OF METHAMPHETAMINE AND MARIJUANA. THESE ITEMS INCLUDED GLASS PIPES,
ROLLING PAPERS, AND RAZOR BLADES.

THE PARAPHERNALIA WAS FOUND DURING A LAWFUL SEARCH OF THE DEFENDANT'S VEHICLE WITH A SIGNED SEARCH
WARRANT FOR SAID VEHICLE.

THIS INVESTIGATION TOOK PLACE AT 5608 SUNSET BLVD. IN THE LEXINGTON AREA OF LEXINGTON COUNTY, SOUTH
CAROLINA.

SAID OFFENSE IS WITHOUT LEGAL JUSTIFICATION OR EXCUSE.

Signature of Affiant _____
STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
LEXINGTON
Affiant's Address **MAIDEN LANE**
LEXINGTON SC 29072
Affiant's Telephone: **803-359-6260**

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 _____ defendant **DENNIS F SANDERS**
did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☒ Municipality of **LEXINGTON**) as set forth below:
DESCRIPTION OF OFFENSE: POSSESSION OF DRUG PARAPHERNALIA

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 **1.25.11** _____
Signature of Issuing Judge _____ (L.S.)
Judge Code: **5000**
Judge's Address **501 Carolina Rd**
Lexington, SC
Judge's Telephone **803-359-6260**
Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit
Case: **11001558**

DEFENDANT COPY

ARREST WARRANT

I-627846

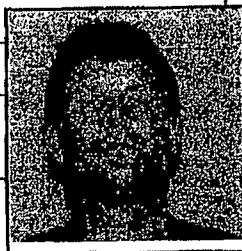
STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LEXINGTON

THE STATE

against



STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LEXINGTON

AFFIDAVIT

Form Approved by
S.C. Attorney General
July 28, 1990
SCCA 518

Personally appeared before me the affiant DETECTIVE C. MORTENSON who
being duly sworn deposes and says that defendant DENNIS F SANDERS
did within this county and state on _____ violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of LEXINGTON)
in the following particulars:

DESCRIPTION OF OFFENSE: 44-53-0370 (D) (3) / POSSESSION OF ECSTASY - 3RD OFFENSE

DENNIS F SANDERS

Address: FOX TROT TRAIL
PELION SC 29123

Phone: _____ SSN: _____
Sex: M Race: W Height: 6-2 Weight: 240
DL State: SC DL #: _____
DOB: _____ Agency OR#: SC0320400
Prosecuting Agency: TOWN OF LEXINGTON POLICE
Prosecuting Officer: DETECTIVE C. MORTENSON
Offense: POSSESSION OF ECSTASY - 3RD
OFFENSE _____ Offense Code: 2921
Code/Ordinance Sec.: 44-53-0370 (D) (3)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

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

Signature of Judge

(L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant DENNIS F SANDERSon 1-25-11

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

JOHN RAKOWSKY, MUNICIPAL JUDGE
MAIDEN LANE
LEXINGTON, SC 29072
(803) 951-4634

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:

THAT DURING THE COURSE OF AN INVESTIGATION ON THE NIGHT OF JANUARY 24TH, 2011, THE SUBJECT, DENNIS F.
SANDERS, ALONG WITH A CO-DEFENDANT, WERE FOUND TO BE IN POSSESSION OF OVER SIXTY DOSAGE UNITS OF
ECSTASY.

THE ECSTASY WAS FOUND DURING A LAWFUL SEARCH OF THE DEFENDANT'S VEHICLE WITH A SIGNED SEARCH
WARRANT FOR SAID VEHICLE.

THIS INVESTIGATION TOOK PLACE AT 5608 SUNSET BLVD. IN THE LEXINGTON AREA OF LEXINGTON COUNTY, SOUTH
CAROLINA.

SAID OFFENSE IS WITHOUT LEGAL JUSTIFICATION OR EXCUSE.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

LEXINGTON

Affiant's Address

MAIDEN LANE

LEXINGTON SC 29072

Affiant's Telephone

803-359-6260

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 _____ defendant DENNIS F SANDERS

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

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

DESCRIPTION OF OFFENSE: DRUGS / POSSESSION OF FIFTEEN DOSAGE UNITS OF MDMA OR
ECSTASY, 3RD OR SUBSEQUENT 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 1-25-11

Signature of Issuing Judge

(L.S.)

Judge Code: 5055

Judge's Address

501 Gb Rd

Judge's Telephone

778-5595

Issuing Court:

☒ Magistrate☒ Municipal☐ Circuit

Case: 11001558

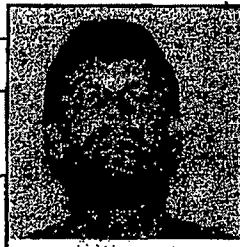
DEFENDANT COPY

ARREST WARRANT

I-627848

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
LEXINGTON

 THE STATE
against


DENNIS F SANDERS

 Address: FOX TROT TRAIL
PELION SC 29123

 Phone: _____ SSN: _____
Sex: M Race: W Height: 6-2 Weight: 240

 DL State: SC DL# _____
DOB: _____ Agency OR# SC0320400

Prosecuting Agency: LEXINGTON POLICE

Prosecuting Officer: DETECTIVE C. MORTENSON

 Offense: POSS. OF SCHEDULE II, III, AND IV
- 3RD OFFENSE Offense Code: 0180

Code/Ordinance Sec: 44-53-0370 (D) (2)

 This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

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

Signature of Judge (L.S.)

Date: _____

RETURN

 A copy of this arrest warrant was delivered to
defendant DENNIS F SANDERS

on: 1/25/11

Signature of Constable/Law Enforcement Officer: _____

RETURN WARRANT TO:

JOHN RAKOWSKY, MUNICIPAL JUDGE

MAIDEN LANE

LEXINGTON, SC 29072

(803) 951-4634

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
LEXINGTON

AFFIDAVIT

 Form Approved by
S.C. Attorney General
July 26, 1999
SCCA 516

 Personally appeared before me the affiant DETECTIVE C. MORTENSON who
being duly sworn deposes and says that defendant DENNIS F SANDERS
did within this county and state on _____ violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of LEXINGTON)
in the following particulars:

DESCRIPTION OF OFFENSE: 44-53-0370 (D) (2) / POSS. OF SCHEDULE II, III, AND IV - 13RD

OFFENSE

 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:

 THAT DURING THE COURSE OF AN INVESTIGATION ON THE NIGHT OF JANUARY 24TH, 2011, THE SUBJECT, DENNIS F.
SANDERS, ALONG WITH A CO-DEFENDANT, WERE FOUND TO BE IN POSSESSION OF OVER SIX HUNDRED DOSAGE UNITS
OF SCHEDULE II, III, IV CONTROLLED SUBSTANCES. THESE SUBSTANCES INCLUDED DOSAGE UNITS OF DILAUDID,
METHADONE, VALIUM, APERAL, PHENTERMINE, XANAX, HYDROCODONE, MORPHINE, RITALIN, AND AMBIEN.

 THESE NARCOTICS WERE FOUND DURING A LAWFUL SEARCH OF THE DEFENDANT'S VEHICLE WITH A SIGNED SEARCH
WARRANT FOR SAID VEHICLE.

 THIS INVESTIGATION TOOK PLACE AT 5608 SUNSET BLVD. IN THE LEXINGTON AREA OF LEXINGTON COUNTY, SOUTH
CAROLINA.

SAID OFFENSE IS WITHOUT LEGAL JUSTIFICATION OR EXCUSE.

Signature of Affiant: _____

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
LEXINGTON

 Affiant's Address MAIDEN LANE
LEXINGTON SC 29072
Affiant's Telephone 803-359-6260

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 _____ defendant DENNIS F SANDERS
did violate the criminal laws of the State of South Carolina (or ordinance of

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

 DESCRIPTION OF OFFENSE: DRUGS / POSS. OF OTHER CONTROLLED SUB. IN SCHED. I TO IV -
2ND OR SUB. 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: 1/25/11

Signature of Issuing Judge (L.S.): _____

Judge Code: _____

Judge's Address: 5608 Sunset Blvd Lexington SC

Judge's Telephone: 803-359-6260

Issuing Court: ☒ Magistrate ☒ Municipal ☐ Circuit

Case: 11001558

DEFENDANT COPY

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

NIKKI R. HALEY
Governor



MARK A. KEEL
Chief

April 26, 2013

Ms. Tricia A. Blanchette, Esquire
P.O. Box 12725
Columbia, SC 29211
Robert D. Robbins

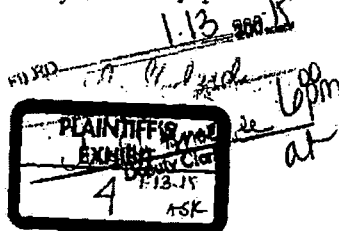
RE: Freedom of Information Act Request
SLED FOIA # 2013-259
SLED Laboratory Cases: L11-1555, L11-1556, and L11-1557

Dear Ms. Blanchette:

The above referenced information has been prepared for you. Please find listed below a breakdown of the charges associated with your request. An invoice will be sent to you by our Finance Department in the next few weeks.

1 CD @ \$ 5.00 each	5.00
4 hrs copying time @ \$20.00/hour	80.00
TOTAL	\$ 85.00

If you have any questions, feel free to contact me at (803) 896-7136.



Sincerely,

[Signature]
FOIA Coordinator

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7588



SOUTH CAROLINA LAW ENFORCEMENT DIVISION
DEPARTMENT OF DRUG ANALYSIS
TABLE OF CONTENTS

CASE NUMBER: L11-01555

CHEMIST: Douglas Robinson *DR*

<u>DESCRIPTION</u>	<u>PAGES</u>
TABLE OF CONTENTS	<u>1</u>
SLED DRUG ANALYSIS REQUEST (BEST)	<u>1</u>
SLED FORENSIC SERVICES REQUEST (NON-BEST)	<u> </u>
SLED EVIDENCE INVENTORY FORM	<u> </u>
SLED DRUG ANALYSIS WORKSHEET	<u>1</u>
GC-MS DATA	<u>22</u>
FT-IR DATA	<u> </u>
FORM A	<u>1</u>
CHAIN OF CUSTODY FORMS	<u>3</u>
LITERATURE REFERENCE(S)	<u> </u>
PHOTO(S)	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



REGINALD I. LLOYD
Director

Cameron Mortenson
Lexington Police Department
P.O. Box 397
Lexington, SC 29072

DRUG ANALYSIS
March 03, 2011
SLED LAB: L11-01555
Your Case No: 11001558
Incident Date: 1/24/2011
[S] Dennis Sanders
[S] John Hagelston

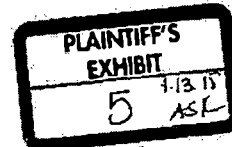
This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this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

Reginald I. Lloyd, Director
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

- Sub # 1 On February 10, 2011, items were received in B210374 from Ptl. Don Pardue of the Lexington Police Department.
- Item: 1.1 Heat sealed plastic bag containing plastic corner bag containing...
- Item: 1.1.1 Light green butterfly shaped tablets.
RESULTS:
No Controlled Substance(s) detected.
- Item: 1.1.2 Dark green butterfly shaped tablets.
RESULTS:
No Controlled Substance(s) detected.
- Item: 1.1.3 Yellow butterfly shaped tablets.
RESULTS:
No Controlled Substance(s) detected.

1.13
L. Hagelston
SLED
Anita Knoepke
Deputy Clerk
al



P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

March 03, 2011
L11-01555

Page 2

Item: 1.1.4

Round pink tablets.

RESULTS:

No Controlled Substance(s) detected.

Chemical Analyst



Douglas Robinson

cc: Lexington County Solicitor's Office



P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

FORM A

REPORT OF ANALYSIS FOR
CONTROLLED DANGEROUS SUBSTANCES
(Substance Found)

I, Douglas R. Robinson, am a Chemical Analyst employed by the South Carolina State Law Enforcement Division (SLED), certified by SLED as a chemist or analyst qualified to perform testing and analysis for controlled dangerous substances prohibited by law in this State by Title 44, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

I have 2 years and 11 months experience as a Chemical Analyst. During that period, I have been qualified as an expert witness and testified in court no less than 6 times. I have received the following training as a chemical analyst.

B.S. Chemistry, University of South Carolina, Columbia, SC 2003
Environmental Chemical Analyst, GEL Laboratories, Charleston, SC 2005-2008
South Carolina Law and Legal Training, South Carolina Criminal Justice Academy, 2008
Training in Forensic Drug Analysis, South Carolina Law Enforcement Division, 2008
Drug Enforcement Administration, Forensic Chemist Seminar, 2009

Sub # 1 On February 10, 2011, items were received in B210374 from Ptl Don Pardue of the Lexington Police Department.

I tested the above item(s) using the following legally reliable forensic laboratory procedures approved by SLED:

☒ Chemical Test
☐ Microscopic Exam
☐ Infrared Spectroscopy
☐ Ultraviolet Spectroscopy
☐ Visual Examination

☒ Gas Chromatography
☒ Mass Spectroscopy
☐ Liquid Chromatography
☐ Physical Test
☐ Published Literature

See Drug Analysis Report L11-01555 for Results.

Chemical Analyst



Douglas Robinson

Date: March 03, 2011



CONTROL NO. B210374

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM B (RULE 6)
CERTIFICATE OF PROOF OF CHAIN OF PHYSICAL
CUSTODY OR CONTROL
 (Initial Custody)

This is to certify that I C. MONTGOMERY am employed byLEXINGTON P.D.

(Name of Agency or Department)

and that on

01/24
(Date)

, I seized from

DENNIS SANDERS / JOHN HAGELSTEN
(Name)

pursuant to

SEARCH WARRANT
(State Whether Subject's Warrant, Lawful Arrest or Otherwise)

at or near

4609 SUNSET BLVD LEXINGTON SC
(Place Where Seized)

the following substance(s) or container(s):

(Describe substance or container with sufficient particularity to distinguish it.)

CLEAR PLASTIC BAG CONTAINING MULTICOLORED PILLSOn 01/26

(Date)

, I made delivery of the above described

substance(s) or container(s) to

EVIDENCE

(Name)

of

LEXINGTON P.D.
(Law Enforcement Agency)

in substantially the same condition

as when I received it.

(Signature)

Place: _____

Date: _____

Sworn before me on this _____ day of _____

Notary Public for South Carolina
My Commission expires: _____

Initial Custody Form
Please Start with this Form

REVISED: PAGE 1 100

CONTROL NO. B210374

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM C (RULE 6)
CERTIFICATE OF PROOF OF CHAIN OF
PHYSICAL CUSTODY OR CONTROL
 (Subsequent Change of Custody)

This is to certify that I Don Perdue am employed by
(Name)Lexington Police Department as Evidence Custodian and that on
(Name of Agency or Department) (Capacity of Employment)1/25/11 I received In Person
(Date) (Specify Whether by Mail or In Person)from Evidence Drop Box / Evidence Storage of Lexington Police Department
(Name of Person) (Law Enforcement Agency)

the following substance(s) or container(s) which were originally seized by

C. Mortensen
(Name of Person Making Original Seizure)

(Describe substance or container with sufficient particularity to distinguish it.)

Best KB No. B 210374On 1/25/11 I made delivery of the above described
(Date)substance(s) or container(s) to Lexington Evidence Storage / SLED Lab. of
(Name)Lexington Police Department / SLED in substantially the same condition
(Law Enforcement Agency)

as when I received it.

D. Perdue
(Signature)Place: _____
Date: _____

Sworn before me on this _____ day of _____

Notary Public for South Carolina
My Commission expires: _____

CONTROL NO. B210374

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM C (RULE 6)
CERTIFICATE OF PROOF OF CHAIN OF
PHYSICAL CUSTODY OR CONTROL
(Subsequent Change of Custody)

This is to certify that I Don Pardue am employed by
(Name)
Lexington Police Department as Evidence Custodian and that on
(Name of Agency or Department) (Capacity of Employment)

2-10-1 I received In Person
(Date) (Specify Whether by Mail or in Person)

from Evidence Drop Box / Evidence Storage of Lexington Police Department
(Name of Person) (Law Enforcement Agency)

the following substance(s) or container(s) which were originally seized by

C. Norton
(Name of Person Making Original Seizure)

(Describe substance or container with sufficient particularity to distinguish it.)

Best Kit No. B 210374

On 2-10-1 I made delivery of the above described
(Date)

substance(s) or container(s) to Lexington Evidence Storage / SLED Lab of
(Name)

Lexington Police Department SLED in substantially the same condition
(Law Enforcement Agency)

as when I received it.

D. Pardue
(Signature)

Place: _____
 Date: _____

Sworn before me on this _____ day of _____

Notary Public for South Carolina
 My Commission expires: _____

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT

NIKKI R. HALEY
Governor



REGINALD I. LLOYD
Director

Cameron Mortenson
Lexington Police Department
P.O. Box 397
Lexington, SC 29072

DRUG ANALYSIS

February 24, 2011
SLED LAB: L11-01556
Your Case No: 11001558
Incident Date: 1/24/2011
[S] Dennis Sanders
[S] John Hagelston



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.

Reginald I. Lloyd, Director
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

- Sub # 1 On February 10, 2011, items were received in B 210373 from Ptl. Don Pardue of the Lexington Police Department.
- Item: 1.1 Heat sealed bag containing...
- Item: 1.1.1 Prescription bottle (1) containing...
- Item: 1.1.1.1 Yellow tablet (OM, 50)
RESULTS:
Tapentadol (C-II) found, one (1) tablet(s).
- Item: 1.1.1.2 White triangular tablets
RESULTS:
Hydromorphone (C-II) found, one hundred seventy-one (171) whole tablets and a partial tablet(s).



P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

February 24, 2011
L11-01556

Page 2

Item: 1.1.1.3

White tablets (4, 54196)

RESULTS:

Hydromorphone (C-II) found, twenty (20) tablet(s).

Item: 1.1.2

Prescription bottle (2) containing white tablets (54142)

RESULTS:

Methadone (C-II) found, sixty-one (61) tablet(s).

Item: 1.1.3

Prescription bottle (3) containing blue tablets (Valium 10)

RESULTS:

Diazepam (C-IV) indicated, thirty-nine (39) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.4

Prescription bottle (4) containing...

Item: 1.1.4.1

Yellow tablets (2683, V)

RESULTS:

Diazepam (C-IV) indicated, four (4) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.4.2

Blue tablets (DAN, 5620)

RESULTS:

Diazepam (C-IV) indicated, fourteen (14) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.4.3

Blue tablets (Valium 10)

RESULTS:

Diazepam (C-IV) indicated, fifty-three (53) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.



February 24, 2011
L11-01556

Page 3

Item: 1.1.4.4

Blue tablets (barr, 555164)

RESULTS:

Diazepam (C-IV) indicated, two (2) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.4.5

Blue tablets (Z 3927, 10)

RESULTS:

Diazepam (C-IV) indicated, eighty (80) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.4.6

Green tablets (Mylan 477)

RESULTS:

Diazepam (C-IV) indicated, thirty-five (35) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.4.7

Green tablets (TEVA, 833)

RESULTS:

Clonazepam (C-IV) indicated, thirty-two (32) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.5

Prescription bottle (5) containing...

Item: 1.1.5.1

Orange tablets (b 973)

RESULTS:

Amphetamine (C-II) found, fifteen (15) tablet(s).



February 24, 2011
L11-01556

Page 4

Item: 1.1.5.2

Blue with blue specks tablets (5030, V)

RESULTS:

Phentermine (C-IV) indicated, three (3) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.6

Prescription bottle (6) containing...

Item: 1.1.6.1

White tablet (18)

RESULTS:

Ibuprofen (Rx) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.6.2

Purple tablets

RESULTS:

Morphine (C-II) found, two (2) tablet(s).

Item: 1.1.6.3

White tablets (GG 225)

RESULTS:

Promethazine (Rx) indicated, thirteen (13) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.6.4

Orange tablets (2088, V)

RESULTS:

Alprazolam (C-IV) indicated, thirty-one (31) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.



February 24, 2011
L11-01556

Page 5

Item: 1.1.6.5

Orange tablets (GG 257)

RESULTS:

Alprazolam (C-IV) indicated, thirteen (13) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.6.6

Yellow tablet (TL 177)

RESULTS:

Cyclobenzaprine (Rx) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.6.7

Blue tablets (G 3721)

RESULTS:

Alprazolam (C-IV) indicated, eleven (11) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.6.8

Blue tablets (GG 258)

RESULTS:

Alprazolam (C-IV) indicated, three (3) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.7

Prescription bottle (7) containing white tablets (WEST-WARD 201)

RESULTS:

Colchicine (Rx) indicated, ten (10) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.8

Metal container containing...



February 24, 2011
L11-01556

Page 6

- Item: 1.1.8.1** Yellow tablets (Seroquel 100)
RESULTS:
Quetiapine (Rx) indicated, nine (9) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.
- Item: 1.1.8.2** Yellow tablets (R 34)
RESULTS:
Clonazepam (C-IV) indicated, four (4) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.
- Item: 1.1.8.3** Yellow tablets (SZ, 790)
RESULTS:
Methylphenidate (C-II) found, fourteen (14) tablet(s).
- Item: 1.1.9** Ziplock bag containing...
- Item: 1.1.9.1** White tablet (I8)
RESULTS:
Ibuprofen (Rx) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.
- Item: 1.1.9.2** Yellow tablet (Seroquel 100)
RESULTS:
Quetiapine (Rx) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.



P.O. Box 21398, Columbia, South Carolina 29221-1398 Phone (803) 896-7300 Fax (803) 896-7351

February 24, 2011
L11-01556

Page 7

Item: 1.1.9.3

Yellow tablet (TL 177)

RESULTS:

Cyclobenzaprine (Rx) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.9.4

White tablet (GG 225)

RESULTS:

Promethazine (Rx) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.9.5

White tablet (WEST-WARD 201)

RESULTS:

Cobichine (Rx) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.9.6

Yellow tablet (R, 154)

RESULTS:

Ondansetron (Rx) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.10

Plastic bag containing...

Item: 1.1.10.1

Blue tablet (Valium 10)

RESULTS:

Diazepam (C-IV) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.



February 24, 2011
L11-01556

Page 8

Item: 1.1.10.2

Blue tablet (Z 3927, 10)

RESULTS:

Diazepam (C-IV) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.10.3

Blue tablet (DAN, 5620)

RESULTS:

Diazepam (C-IV) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.10.4

Blue with blue specks tablet (5030, V)

RESULTS:

Phentermine (C-IV) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.10.5

Blue tablet (G 3721)

RESULTS:

Alprazolam (C-IV) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.10.6

Green tablet (Mylan 477)

RESULTS:

Diazepam (C-IV) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.



February 24, 2011
L11-01556

Page 9

Item: 1.1.10.7

Green tablet (TEVA, 833)

RESULTS:

Clonazepam (C-IV) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.10.8

Yellow tablet (2683, V)

RESULTS:

Diazepam (C-IV) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.10.9

Yellow tablet (SZ, 790)

RESULTS:

Methyphenidate (C-II) found, one (1) tablet(s).

Item: 1.1.10.10

White tablet (54142)

RESULTS:

Methadone (C-II) found, one (1) tablet(s).

Item: 1.1.10.11

White tablet (TEVA, 74)

RESULTS:

Zolpidem (C-IV) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.10.12

White triangular tablet

RESULTS:

Hydromorphone (C-II) found, one (1) tablet(s).



February 24, 2011
L11-01556

Page 10

Item: 1.1.10.13

Orange tablet (2088 V)

RESULTS:

Alprazolam (C-IV) indicated, one (1) tablet(s).

Visual Examination determined that physical characteristics of this item are consistent with a pharmaceutical preparation. No further tests are warranted at this time.

Item: 1.1.10.14

Orange tablet (b 973))

RESULTS:

Amphetamine (C-II) found, one (1) tablet(s).

Item: 1.1.10.15

Purple tablet

RESULTS:

Morphine (C-II) found, one (1) tablet(s).

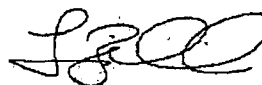
Item: 1.1.10.16

Yellow tablet (3601, V)

RESULTS:

Hydrocodone and Acetaminophen (C-III) found, one (1) tablet(s).

Chemical Analyst



Lawrence A. Zivkovich

cc: Lexington County Solicitor's Office



FORM A

REPORT OF ANALYSIS FOR
CONTROLLED DANGEROUS SUBSTANCES
(Substance Found)

I, Lawrence A. Zivkovich, am a Chemical Analyst employed by the South Carolina State Law Enforcement Division (SLED), certified by SLED as a chemist or analyst qualified to perform testing and analysis for controlled dangerous substances prohibited by law in this State by Title 44, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

I have 4 years and 10 months experience as a Chemical Analyst. During that period, I have been qualified as an expert witness and testified in court no less than 13 times. I have received the following training as a chemical analyst.

B.S. Chemistry, University of South Carolina, Columbia, SC 1996
Marijuana Analyst Certification, South Carolina Law Enforcement Division, 2006
South Carolina Law and Legal Training, South Carolina Criminal Justice Academy, 2006
Chemical Analyst Certification, South Carolina Law Enforcement Division, 2007
Drug Enforcement Administration, Forensic Chemist Seminar, 2008

Sub # 1 On February 10, 2011, items were received in B 210373 from Ptl Don Pardue of the Lexington Police Department.

I tested the above item(s) using the following legally reliable forensic laboratory procedures approved by SLED:

- ☐ Chemical Test
- ☐ Microscopic Exam
- ☐ Infrared Spectroscopy
- ☐ Ultraviolet Spectroscopy
- ☒ Visual Examination

- ☒ Gas Chromatography
- ☒ Mass Spectroscopy
- ☐ Liquid Chromatography
- ☐ Physical Test
- ☒ Published Literature

See Drug Analysis Report L11-01556 for Results.

Chemical Analyst



Lawrence A. Zivkovich

Date: February 24, 2011



CONTROL NO. B210373

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM B (RULE 6)**CERTIFICATE OF PROOF OF CHAIN OF PHYSICAL
CUSTODY OR CONTROL**
(Initial Custody)This is to certify that I C. MONTENSON am employed by
(Name)LEXINGTON PD. and that on
(Name of Agency or Department)On 01/24, I seized from DELLA S. SANDERS / JOHN HAGELSTON
(Date) (Name)pursuant to SEARCH WARRANT
(State Whether Subject to a Warrant, Lawful Arrest or Otherwise)at or near 5408 SUNSET BLVD. LEXINGTON, SC
(Place Where Seized)

the following substance(s) or container(s):

(Describe substance or container with sufficient particularity to distinguish it.)

① PILL CONTAINERS CONTAINING VARIOUS PILLS② METAL CASE CONTAINING VARIOUS PILLSOn 01/26, I made delivery of the above described
(Date)substance(s) or container(s) to EVIDENCE of
(Name)LEXINGTON PD in substantially the same condition
(Law Enforcement Agency)

as when I received it.

(Signature)

Place: _____
Date: _____

Sworn before me on this _____ day of _____.

Notary Public for South Carolina

My Commission expires: _____

Initial Custody Form
Please Start with this Form

EV-0100: FORM 1 3/99

CONTROL NO. B210373

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM C (RULE 6)
CERTIFICATE OF PROOF OF CHAIN OF
PHYSICAL CUSTODY OR CONTROL
(Subsequent Change of Custody)

This is to certify that I Don Pardue am employed by Lexington Police Department

(Name of Agency or Department)

Evidence Custodian
(Capacity of Employment)

and that on

1/25/11
(Date)

I received

In Person

(Specify Whether by Mail or in Person)

from Evidence Drop Box / Evidence Storage

(Name of Person)

of

Lexington Police Department
(Law Enforcement Agency)

the following substance(s) or container(s) which were originally seized by

C. Mortensen
(Name of Person Making Original Seizure)

(Describe substance or container with sufficient particularity to distinguish it.)

Best ID No. B 210373On 1/25/11 I made delivery of the above described
(Date)substance(s) or container(s) to Lexington Evidence Storage / SLED Lab of

(Name)

Lexington Police Department / SLED
(Law Enforcement Agency)

in substantially the same condition

as when I received it.

D. Pardue
(Signature)

Place:

Date:

Sworn before me on this _____ day of _____

Notary Public for South Carolina
My Commission expires: _____

CONTROL NO. B 210373

PRINT ALL INFORMATION EXCEPT WHERE SIGNATURE IS REQUIRED

FORM C (RULE 6)
CERTIFICATE OF PROOF OF CHAIN OF
PHYSICAL CUSTODY OR CONTROL
 (Subsequent Change of Custody)

This is to certify that I Don Pardue am employed by
(Name)Lexington Police Department as Evidence Custodian and that on
(Name of Agency or Department) (Capacity of Employment)2-10-11 I received In Person
(Date) (Specify Whether by Mail or in Person)from Evidence Drop Box / Evidence Storage of Lexington Police Department
(Name of Person) (Law Enforcement Agency)

the following substance(s) or container(s) which were originally seized by

C. Mortensen
(Name of Person Making Original Seizure)

(Describe substance or container with sufficient particularity to distinguish it.)

Reel Kit No. B 210373On 2-10-11 I made delivery of the above described
(Date)substance(s) or container(s) to Lexington Evidence Storage / SLED Lab. of
(Name)Lexington Police Department / SLED in substantially the same condition
(Law Enforcement Agency)

as when I received it.

D. Pardue
(Signature)Place: _____
Date: _____

Sworn before me on this _____ day of _____

Notary Public for South Carolina

My Commission expires: _____

Search Results - Person Summary

Most Recent Profile
Name: SANDERS, DENNIS
Date of Birth: [REDACTED]

1-13-15
[Signature]
Deputy Clerk

PLAINTIFF'S EXHIBIT
1-13-15 7

This individual has also used the following biographical information in the past. Any numerical information beginning with zeros has had those removed for display purposes on the Person Summary page, but full details can be found by clicking on the Related Records.

Name	Date of Birth	ID(s)	Address
SANDERS, DENNIS F	[REDACTED]	[REDACTED] SC / Driver's License	PELION, SC 29123
SANDERS, DENNIS F	[REDACTED]		
DENNIS, SANDERS			
SANDERS, DENNIS			SC 29123

View: All Activity Types (41) Purchases (24) Blocks (6) Exceedances (0) Inquiries (11)
Returns (0)

☐ Show Transaction Details and Signatures

Details	Transaction Date	Activity Type	Product(s)	Grams	Box (es)	Compliance Fail Type/Inquiry Limits	Pharmacy
	05/23/2011 7:02:10 PM EDT	PURCHASE	EQ SUPHED 12-HOUR (20 CNT),	2.4	1		Wal-Mart Pharmacy #514 2035 Whiskey Rd Aiken, SC 29803 AIKEN TLC Medical Centre 803-648-7800 190 Grape Myrtle Ct Aiken, SC 29803 AIKEN Family Pharmacy of Aiken 803-649-1776 333 Newberry St NW Aiken, SC 29801 AIKEN Target Pharmacy #2277 803-520-2859 5119 Sunset Blvd Lexington, SC 29072 LEXINGTON
	05/06/2011 1:28:53 PM EDT	PURCHASE	PSEUDOEPHEDRINE 12 HR DECON NON-DROWSY (10 CNT),	1.2	1		
	04/28/2011 4:55:20 PM EDT	PURCHASE	NASAL DECONGESTANT,	2.879	1		
	04/20/2011 7:01:17 PM EDT	PURCHASE	PSEUDOEPHEDRINE (48 CNT),	1.44	1		
	04/04/2011 10:11:21 PM EDT	BLOCKED	KROGER SUDAPHRINE TABS (48 CNT),	1.44	1	Federal Compliance Agent: 9g In 30 days SC Compliance Agent: 9g Per 30 Days	Kroger Pharmacy #011875 803-842-5371 1795 Whiskey Rd Aiken, SC 29803

04/01/2011 7:45:05 PM EDT	BLOCKED	SUDAFED 12 HR 20CT,	2.4	1	Federal Compliance Agent: 9g in 30 days SC Compliance Agent: 9g Per 30 Days	AIKEN WALGREENS #12795 803-641-6959 3510 Richland Ave W Aiken, SC 29801 AIKEN Kroger Pharmacy #011675 803-642-5371 1795 Whiskey Rd Aiken, SC 29803 AIKEN Kroger Pharmacy #011675 803-642-5371 1795 Whiskey Rd Aiken, SC 29803 AIKEN
03/24/2011 9:21:02 PM EDT	PURCHASE	SUDAFED 12HR (10 CNT),	1.2	1		WALGREENS #12795 803-641-6959 3510 Richland Ave W Aiken, SC 29801 AIKEN
03/24/2011 9:20:54 PM EDT	BLOCKED	SUDAFED 12HR (10 CNT),	2.4	2	Federal Compliance Agent: 9g in 30 days SC Compliance Agent: 9g Per 30 Days	WALGREENS #12795 803-641-6959 3510 Richland Ave W Aiken, SC 29801 AIKEN
03/24/2011 8:58:46 PM EDT	BLOCKED	WAL-PHED TABS PPR (98 CNT),	2.88	1	Federal Compliance Agent: 9g in 30 days SC Compliance Agent: 9g Per 30 Days	WALGREENS #12795 803-641-6959 3510 Richland Ave W Aiken, SC 29801 AIKEN
03/24/2011 8:43:44 PM EDT	BLOCKED	EQ SUPHEDRINE,	2.88	2	Federal Compliance Agent: 9g in 30 days SC Compliance Agent: 9g Per 30 Days	Wal-Mart Pharmacy #4487 3581 Richland Ave W Aiken, SC 29801 AIKEN Wal-Mart Pharmacy #514
03/21/2011 8:18:37 PM EDT	PURCHASE	EQ SUPHED 12- HOUR (20 CNT),	2.4	1		2035 Whiskey Rd Aiken, SC 29803 AIKEN TLC Medical Centre 803-648-7800 190 Crepe Myrtle Ct Aiken, SC 29803 AIKEN
03/18/2011 1:35:05 PM EDT	PURCHASE	SUDAFED 24HR (10 CNT),	2.4	1		Kroger Pharmacy #011675 803-642-5371 1795 Whiskey Rd Aiken, SC 29803 AIKEN
03/10/2011 7:58:03 PM EST	PURCHASE	KROGER SUPHEDRINE 12 HR TAB (20 CNT),	2.4	1		Target Pharmacy #2277 803-520-2859 5119 Sunset Blvd
01/24/2011 7:43:50 PM EST	INQUIRY		0.0	0	Inquiry Limits: g: 1.321	

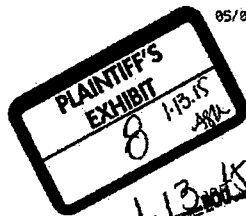
						Lexington, SC 29072 LEXINGTON Target Pharmacy #2277 803-520-2859 5119 Sunset Blvd Lexington, SC 29072 LEXINGTON Kroger Pharmacy #011675 803-642-5371 1795 Whiskey Rd Aiken, SC 29803 AIKEN Wal-Mart Pharmacy #4487
01/11/2011 5:10:51 PM EST	PURCHASE	12 HOUR NASAL DECONGESTANT,	2.399	1		
01/09/2011 7:54:21 PM EST	PURCHASE	KROGER SUPHEDRINE 12 HR TAB (20 CNT),	2.4	1		
01/04/2011 8:29:24 PM EST	BLOCKED	EQ SUPHED 12- HOUR (20 CNT),	2.4	1	Federal Compliance Agent: 3.6g per day SC Compliance Agent: 3.6g per day	3581 Richland Ave W Aiken, SC 29801 AIKEN CVS05529
01/04/2011 12:42:00 PM EST	PURCHASE	CVS DECON TAB (96 CNT),	2.88	1		1041 York St Aiken, SC 29801 AIKEN CVS05528
01/04/2011 12:41:42 PM EST	INQUIRY		0.0	0	Inquiry Limits: g: 3.600	1041 York St Aiken, SC 29801 AIKEN CVS04295
09/15/2010 9:27:00 PM EDT	PURCHASE	CVS DECON TAB (96 CNT),	2.88	1		2082 Whiskey Rd Aiken, SC 29803 AIKEN CVS05471
08/12/2010 8:24:00 PM EDT	PURCHASE	CVS DECON TAB (96 CNT),	2.88	1		1071 S Lake Dr Lexington, SC 29073 LEXINGTON CVS04523
05/23/2010 5:52:00 PM EDT	PURCHASE	CVS DECON 12 HR (20 CNT),	2.4	1		1614 Richland Ave W Aiken, SC 29801 AIKEN CVS05529
05/10/2010 8:43:00 PM EDT	PURCHASE	CVS DECON 12 HR (20 CNT),	2.4	1		1041 York St Aiken, SC 29801 AIKEN CVS05528
05/10/2010 8:41:47 PM EDT	INQUIRY		0.0	0	Inquiry Limits: boxes: 3 g: 3.600	1041 York St Aiken, SC 29801 AIKEN

05/03/2010 3:08:00 PM EDT	PURCHASE	CVS DECON TAB (98 CNT),	2.88	1		CVS03378 1520 Walton Way Augusta, GA 30904 COLUMBIA CVS03378
05/03/2010 3:08:43 PM EDT	INQUIRY		0.0	0	Inquiry Limits: boxes: 3 g: 3.600	1520 Walton Way Augusta, GA 30904 COLUMBIA CVS04295
04/22/2010 8:38:00 PM EDT	PURCHASE	CVS DECON 12 HR (20 CNT),	2.4	1		2062 Whiskey Rd Aiken, SC 29803 AIKEN CVS04295
03/31/2010 9:03:33 PM EDT	INQUIRY		0.0	0	Inquiry Limits: boxes: 3 g: 2.150	2062 Whiskey Rd Aiken, SC 29803 AIKEN Rite Aid #11868 803-648-2366 943 Pine Log Rd Aiken, SC 29803 AIKEN CVS04388
03/31/2010 8:55:00 PM EDT	PURCHASE	RA SUPHEDRNE TAB 48CT,	1.44	1		18 Belvedere Rd Beech Island, SC 29842 AIKEN CVS04388
02/15/2010 7:30:00 PM EST	PURCHASE	CVS DECON 12 HR (20 CNT),	2.4	1		18 Belvedere Rd Beech Island, SC 29842 AIKEN CVS04388
02/15/2010 7:29:53 PM EST	INQUIRY		0.0	0	Inquiry Limits: boxes: 3 g: 3.600	18 Belvedere Rd Beech Island, SC 29842 AIKEN Rite Aid #11868 803-648-2366 943 Pine Log Rd Aiken, SC 29803 AIKEN CVS04388
02/04/2010 6:19:34 PM EST	INQUIRY		0.0	0	Inquiry Limits: boxes: 3 g: 3.600	18 Belvedere Rd Beech Island, SC 29842 AIKEN Rite Aid #11868 803-648-2366 943 Pine Log Rd Aiken, SC 29803 AIKEN CVS04388
02/04/2010 6:13:38 PM EST	INQUIRY		0.0	0	Inquiry Limits: boxes: 3 g: 3.600	18 Belvedere Rd Beech Island, SC 29842 AIKEN Rite Aid #11868 803-648-2366 943 Pine Log Rd Aiken, SC 29803 AIKEN CVS04388
12/20/2009 8:44:00 PM EST	PURCHASE	RA SUPHEDRN 12HR TAB 20CT,	2.4	1		18 Belvedere Rd Beech Island, SC 29842 AIKEN CVS05398

05/05/2010 09:25 8836427E...

AIKEN D P S

PAGE 02/08



Aiken County
Sheriff's Office Forensic Lab
 Michael E. Hunt, Sheriff

DRUG ANALYSIS DEPARTMENT

REC 1
 TC. C. Lyons
 DATE 5/2/10
 INITIALS ML

Date: 04/15/2010
 Lab Number: L10-0163
 Incident Date: 02/24/2010
 Your Case #: 10-29827
 Control #: A007556
 (S): Sanders, Dennis

Pl. n. 1-13-10
 Aiken County Sheriff's Office
 Department of Public Safety
 PO Box 1177
 Aiken SC 29802
 Deputy Clerk

The items submitted for analysis were examined with your assurance that the submitted specimens have not nor will be submitted to any other laboratory or agency for examination.

ITEMS OF EVIDENCE:

L10-0163

Item 1: "EVIDENCE/PROPERTY" bag containing a metal container containing two (2) plastic corner bags containing powder substance

Results:
 Methamphetamine found, combined weight 0.71 gram(s) C-II

Item 2: "EVIDENCE/PROPERTY" bag containing a metal container containing three (3) plastic corner bags containing powder substance

Results:
 Methamphetamine found, combined weight 1.47 gram(s) C-II

Item 3: "EVIDENCE/PROPERTY" bag containing an amber colored bottle containing...

Results:
 No analysis performed

Item 3.1: Plastic bag containing...

Results:
 No analysis performed

Item 3.1.1: Plastic corner bag containing powder substance

Results:
 Methamphetamine found 4.48 gram(s) C-II

Item 3.1.2: Plastic corner bag containing powder substance

Results:
 Methamphetamine found 0.02 gram(s) C-II

RECEIVED

MAY - 5 2010

420 Hampton Ave. NE • AIKEN, SOUTH CAROLINA 29801 • (803) 643-1997

ITEMS OF EVIDENCE:

L10-0163

Item 3.2: Plastic bag containing...

Results:

No analysis performed.

Item 3.2.1: Empty plastic corner bag.

Results:

No analysis performed.

Item 3.2.2: Plastic corner bag containing full containing powder substance.

Results:

Mettler analytical balance found

0.92 gram(s)

C-II

Item 4: "EVIDENCE/PROPERTY" bag containing...

Results:

No analysis performed.

Item 4.1: Empty plastic bags.

Results:

No analysis performed.

Item 4.2: Plastic corner bag containing powder substance.

Results:

No controlled or prescription substances detected.

Item 4.3: Two (2) plastic corner bags containing powder substance.

Results:

Mettler analytical balance found, combined weight

0.57 gram(s)

C-II

Item 4.4: Five (5) plastic corner bags containing powder substance.

Results:

Mettler analytical balance found, combined weight

2.93 gram(s)

C-II

Item 4.5: One (1) plastic corner bag containing powder substance.

Results:

No controlled or prescription substances detected.

ITEMS OF EVIDENCE:

L10-0163

I am a Forensic Chemist employed by the Aiken County Sheriff's Office, certified by the South Carolina Law Enforcement Division (SLED) as a chemist or analyst qualified to perform testing and analysis for controlled dangerous substances prohibited by law in this state by Title 64, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

I used the following legally reliable forensic laboratory procedures in this analysis:

☒ Chemical Test☐ Ultraviolet Spectroscopy☐ Physical Test☐ Microscopic Test☒ Gas Chromatography☒ Published Literature☒ Infrared Spectroscopy☒ Mass Spectrometry☐ Other:

Signature:

Amber Way

Amber Way

4/21/10

Date

FORM A

REPORT OF ANALYSIS FOR CONTROLLED DANGEROUS SUBSTANCES (Substance Found)

I, Amber Way, am a Chemist employed by the Aiken County Sheriff's Office (ACSO), certified by the South Carolina State Law Enforcement Division (S.L.E.D.) as a chemist or analyst qualified to perform testing and analysis for controlled dangerous substances prohibited by law in this State by Title 44, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

I have 3 year(s) and 11 month(s) experience as a Chemical Analyst. During that period, I have been qualified as an expert witness and testified in court no less than 7 time(s). I have received the following training to be a chemical analyst:

Bachelors of Science, Chemistry - 2003
Marijuana Analyst Certification, South Carolina Law Enforcement Division (S.L.E.D.) - 2006
Training in Forensic Chemistry, S.L.E.D. - Department of Drug Analysis - 2006
American Chemical Society, Member - 2007
Clandestine Laboratory Investigating Chemist (CLIC), Member - 2007
CLAN Lab Certified - 2008

On March 10, 2010, Aiken Department of Public Safety submitted the following item(s) for analysis:

L10-0163

I tested this (these) item(s) using the following legally reliable forensic laboratory procedures approved by SLED:

☒ Chemical Test	☒ Gas Chromatography
☐ Microscopic Exam	☒ Mass Spectroscopy
☒ Infrared Spectroscopy	☐ Liquid Chromatography
☐ Ultraviolet Spectroscopy	☒ Published Literature
☐ Physical Test	☐ Other _____

And am of the opinion the item(s) contain(s) the controlled substance:

See Report

Sworn before me on this 26
day of April, 2010, in
Aiken SC My commission

(Place)

expires on 4-15-2018

Notary

Signature: Juan Bearr

Amber Way
Amber Way
Chemical Analyst

ACSO

(Place)

4-20-10

(Date)

General Sessions Tracking Sheet
Indictment # 0000GS02

24

307

Name: Sanders, Dennis F

Warrant/Ticket # 1092386

AKA:

Date of Arrest: 02/25/2010

Addr: Fox Trot Trl
Doughtery Rd, Aiken, Sc 29803
remon, SC 29123

Date of Offense: 02/24/2010

Date Rev by Clerk 03/02/2010

Magistrate: McKinney, Crystal Mack

Counts:

Code: 0107/PWID MARIJUANA W/IN 1/2
MILE OF A SCHOOL

SSN#

Sex: M Race: W

DOB:

DL#

Indictment # 0000GS02

Disposition Information

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition: 9/1/11

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Dismiss/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 8. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain:

Explain:

Explain:

Explain:

Explain:

Dismiss. Defendant pled
guilty and sentenced to
confinement on related
charges.

Judge:

Defense Atty:

Counts: Code:

Sentence:

Court Reporter:

Solicitor:

Elizabeth B. Jurg

9/1/11 Shawn Stepp on Court job

1-092386

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

10-26827 THE STATE
against

Dennis Findley Sanders

Address: Dougherty Rd
Aiken, SC 29803-

Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: W Height: 6' 3 Weight: 228

DL State: SC DL #: [REDACTED] Agency ORI #: SC0020100

Prosecuting Agency: Aiken Public Safety

Prosecuting Officer: Benjamin Hamm

Offense: PWID MARIJUANA 1/2 MILE SCHOOL

Offense Code: 0107

Code/Ordinance Sec: 44-53-445(B)(1)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

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

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Dennis Sanders
on 2-25-10

[Signature]
Law Enforcement Officer

RETURN WARRANT TO:

Aiken Municipal Court
251 Laurens St., N.W.
Aiken, SC 29801

☐ County/ ☒ Municipality of

City of Aiken

AFFIDAVIT

S.C. Attorney General
April 21, 2003
SCCA 518

Personally appeared before me the affiant JASON SCHWENKER Esq.
Benjamin Hamm
being duly sworn deposes and says that defendant Dennis Findley Sanders
did within this county and state on 02/24/2010 violate the criminal laws of the
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of City of Aiken
in the following particulars:

DESCRIPTION OF OFFENSE: PWID MARIJUANA 1/2 MILE SCHOOL

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:

Upon information and belief, the defendant, Dennis Sanders, did, on 2/24/10, commit the violation of PWID Marijuana
1/2 Mile of a School. Mr. Sanders did have underneath his seat a quantity of Marijuana that exceeded 28 grams. This
occurred within 1/2 mile of South Aiken High School. This occurred near the intersection of Whiskey Rd. and Pine Log
Rd. and in violation of the SC Code of Laws, as amended.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

Affiant's Address 251 LAURENS STREET NW

AIKEN, SC 29801-

Affiant's Telephone (803)642-7620 x 0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF 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 02/24/2010 defendant Dennis Findley Sanders

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

☐ County/ ☒ Municipality of City of Aiken as set forth below:

DESCRIPTION OF OFFENSE: PWID MARIJUANA 1/2 MILE SCHOOL

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 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 02/25/2010

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

Judge Code: 005-6761

Judge's Address 251 Laurens St Nw

Aiken, SC 29801-

Judge's Telephone (803)642-7620 x 0000

Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

FILED
[Signatures]
J. Anderson

BAIL set by
Judge Aullin
2/25/10
Bail Amount: 20,000
Name of Surety: surety

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, not, pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

310

General Sessions Tracking Sheet
Indictment # 0000GS02

Name: Sanders, Dennis F

AKA:

Pelion, SC 29123

SSN# [REDACTED]

Sex: M Race: W

DOB: [REDACTED]

DL# [REDACTED]

Warrant/Ticket # 1092387

Date of Arrest: 02/24/2010

Date of Offense: 02/24/2010

Date Recv by Clerk 03/02/2010

Magistrate: McKinney, Crystal Mack

Counts: Code: 0186/PWID MARIJUANA

Indictment # 0000GS02

Disposition Information:

1. Transmitted to SOL & SCCA:

2. Disp Received by Clerk:

3. Date of Disposition: 9/1/11

- Disposition
- ☐ 1. Guilty plea
 - ☐ 2. Trial -- guilty
 - ☐ 3. Trial -- not guilty
 - ☒ 4. Discm/Not Pros/Pros Ended
 - ☐ 5. Judicial Commitment
 - ☐ 6. Judicial Dismissal
 - ☐ 7. Remanded
 - ☐ 8. Dismissed at Prelim
 - ☐ 9. No Bill
 - ☐ 9. Failure to Appear
 - ☐ 10. Other

Explain:

Explain:

Explain:

Explain:

Explain:

Judge:

Defense Atty:

Counts: Code:

Sentence:

Court Reporter:

Solicitor:

Steven Skpp on court 9/1/11

1-092387

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

10-28827

THE STATE

against

Dennis Findley Sanders

Address: CIR

CLARKS HILL, SC 29821-

Phone: [REDACTED] SSN: [REDACTED]

Sex: M Race: W Height: 6 3 Weight: 228

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency OR#: SC0020100

Prosecuting Agency: Aiken Public Safety

Prosecuting Officer: Benjamin Harm

Offense: PWID MARIJUANA

Offense Code: 186

Code/Ordinance Sec: 44-53-370(B)(2)

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Dennis Sanders
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Aiken Municipal Court
251 Laurens St., N.W.
Aiken, SC 29801☐ County/ ☒ Municipality of

City of Aiken

AFFIDAVIT

S. C. Attorney General
April 21, 2003
SCCA 018Personally appeared before me the affiant Jason Schoener for Benjamin Harm w/being duly sworn deposes and says that defendant Dennis Findley Sanders violate the criminal laws ofdid within this county and state on 02/24/2010State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of City of Aiken

in the following particulars:

DESCRIPTION OF OFFENSE: PWID MARIJUANA

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:Upon information and belief, the defendant, Dennis Sanders, did, on 2/24/10, commit the violation of PWID Marijuana
Mr. Sanders did have underneath his seat a quantity of Marijuana that exceeded 28 grams. This occurred near the
intersection of Whiskey Rd. and Pine Log Rd. and in violation of the SC Code of Laws, as amended.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

Affiant's Address 251 LAURENS STREET NW
AIKEN, SC 29801-Affiant's Telephone (803)642-7620 x 0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF 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 02/24/2010 defendant Dennis Findley Sandersdid violate the criminal laws of the State of South Carolina (or ordinance of City of Aiken) as set forth below.

DESCRIPTION OF OFFENSE: PWID MARIJUANA

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 law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of his execution, or as
soon thereafter as is practicable.

Sworn to and subscribed before me

on 02/25/2010Signature of Issuing Judge Court J. McKim (L.S.)Judge Code: 005 6761Judge's Address 251 Laurens St Nw
Aiken, SC 29801-Judge's Telephone (803)642-7620 x 0000Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

BAIL set by
Judge Sullivan
2/25/10
Bonds and Amount: 20,000
Name of Surety: Sindy

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

CODEFENDANTS

General Sessions Tracking Sheet
Indictment # 0000GS02

313

Name: Sanders, Dennis F
AKA:
Addr: Fox Trot Trl
Doughtery Rd, Aiken, Sc 29803
Pelion, SC 29123

Warrant/Ticket # 1092389
Date of Arrest: 02/24/2010
Date of Offense: 02/24/2010
Date Rcv by Clerk 03/02/2010
Magistrate: McKinney, Crystal Mack
Counts: Code: 0108/PWID C/C W/IN 1/2 MILE OF A
SCHOOL

SSN# [REDACTED]
Sex: M Race: W
DOB: [REDACTED]
DL# [REDACTED]

Indictment # 0000GS02

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk:
3. Date of Disposition: 9/1/11

- Disposition
1. Guilty plea
 2. Trial -- guilty
 3. Trial -- not guilty
 4. ☒ Dismiss/Not Pros/Pros Ended
 5. Judicial Commitment
 6. Judicial Dismissal
 7. Remanded
 8. Dismissed at Prelim
 9. No Bill
 9. Failure to Appear
 10. Other

Explain:

Explain:

Explain:

Explain:

Explain:

Dismiss. Defendant pled
guilty and sentenced
to confinement on
related charges.

Judge: _____

Defense Atty: _____

Counts: _____ Code: _____

Sentence: _____

Court Reporter: _____

Solicitor: Elizabeth B. Hung

9/1/11 Sharon Skye is court reporter

I-092389

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

10-29827

THE STATE

against

Dennis Findley Sanders

 Address: Dougherty Rd
Aiken, SC 29803-

 Phone: [REDACTED] SSN: [REDACTED]
 Sex: M Race: W Height: 6 3 Weight: 228

 DL State: SC DL #: [REDACTED]
 DOB: [REDACTED] Agency ORI #: SC0020100

Prosecuting Agency: Aiken Public Safety

Prosecuting Officer: Benjamin Harm

Offense: PWID CRACK COCAINE W/ IN 1/2 MILE

Offense Code: 0108

Code/Ordinance Sec: 44-53-445 (B)(2)

 This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

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

(L.S.)

Signature of Judge

RETURN

 A copy of this arrest warrant was delivered to
 defendant Dennis Sanders
 on 2-25-10

 Signature of Constable/Law Enforcement Officer
[Signature]

RETURN WARRANT TO:

 Aiken Municipal Court
 251 Laurens St., N.W.
 Aiken, SC 29801

☐ County/ ☒ Municipality of

City of Aiken

AFFIDAVIT

 D.L. Attorney General
 April 21, 2003
 SCCA 518

 Personally appeared before me the affiant JASON SCHREIER for Benjamin Harm wh
 being duly sworn deposes and says that defendant Dennis Findley Sanders
 did within this county and state on 02/24/2010 violate the criminal laws of the
 State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of City of Aiken
 in the following particulars:

DESCRIPTION OF OFFENSE:

PWID CRACK COCAINE W/ IN 1/2 MILE

 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:

 Upon information and belief, the defendant, Dennis Sanders, did, on 2/24/10, commit the violation of PWID Crack
 Cocaine within 1/2 Mile of a School. Mr. Sanders did have underneath his seat a quantity of crack cocaine that exceeded
 1 gram. This occurred within 1/2 mile of South Aiken High School. This occurred near the intersection of Whiskey Rd.
 and Pine Log Rd. and in violation of the SC Code of Laws, as amended.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

Affiant's Address: 251 LAURENS STREET NW

AIKEN, SC 29801-

Affiant's Telephone: (803)642-7620 x 0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF 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 02/24/2010 defendant Dennis Findley Sanders

 did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☒ Municipality of City of Aiken) as set forth below:

DESCRIPTION OF OFFENSE:

PWID CRACK COCAINE W/ IN 1/2 MILE

 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 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 02/25/2010
 Signature of Issuing Judge
[Signature]
Judge Code: 003-6761

Judge's Address: 251 Laurens St Nw

Aiken, SC 29801-

Judge's Telephone: (803)642-7620 x 0000

 Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

BAILE set by
Judge Sullivan
Date 2/15/10
Type and Amount: 20,000
Name of Surety: Surety

PRELIMINARY HEARING held by

Judge _____
in _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

I-092391

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

10-29827

THE STATE
against

Dennis Findley Sanders

Address: PHONE CIR
CLARKS HILL, SC 29821-Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: W Height: 6 3 Weight: 228DL State: SC DL #: [REDACTED]
DOB: [REDACTED] Agency ORI #: SC0020100

Prosecuting Agency: Aiken Public Safety

Prosecuting Officer: Benjamin Harm

Offense: PWID Methamphetamine 1/2 Mile of A School

Offense Code: 3014

Code/Ordinance Sec: 44-53-375 (B)(1)

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant on Dennis Sanders
2-25-10[Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Aiken Municipal Court
251 Laurens St., N.W.
Aiken, SC 29801☐ County/ ☒ Municipality of

City of Aiken

AFFIDAVIT

S.C. Attorney General
April 21, 2003
BCCA 518Personally appeared before me the affiant Jason Schoener Esq.
Benjamin Harmbeing duly sworn deposes and says that defendant Dennis Findley Sandersdid within this county and state on 02/24/2010State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of City of Aiken)
in the following particulars:

DESCRIPTION OF OFFENSE:

PWID Methamphetamine 1/2 Mile of A School

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:Upon information and belief, the defendant, Dennis Sanders, did, on 2/24/10, commit the violation of PWID in
Methamphetamine 1/2 Mile of a School. Mr. Sanders did have underneath his seat a quantity of Methamphetamine that
exceeded 10 grams. This occurred within 1/2 mile of South Aiken High School. This occurred near the intersection of
Whiskey Rd. and Pine Log Rd. and in violation of the SC Code of Laws, as amended.*1st offense - not more than 15 years or fines not more than \$25,000 or both*

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

Affiant's Address 251 LAURENS STREET NWAIKEN, SC 29801-Affiant's Telephone (803)642-7620 x 0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF 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 02/24/2010defendant Dennis Findley Sanders

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

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

DESCRIPTION OF OFFENSE:

PWID Methamphetamine 1/2 Mile of A School

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 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 02/25/2010[Signature]
Signature of Issuing JudgeJudge Code: 005-6741Judge's Address 251 Laurens St NWAiken, SC 29801-Judge's Telephone (803)642-7620 x 0000Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

Warrant set by
Judge Sullivan
2/25/60
Bond and Amount: 20,000
Name of Surety: Surety

PRELIMINARY HEARING held by

Judge _____

Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge: _____
in _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

44-53-445(C)

Must not be convicted of an
offense if stopped by law

General Sessions Tracking Sheet
Indictment # 0000GS02

Name: Sanders, Dennis F
AKA:
Addr: Fox Trot Trl
Doughtery Rd, Aiken, Sc 29803
Petion, SC 29123

SSN# [REDACTED]
Sex: M Race: W
DOB: [REDACTED]
DL# [REDACTED]

Warrant/Ticket # : 1092391
Date of Arrest: 02/24/2010
Date of Offense: 02/24/2010
Date Rev by Clerk 03/02/2010
Magistrate: McKinney, Crystal Mack
Counts: Code: 3014/PWID METHAMPHETAMINE
W/IN 1/2 MILE OF A SCHOOL

Indictment # 0000GS02

Disposition Information

1. Transmitted to SOL & SCCA:
2. Disp Received by Clerk:
3. Date of Disposition: 9/1/11

- Disposition
1. Guilty plea
 2. Trial - guilty
 3. Trial - not guilty
 4. ☒ Dismiss Not Pros/Pros Ended
 5. Judicial Commitment
 6. Judicial Dismissal
 7. Remanded
 8. Dismissed at Prelim
 8. No Bill
 9. Failure to Appear
 10. Other

Explain:

Explain:

Explain:

Explain:

Explain:

Judge: _____

Defense Atty: _____

Counts: _____ Code: _____

Sentence: _____

Court Reporter: _____

Solicitor: _____

Elizabeth B. Harg

9/1/11 Show Stop in Court JURY

3 x Both sides

WITNESSES

Aiken Department Of Public Safety
Benjamin Harm
Law Enforcement Case #: 10-29827

DOCKET NO. 2011GS0200093

The State of South Carolina
County of Aiken

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2011

ARREST WARRANT NUMBER

1092390

FILED

February 17 2011
Jim Hodard
CCCP & G.S.
Pauline L. Hines
Deputy Clerk

THE STATE
vs.

DENNIS F. SANDERS

ACTION OF GRAND JURY

TRUST Bill
[Signature]
Foreperson of Grand Jury
Date: February 17, 2011

VERDICT

Foreperson of Petit Jury
Date:

CDR #: 3039

Indictment for

POSSESSION WITH INTENT TO
DISTRIBUTE COCAINE BASE (CRACK
COCAINE)

§ 44-53-0375(B)(3)

J. STROM THURMOND, SOLICITOR

Nolle Prose.
Defendant pled
guilty and
sentenced to 20
years on related
charges.
Elizabeth B. Jones
9/1/11

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

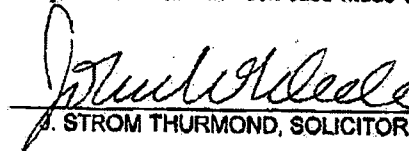
INDICTMENT FOR
POSSESSION WITH INTENT TO DISTRIBUTE
COCAINE BASE (CRACK COCAINE)

§ 44-53-0375(B)(3)

At a Court of General Sessions, convened on February 21, 2011, the Grand
Jurors of Aiken County present upon their oath:

That DENNIS F. SANDERS did in Aiken County, South Carolina, on or about
February 24, 2010, knowingly or intentionally possess with intent to distribute a quantity
of Cocaine Base (Crack Cocaine), a controlled substance under provisions of §44-53-
110, *et. seq.*, *Code of Laws of South Carolina* (1976); as amended, such possession
not having been authorized by law.

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


J. STROM THURMOND, SOLICITOR

1-092390

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

10-29827 THE STATE
against

Dennis Findley Sanders

Address: _____

Phone: _____ SSN: _____

Sex: **M** Race: **W** Height: **6** **3** Weight: **228**

DL State: **SC** DL #: _____

DOB: _____ Agency ORI #: **SC0020100**

Prosecuting Agency: **Aiken Public Safety**

Prosecuting Officer: **Benjamin Harm**

Offense: **PWID CRACK COCAINE**

Offense Code: **3014**

Code/Ordinance Sec: **44-53-375 (B)(1)**

This warrant is **CERTIFIED FOR SERVICE** in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law,

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant **Dennis Sanders**

on **2-25-10**

U. Brown
Deputy Sheriff

RETURN WARRANT TO:

Aiken Municipal Court
251 Laurens St., N.W.
Aiken, SC 29801

☐ County/ ☒ Municipality of

City of Aiken

AFFIDAVIT

Personally appeared before me the affiant **Jason Schoenack Sr.** who

being duly sworn deposes and says that defendant **Dennis Findley Sanders** violate the criminal laws of the

did within this county and state on **02/24/2010**

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of **City of Aiken**)

in the following particulars:

DESCRIPTION OF OFFENSE: PWID CRACK 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:

Upon information and belief, the defendant, Dennis Sanders, did, on 2/24/10, commit the violation of PWID Crack Cocaine. Mr. Sanders did have underneath his seat a quantity of crack cocaine that exceeded 1 gram. This occurred within 1/4 mile of South Aiken High School. This occurred near the intersection of Whiskey Rd. and Pine Log Rd. and in violation of the SC Code of Laws, as amended

Signature of Affiant **548**

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

City of Aiken

Affiant's Address **251 LAURENS STREET NW**

AIKEN, SC 29801-

Affiant's Telephone **(803)642-7620 x 0000**

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR A NONRESIDENT OF THIS COUNTY

It appearing from the above affidavit that there are reasonable grounds to believe the

on **02/24/2010** defendant **Dennis Findley Sanders**

did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of **City of Aiken**) as set forth below:

DESCRIPTION OF OFFENSE: PWID CRACK COCAINE

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 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 **02/25/2010**

Signature of Issuing Judge **Quint D. McKinney** (L.S.)

Judge's Address **251 Laurens St NW**

Aiken, SC 29801-

Judge's Telephone **(803)642-7620 x 0000**

Judge Code: **0036741**

Is suing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

BAIL set by
Judge A. J. Sullivan
on 2/23/10
Type and Amount: 20,000.
Name of Surety: Guaranty

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS

PLAINTIFF'S
EXHIBIT

1.13.15
IN 10

AGENCY I.D.
SC0020100

ALBANY DEPARTMENT OF PUBLIC SAFETY
INCIDENT REPORT

CASE NUMBER

NCIC

2011-00044154

INQ

EXTD

INCIDENT TYPE		ATTEMPTED/ COMMITTED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM												
1. SUSPICIOUS ACTIVITY						Society/Pu												
2.																		
3.																		
INCIDENT LOCATION TWO NOTCH ROAD SE						WEAPON TYPE												
INCIDENT DATE 08/22/2011		TIME 13:00	DATE 08/22/2011	DISPATCH DATE & TIME 08/22/2011 18:14	ARRIVAL TIME 18:14	LOCATION #												
COMPLAINANT'S NAME (Last, First, Middle) Golding, Tommie		RELATIONSHIP TO SUBJECT	RESIDENT W	AGE 57	SEX F	LOCATION #												
ADDRESS [REDACTED]		CITY [REDACTED]	STATE [REDACTED]	ZIP [REDACTED]	LOCATION #													
VICTIM NAME (Last, First, Middle) Society,		RELATIONSHIP TO SUBJECT	RESIDENT W	AGE [REDACTED]	SEX [REDACTED]	LOCATION #												
FACIAL MARK, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC																		
ADDRESS		CITY	STATE	ZIP	LOCATION #													
VEHICLE MAKE (Last, First, Middle) [REDACTED]		MODEL [REDACTED]	COMPLAINANT OF ANY VEHICLE DAMAGE															
VICTIM #1 USING ALCOHOL		DRUGS	TYPE															
SUBJECT TYPE SUSP		ON RAN/VIEW Quarrels, Jesse	DETECTIVE/ASMT [REDACTED]	OTHER [REDACTED]	ALONE [REDACTED]	ASSIGNED W M N												
FACIAL MARK, SCARS, TATTOOS, CLOTHING, PHYSICAL PECULIARITIES, ETC																		
ADDRESS		CITY	STATE	ZIP	LOCATION #													
SUBJECT #1 USING ALCOHOL		DRUGS	TYPE	ARRESTED REPT OFFENSE SCENE	TOTAL # ARRESTED	DATE/TIME OF OFFENSE DATE/TIME OF ARREST												
On the above date and time, this reporting officer was flagged down by Ms. Tommie Golding at the intersection of Two Notch Rd and Price in reference to suspicious activity. Ms. Golding advised she dropped the suspect Mr. Jesse Quarrels off at 405 Palm Dr. She advised she is good friends with Mr. Quarrels mother and she gave him ride to the residence. Golding stated she gave Mr. Quarrels a ride to Palm Drive the day before. Golding stated she observed an unknown subject leaving the residence. Golding advised she knew the subject very well. Ms. Golding advised that the unknown subject told her he would never go back to that house. Golding stated he advised the residents of the house that Mr. Dennis Sanders and Mr. Jesse Quarrels were cooking meth and smoking crack at 405 Palm Dr. Ms. Golding stated she did not want to give me the unknown subjects name but wanted officers to be aware of the situation. A report was done for documentation. Nothing Further.																		
JURISDICTION OF PROSECUTING AGENCY			JURISDICTION OF RECEIVING AGENCY															
<table border="1"> <thead> <tr> <th>TYPE</th> <th>TOTAL VALUE</th> </tr> </thead> <tbody> <tr> <td>STOLEN</td> <td></td> </tr> <tr> <td>DAMAGED</td> <td></td> </tr> <tr> <td>MISSED</td> <td></td> </tr> <tr> <td>RECOVERED</td> <td></td> </tr> <tr> <td>SEIZED</td> <td></td> </tr> </tbody> </table>							TYPE	TOTAL VALUE	STOLEN		DAMAGED		MISSED		RECOVERED		SEIZED	
TYPE	TOTAL VALUE																	
STOLEN																		
DAMAGED																		
MISSED																		
RECOVERED																		
SEIZED																		
SUBJECT IDENTIFIED		SUBJECT LOCATED		CASE STATUS		EX-CLEARED UNDER 18 OR EX-CLEARED 18 AND OVER												
REASON FOR EXCEPTIONAL CLEARANCE		EXCEPTIONALLY CLEARED		EX-CLEARED UNDER 18 OR EX-CLEARED 18 AND OVER														
REPORTING OFFICER 575 RUSSO		DATE 08/22/2011	UNIT NUMBER 195	APPROVAL BRAXTON	DATE	UNIT NUMBER												
FOLLOW UP INVESTIGATION		OFFICER																

Incident Report Supplement 2011-00044144

(Narrative Continued)

Sanders was charged with Manufacturing Methamphetamine, Trafficking Methamphetamine, Exposing a Child to Methamphetamine x 2, PWID Methamphetamine within 1/2 Mile of a Park, PWID Marijuana, PWID Marijuana within 1/2 Mile of a Park.

Raborn was charged with Manufacturing Methamphetamine, Trafficking Methamphetamine, Exposing a Child to Methamphetamine x 2, PWID Methamphetamine within 1/2 Mile of a Park, PWID Marijuana, PWID Marijuana within 1/2 Mile of a Park.

Winch was charged with Manufacturing Methamphetamine, and Exposing a Child to Methamphetamine x 2.

The 16 year-old juvenile was charged with Manufacturing Methamphetamine.

Sanders, Raborn, and Winch were arrested and transported to ACDC. The 16 year-old juvenile was transported to DJJ. The 10 year-old female was released to family members.

The evidence was placed in evidence, photographed, or taken by the cleanup crew.

AGENCY I.D.
SC0020100

AIKEN DEPARTMENT OF PUBLIC SAFETY
INCIDENT REPORT

CASE NUMBER

NCIC

2011-00044144

IND

END

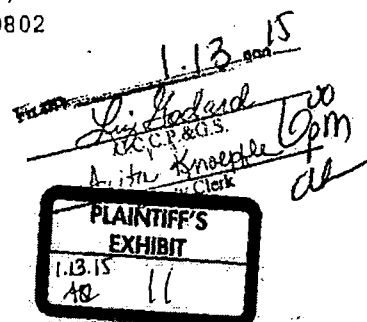
INCIDENT TYPE		ATTEMPTED/COMMITTED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM																												
1. DRUGS																																		
2.																																		
3.																																		
INCIDENT LOCATION					SP	WEAPON TYPE																												
<table border="1"> <tr> <th>IN</th> <th>DATE</th> <th>TIME</th> <th>CLOCK</th> <th>TO</th> <th>DATE</th> <th>TIME</th> <th>CLOCK</th> <th>DISPATCH DATE & TIME</th> <th>DISPATCH DATE</th> <th>DISPATCH TIME</th> <th>APPROVAL TIME</th> <th>DEPART TIME</th> <th>LOCATION #</th> </tr> <tr> <td>08/22/2011</td> <td>17:00</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>							IN	DATE	TIME	CLOCK	TO	DATE	TIME	CLOCK	DISPATCH DATE & TIME	DISPATCH DATE	DISPATCH TIME	APPROVAL TIME	DEPART TIME	LOCATION #	08/22/2011	17:00												
IN	DATE	TIME	CLOCK	TO	DATE	TIME	CLOCK	DISPATCH DATE & TIME	DISPATCH DATE	DISPATCH TIME	APPROVAL TIME	DEPART TIME	LOCATION #																					
08/22/2011	17:00																																	
<table border="1"> <tr> <th>COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)</th> <th>RELATIONSHIP TO SUBJECT</th> <th>1</th> <th>2</th> <th>3</th> <th>4</th> <th>5</th> <th>6</th> <th>7</th> <th>8</th> <th>9</th> <th>10</th> <th>11</th> <th>12</th> </tr> <tr> <td>Sanders, Drew</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>							COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	1	2	3	4	5	6	7	8	9	10	11	12	Sanders, Drew													
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	1	2	3	4	5	6	7	8	9	10	11	12																					
Sanders, Drew																																		
<table border="1"> <tr> <th>ADDRESS</th> <th>CITY</th> <th>STATE</th> <th>ZIP</th> <th>LOCATION #</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>							ADDRESS	CITY	STATE	ZIP	LOCATION #																							
ADDRESS	CITY	STATE	ZIP	LOCATION #																														
<table border="1"> <tr> <th>VICTIM'S NAME (LAST, FIRST, MIDDLE)</th> <th>RELATIONSHIP TO SUBJECT</th> <th>1</th> <th>2</th> <th>3</th> <th>4</th> <th>5</th> <th>6</th> <th>7</th> <th>8</th> <th>9</th> <th>10</th> <th>11</th> <th>12</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>							VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	1	2	3	4	5	6	7	8	9	10	11	12														
VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	1	2	3	4	5	6	7	8	9	10	11	12																					
<table border="1"> <tr> <th>HEIGHT</th> <th>WEIGHT</th> <th>HAIR</th> <th>EYES</th> <th>DOB</th> <th>FACIL/HAR SCARS TATTOOS GLASSES CLOTHING PHYSICAL PECULIARITIES ETC</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>							HEIGHT	WEIGHT	HAIR	EYES	DOB	FACIL/HAR SCARS TATTOOS GLASSES CLOTHING PHYSICAL PECULIARITIES ETC																						
HEIGHT	WEIGHT	HAIR	EYES	DOB	FACIL/HAR SCARS TATTOOS GLASSES CLOTHING PHYSICAL PECULIARITIES ETC																													
<table border="1"> <tr> <th>ADDRESS</th> <th>CITY</th> <th>STATE</th> <th>ZIP</th> <th>LOCATION #</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>							ADDRESS	CITY	STATE	ZIP	LOCATION #																							
ADDRESS	CITY	STATE	ZIP	LOCATION #																														
<table border="1"> <tr> <th>VEHICLE PLATE (ACT #)</th> <th>EXPLAIN</th> <th>COMPLAINT OF ANY VEHICLES INVOLVED</th> </tr> <tr> <td></td> <td></td> <td></td> </tr> </table>							VEHICLE PLATE (ACT #)	EXPLAIN	COMPLAINT OF ANY VEHICLES INVOLVED																									
VEHICLE PLATE (ACT #)	EXPLAIN	COMPLAINT OF ANY VEHICLES INVOLVED																																
<table border="1"> <tr> <th>VICTIM # USING ALCOHOL</th> <th>DRUGS</th> <th>TYPE</th> </tr> <tr> <td></td> <td></td> <td></td> </tr> </table>							VICTIM # USING ALCOHOL	DRUGS	TYPE																									
VICTIM # USING ALCOHOL	DRUGS	TYPE																																
<table border="1"> <tr> <th>TWO MAN VEH</th> <th>ONE MAN VEH</th> <th>DETECTIVE/ALARM</th> <th>OTHER</th> <th>ALONE</th> <th>ARRESTED</th> <th>SW</th> <th>ALL</th> <th>PCN</th> <th>RESENT</th> <th>S</th> <th>O</th> <th>U</th> <th>PRE</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>							TWO MAN VEH	ONE MAN VEH	DETECTIVE/ALARM	OTHER	ALONE	ARRESTED	SW	ALL	PCN	RESENT	S	O	U	PRE														
TWO MAN VEH	ONE MAN VEH	DETECTIVE/ALARM	OTHER	ALONE	ARRESTED	SW	ALL	PCN	RESENT	S	O	U	PRE																					
<table border="1"> <tr> <th>FACIL/HAR SCARS TATTOOS CLOTHING PHYSICAL PECULIARITIES ETC</th> </tr> <tr> <td></td> </tr> </table>							FACIL/HAR SCARS TATTOOS CLOTHING PHYSICAL PECULIARITIES ETC																											
FACIL/HAR SCARS TATTOOS CLOTHING PHYSICAL PECULIARITIES ETC																																		
<table border="1"> <tr> <th>ADDRESS</th> <th>CITY</th> <th>STATE</th> <th>SP</th> <th>LOCATION #</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>							ADDRESS	CITY	STATE	SP	LOCATION #																							
ADDRESS	CITY	STATE	SP	LOCATION #																														
<table border="1"> <tr> <th>SUBJECT # USING ALCOHOL</th> <th>DRUGS</th> <th>TYPE</th> <th>ARRESTED/HEAR OFFENSE SCENE</th> <th>TOTAL # ARRESTED</th> <th>DATE/TIME OF OFFENSE</th> <th>DATE/TIME OF ARREST</th> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>							SUBJECT # USING ALCOHOL	DRUGS	TYPE	ARRESTED/HEAR OFFENSE SCENE	TOTAL # ARRESTED	DATE/TIME OF OFFENSE	DATE/TIME OF ARREST																					
SUBJECT # USING ALCOHOL	DRUGS	TYPE	ARRESTED/HEAR OFFENSE SCENE	TOTAL # ARRESTED	DATE/TIME OF OFFENSE	DATE/TIME OF ARREST																												
R/O along with several other Detective's went to 405 Palm Drive in reference to a drug complaint. A search warrant was conducted and in almost everyone was meth. making materials. Three adults and one juvenile were charged with manufacturing Meth. There will be further charges and a supplemental report will be done with all of the suspect's information at a later date.																																		
<table border="1"> <tr> <th>JURISDICTION OF THE LAW ENFORCEMENT AGENCY</th> <th>JURISDICTION OF RECEIVING LAW ENFORCEMENT AGENCY</th> </tr> <tr> <td></td> <td></td> </tr> </table>							JURISDICTION OF THE LAW ENFORCEMENT AGENCY	JURISDICTION OF RECEIVING LAW ENFORCEMENT AGENCY																										
JURISDICTION OF THE LAW ENFORCEMENT AGENCY	JURISDICTION OF RECEIVING LAW ENFORCEMENT AGENCY																																	
<table border="1"> <tr> <th>TYPE</th> <th>TOTAL VALUE</th> </tr> <tr> <td>STOLEN</td> <td></td> </tr> <tr> <td>DAMAGED</td> <td></td> </tr> <tr> <td>BURNED</td> <td></td> </tr> <tr> <td>RECOVERED</td> <td></td> </tr> <tr> <td>SEIZED</td> <td></td> </tr> </table>							TYPE	TOTAL VALUE	STOLEN		DAMAGED		BURNED		RECOVERED		SEIZED																	
TYPE	TOTAL VALUE																																	
STOLEN																																		
DAMAGED																																		
BURNED																																		
RECOVERED																																		
SEIZED																																		
<table border="1"> <tr> <th>SUBJECT IDENTIFIED</th> <th>SUBJECT LOCATED</th> <th>CASE STATUS</th> <th>ARRESTED UNDER 18 IF AND OVER</th> <th>EX-CLEARED UNDER 18 IF AND OVER</th> </tr> <tr> <td></td> <td></td> <td>CLEARED BY ARREST</td> <td></td> <td></td> </tr> </table>							SUBJECT IDENTIFIED	SUBJECT LOCATED	CASE STATUS	ARRESTED UNDER 18 IF AND OVER	EX-CLEARED UNDER 18 IF AND OVER			CLEARED BY ARREST																				
SUBJECT IDENTIFIED	SUBJECT LOCATED	CASE STATUS	ARRESTED UNDER 18 IF AND OVER	EX-CLEARED UNDER 18 IF AND OVER																														
		CLEARED BY ARREST																																
<table border="1"> <tr> <th>REPORTING OFFICER</th> <th>DATE</th> <th>UNIT NUMBER</th> <th>APPROVAL</th> <th>DATE</th> <th>UNIT NUMBER</th> </tr> <tr> <td>152 SAVAGE</td> <td>08/22/2011</td> <td></td> <td></td> <td></td> <td></td> </tr> </table>							REPORTING OFFICER	DATE	UNIT NUMBER	APPROVAL	DATE	UNIT NUMBER	152 SAVAGE	08/22/2011																				
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVAL	DATE	UNIT NUMBER																													
152 SAVAGE	08/22/2011																																	
<table border="1"> <tr> <th>FOLLOW UP INVESTIGATION</th> <th>OFFICER</th> <th>UNIT NUMBER</th> </tr> <tr> <td></td> <td></td> <td></td> </tr> </table>							FOLLOW UP INVESTIGATION	OFFICER	UNIT NUMBER																									
FOLLOW UP INVESTIGATION	OFFICER	UNIT NUMBER																																

PUBLIC DEFENDER FOR THE SECOND JUDICIAL CIRCUIT

410 Barnwell Avenue NW
Post Office Drawer 2247
Aiken, South Carolina 29802

October 25, 2011

Dennis F. Sanders 245612
K.C.I. B-2-23A
4344 Broad River Rd.
Columbia, SC 29210



Dear Mr. Sanders:

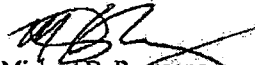
Your letter outlines two questions and one request for your Drug Analysis. The answers to your questions are as follows:

Question 1: Do attorneys file an appeal (automatically) after a defendant pleads guilty to a charge? I think it is not the case that attorneys would file appeal automatically after a guilty plea. An attorney would file an appeal to a guilty plea in at least two circumstances. An attorney would file an appeal if the defendant specifically asks the attorney to appeal a guilty plea. A second reason would be if the attorney was aware of some error committed by the sentencing Judge. An example of an error that a sentencing Judge might commit would be sentencing a defendant to a period of time not authorized by the legislature.

Question 2: Are you eligible for parole? You are not eligible for parole because you pled to a charge that carries a potential sentence of 20 years or more. You may recall that you and I discussed at length that you would have to serve 85 % of whatever sentence the Judge sentenced you to. After you are released (after serving at least 85%) you will be on Community Supervision. Community Supervision is very much a supervised release and you will have to report to an agent just as if you were on parole.

At this point in time it may be advisable to consider an application for Post Conviction Relief. If you feel that all three of us or any single lawyer was ineffective, that would be a means for possible relief. You would have another attorney appointed to your case and that attorney could advise you. Your caseworker should be familiar with this form of appeal.

Sincerely,


Michael D. Rutzong
Assistant Public Defender
2nd Judicial Circuit

Telephone: (803) 642-1732

Fax: (803) 642-1739

(COPY)

STATE OF SOUTH CAROLINA
COUNTY OF AIKENIN THE COURT OF GENERAL SESSIONS
SECOND JUDICIAL CIRCUIT

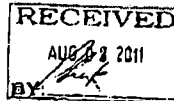
STATE OF SOUTH CAROLINA

Vs.

Warrant No: I-092386-387, I-092389-391,
I-092393-394

Dennis F. Sanders

Defendant

NOTICE OF REPRESENTATION AND APPEARANCE

COMES NOW, Charles H.S. Lyons, III, attorney for Defendant, Dennis F. Sanders, and appears in this his Notice of Representation and Appearance in the above-styled case.

Respectfully submitted,

[Signature]
Charles H.S. Lyons, III
S.C. Bar No: 006486
Attorney for Defendant.

336 Telfair Street
Augusta, Georgia 30901-2450
Office No: 706-724-6517
Facsimile No: 706-724-9954
E-Mail: charleslyonslawoffice@comcast.net

This 26th day of July, 2011.CERTIFICATE OF SERVICE

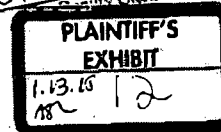
I hereby certify that I have this day served a copy of the above and foregoing Notice of Representation and Appearance upon Strom Thurnmond, Jr., Solicitor, Post Office Drawer 3368, Aiken, S.C. 29802, by depositing a copy of the same in the U.S. Postal System with adequate postage affixed thereto to insure delivery, as required by law.

Respectfully submitted,

[Signature]
Charles H.S. Lyons, III

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, L. L. Giddens, Clerk of Court of General Sessions and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing representation is true and correct copy of the
original document which has been filed in my office.

[Signature]
L. L. Giddens
Clerk of Court
Charles Lyons/CLW



ORIGINALSTATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON) IN THE COURT OF COMMON PLEAS
) FOR THE ELEVENTH JUDICIAL CIRCUIT
)

Dennis F. Sanders, #245612,

2012-CP-32-2136

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSALJAN 16 2015
CLERK OF COURT
LEXINGTON
SOUTH CAROLINA

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on May 23, 2012. Respondent made its return on August 28, 2012. An evidentiary hearing into the matter was convened on January 13, 2015, at the Aiken County Courthouse. Applicant was present at the hearing and was represented by Tricia Blanchette, Esquire. Respondent was represented by Assistant Attorney General Walt Whitmire of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. The Applicant was indicted during the February 2011 term of the Aiken County Grand Jury for possession of pseudophedrine second offense (2011-GS-02-0094) and possession with intent to distribute methamphetamine (2011-GS-02-0095). During the September 2009 term of the Aiken County Grand Jury, the Applicant was subsequently indicted for manufacturing methamphetamine second offense (2011-GS-02-1356), manufacturing methamphetamine within one-half mile of a

school (2011-GS-02-1357), possession with intent to distribute marijuana second offense (2011-GS-02-1358), and two (2) counts of unlawful manufacturing of methamphetamine within the presence of a minor- second offense (2011-GS-02-1360, -1362). Michael Routzong, Esquire and Charles H.S. Lyons, Esquire represented Applicant. On September 1, 2011, the Applicant pled guilty as indicted. The Honorable Doyet A. Early, III sentenced the Applicant to a period of twenty years confinement each for possession of pseudoephedrine and possession with intent to distribute methamphetamine, and ten years confinement for each other offense. The sentences are to be served concurrently. The Applicant did not appeal his conviction or sentence.

ALLEGATIONS

In his current Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

As to Attorney Carrigg:

1. Ineffective Assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to prepare with Applicant by going over the discovery materials and conducting an independent investigation of the case, specifically matters related to the search and subsequent relinquishment of Dempsey Sanders' vehicle and handling of the drug evidence and analysis conducted by SLED.
2. Ineffective assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to discuss prior the day of the joint plea whether Applicant was subject to and would enter his joint plea under the "new law" passed in June 2010, which was not in effective at the time of one of his Aiken County Charges.¹
3. Ineffective Assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to advise that Applicant that he was

¹ This Court adopts its finding from the companion order. See Dennis Sanders v. State, C.A. No. 2012-CP-02-01278, Order of Dismissal, p.14. Therefore, further comment in this Order is unnecessary.

being charged and would be required to plea to a trafficking charge and that he would not be eligible for parole under the joint plea agreement.

4. Ineffective assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to discuss the waiver of venue and plea offer with Applicant prior to the day of the joint plea in Aiken County
5. Prosecutorial misconduct for failing to disclose a SLED report that determined that the butterfly tablets seized from the vehicle were not illegal narcotics

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf and presented testimony from Judy Sanders (hereinafter "Sanders"), Denise Sanders (hereinafter "sister"), John Carrigg, Esquire (hereinafter "Attorney Carrigg"), Charles H.S. Lyons (hereinafter "Attorney Lyons"), and Michael Routzong (hereinafter "Attorney Routzong"). This Court also had before it a copy of the Plea transcript, the Aiken County Clerk of Court records, Lexington County Court records, Applicant's South Carolina Department of Correction records, the PCR application, and return.

During the evidentiary hearing, Applicant called Judy Sanders to testify on his behalf. Sanders testified that she attempted to reach Attorney Lyons on Applicant's behalf. Sanders stated that she was attempting to check on the progress of the case. Sanders stated that she was told that Applicant faced up to ten years from Attorney Lyons' paralegal. Sanders stated that Applicant discussed wanting a trial.

Following Sander's testimony, Sister testified on Applicant's behalf. Sister stated that Applicant was her brother. Sister could not recall when she spoke with Attorney Lyons. Sister

couldn't get a hold of Attorney Lyons. Sister stated she wasn't sure if she was present at 2004 plea. Sister stated she was under the impression that Applicant was facing ten years.

Following Sister's testimony, Applicant testified on his own behalf and stated that he retained Attorney Carrigg to initially represent him at the bond hearing concerning his January 2011 Lexington County charges that stemmed from the CVS drug store incident. He testified he first met Attorney Carrigg at the preliminary hearing. In support of his allegations on Attorney Carrigg's purported ineffective performance for failing to independently investigate, evaluate, and advise Applicant on Lexington County law enforcement's case against him, Applicant introduced a number of exhibits in support of his personal version of the evidence.² Applicant testified to his version of inaccuracies in the incident report, his speculative theories on a variety of legal matters ranging from purported defects in the State's chain-of-custody of the drugs to S.L.E.D.'s drug analysis report on his designer drugs also discovered with the methamphetamine from the search of the vehicle.

Applicant alleged Attorney Carrigg performance was ineffective for failing to investigate and evaluate the merits of pursuing a suppression defense. Applicant testified to his version of the facts of the CVS incident and subsequent search that led to his arrest. He testified to his personal opinions regarding the purported lack of probable cause to support the search warrant and purported facial defects in the document itself. In support of this allegation, Applicant presented law enforcement documents that he claims he was unaware of when he made the decision to enter the joint guilty agreement. Applicant testified counsel failed to apprise him of

² The Court notes that Applicant obtained said documents after his adjudication during his confinement in the Dept. of Corrections from one of two sources: (1) a copy of Attorney Carrigg's case file that contained the State's discovery disclosures to Attorney Carrigg; (2) P.C.R. counsel's F.O.I.A. requests on State law enforcement agencies made for the purposes of this civil action.

these purportedly critical discovery materials during the representation; notably, Applicant testified that he was perplexed and disappointed in Attorney Carrigg's inability to locate him to discuss these matters after he absconded.

Applicant alleged Attorney Carrigg's performance was ineffective for failing to investigate and apprise him of one of S.L.E.D.'s reports on the numerous drugs obtained from the incident that some of the non-methamphetamine drugs were not scheduled narcotics. He testified that he detrimentally relied on the Lexington County Solicitor's Office not proving the charges on these non-scheduled narcotics in making his decision to accept the joint plea. Applicant testified that he would not have pled guilty on Lexington County charges had he known that several of the less significant indictments were rendered baseless by S.L.E.D.'s drug analysis report. Applicant also alleged his Lexington County guilty pleas were rendered involuntary because Attorney Carrigg's performance was ineffective in failing to advise him on the strategic advantage of asserting venue in Lexington County for the joint plea hearing.

Applicant pursued several allegations of ineffective assistance of counsel related to Attorney Carrigg's performance in advising him on the terms of the joint plea agreement. First, Applicant testified that he entered the joint plea under the purported pretense that he was facing a ten year prison sentence; thus, he now asserts that he would not have entered the joint plea had he known that he was looking at a twenty year aggregate sentence. Last, Applicant alleged Attorney Carrigg's performance was ineffective for failing to file a post-plea motion for reconsideration and to file a notice of appeal on Applicant's behalf. It was Applicant's opinion that Judge Early's comments at the guilty plea hearing showed that Attorney Carrigg's performance was ineffective in presenting a mitigation theory that Applicant produced,

transported, etc., the narcotics to support his personal addiction. Applicant testified that he desired Attorney Carrigg file a motion for reconsideration of sentence to remedy the matter.

Additionally, Applicant testified that he was arrested on February 24, 2010 as a result of a traffic stop. Applicant stated that he made bond in January 2011. Applicant stated he hired an attorney out of an Augusta, Georgia law firm. Applicant stated he then appeared in court with Mr. Lyons as an associate of Hawks Law firm in Augusta, Georgia. Applicant stated he was up for trial a week before September 1st guilty plea. Applicant stated that he did not discuss arrest warrants or indictments with Attorney Lyons. Applicant clarified and stated that he barely went over the arrest warrants. Applicant stated that some of his charges fell under the "old law." Applicant stated that he pled guilty to pseudoephedrine less than 28 grams. Applicant explained that he was originally charged with possession of pseudoephedrine less than 9 grams.

Applicant stated the charges stemmed from a traffic stop. Applicant stated that he never saw any of the pseudoephedrine. Applicant stated that he had two other people with him in the car. Specifically, Applicant stated John Hicks and Benji Young were both with him in the car at the time of the stop. Applicant stated he made Attorney Lyons aware of all this information prior to his plea. Applicant stated that he never thought to ask about seeing the pseudoephedrine.

Applicant stated Attorney Lyons never secured a plea offer. Applicant opined that Attorney Lyons was not prepared for trial. Applicant stated he wanted ten year offer and State wanted twenty year offer. Applicant stated his family wrote all letters.

Additionally, Applicant stated Attorney Routzong represented him on charges as a result of a search of the residence he was living in. Specifically, Applicant stated he woke up to a knock on the door. Applicant stated the police detained him and other occupants while they

searched the house. Applicant stated he never saw a drug report or search warrant. Applicant stated he and Attorney Routzong discussed filing a motion to suppress. Applicant stated that he was facing the possibility of life without parole. Applicant opined that the search of his residence was illegal. Applicant recalled waiving presentment on each indictment. Applicant felt there was some issue with the ½ mile of school zone charge.

Attorney Carrigg's testimony

Attorney Carrigg testified at the PCR hearing to the course of his conduct during the representation. Attorney Carrigg outlined his over two decades of experience in practicing criminal defense law. Attorney Carrigg explained the circumstances surrounding getting retained on Applicant's case which was initially limited to just the bond hearing. Attorney Carrigg met with Applicant and discussed the case during the initial stages of the representation. In April, Attorney Carrigg also provided Applicant physical copies of the State's initial discovery disclosures. He recalled that they reviewed the incident report, among other things. Upon Attorney Carrigg's initial evaluation of the State's evidence, he discovered a possible suppression defense based upon the relationship between probable cause determination and the ownership of vehicle. Attorney Carrigg also testified that several different solicitor's prosecuted Applicant's Lexington County charges during the short course of the representation. Upon PCR counsel's questioning on one of the numerous S.L.E.D. analysis reports, Attorney Carrigg testified that the State never provided him the report in question and that certain pills found in Applicant's possession, which at the time appeared to be illegal narcotics, in fact lacked the chemical compositions of any scheduled drugs.

Attorney Carrigg testified that Applicant disappeared soon into his representation. Attorney Carrigg outlined his general practice in obtaining contact information from a client at the outset of a case. Attorney Carrigg's attempts to locate Applicant, based upon the thorough information provided by Applicant, proved futile. Next, Attorney Carrigg contacted Applicant's former girlfriend and his family. His additional efforts only yielded him an address. Attorney Carrigg penned correspondence to Applicant and he testified that he desired to be relieved because Applicant's conduct severely hampered his ability to provide meaningful representation.

Applicant's Aiken attorneys, not Applicant, notified Attorney Carrigg that the Aiken County police had arrested Applicant for a third set of serious methamphetamine related charges that stemmed from a new incident. Similar to testimonies from both Aiken attorneys, the State's evidence of overwhelming guilt was substantially certain on each set of the Aikens charges; it became apparent to all that a joint plea agreement, that shielded Applicant from a presumptive aggregate life sentence on all three future dispositions, was in Applicant's best interests. Attorney Carrigg outlined his communications with the Aiken Attorneys and Lexington County Solicitor in a chronological manner. Attorney Carrigg communicated with Applicant in September then further discussed the case with him on the day of the joint plea hearing. Attorney Carrigg testified with certainty that Applicant's decision to accept the joint plea agreement was made after he fully discussed the strengths and weaknesses of the State's Lexington County case, the terms of the plea agreement, the benefits/detriments to Applicant's exposure for incarceration among other things. Attorney Carrigg advised Applicant that joint plea agreement included concurrent service on all convictions that exposed him to a maximum thirty years imprisonment. A maximum ten year term was never part of the negotiations. Furthermore, Attorney Carrigg

disagreed with Applicant's post hoc assessment of the mitigation strategy; thus, he testified that Applicant's opinion of Judge Early's comments was unfounded.

Attorney Lyons' testimony

Attorney Lyons testified that Applicant was a difficult client and continually "ran around." Attorney Lyons stated Applicant was difficult to contact. Attorney Lyons clarified and stated that he did not have a personal problem with Applicant; simply put, Applicant was missing in action throughout most, if not all of his representation. Attorney Lyons stated he reviewed discovery with Applicant prior to his plea. Attorney Lyons stated he reviewed the drug Analysis with Applicant. Attorney Lyons recalled Applicant pointing out weight, but that Applicant was charged with possession with intent to distribute. Attorney Lyons stated that he was going to plea Applicant to a trafficking charge. Attorney Lyons noted that he had a favorable plea deal worked out for Applicant prior to him picking up additional charges in Aiken County.

Attorney Lyons stated that the problem in his case was that Applicant was the only person to "run" from the scene when the police arrived. Attorney Lyons stated at no point in time did he tell Applicant that he could not have a trial. Attorney Lyons stated the State wanted at least a twenty year sentence and Applicant was aware of this fact. Attorney Lyons stated at the time of plea, Applicant knew of the evidence against him and "it was a done deal."

Attorney Lyons stated Applicant wanted a change of venue to Lexington County. Attorney Lyons stated he did not know how the Lexington County Solicitor felt about the case, but he knew the Aiken County Solicitor was very upset about the methamphetamine being cooked in front of his child.

Attorney Lyons stated Judge Early does not put much stock into defense counsel's arguing their defense to charges that were being dismissed. Attorney Lyons recalled advising Applicant of his right to appeal the guilty plea. Attorney Lyons stated he knew Judge Early would not reconsider the sentence. Attorney Lyons stated Applicant was potentially facing Life Without Parole had he not pled guilty to all charges at one time. Attorney Lyons explained that all three charges could have been tried separately and would have given Applicant "three strikes."

Attorney Routzong's testimony

Following Attorney Lyons testimony, Attorney Routzong was called to testify by the State. Attorney Routzong stated he was appointed sometime after June 11th. Attorney Routzong stated that he met with defendant less than five times. Attorney Routzong testified that he filed Rule 5 and Brady motions. Attorney Routzong stated he received and reviewed discovery with Applicant prior to his plea. Attorney Routzong stated that he would have reviewed the drug analysis with Applicant prior to his plea.

Attorney Routzong stated that he attempted to try and get a "global resolution" regarding Applicant's three pending charges. Attorney Routzong stated that he explained to Applicant that he could proceed to trial if he wanted a trial. Attorney Routzong stated that he addressed the potential threat of a life without parole sentence if the solicitors in Aiken and Lexington tried him separately on all three charges. Attorney Routzong stated that each of the three separate incidents had charges that amounted to a "strike" under our current law. Attorney Routzong stated Applicant could have potentially received three strikes based off of all his charges had he not pled guilty to all three separate charge on the same day. Attorney Routzong stated there was

a letter written for mitigation. Attorney Routzong stated the letter was very well written. Attorney Routzong stated that he was very careful to tailor his arguments to Judge Early.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

As a matter of general global impression, this Court finds that the credible evidence and testimony dispositive shows Applicant, as an experienced and knowledgeable participant in General Sessions Court, made a knowing, intelligent, voluntary decision to enter the joint plea agreement on three (3) distinct sets of charges that he accrued during a brief period of his continued brazen involvement with substantial narcotics crime. This Court finds that had Applicant proceeded to separate trials on each set of his charges, he faced the likely probability of receiving a presumption life sentence based upon the aggravating circumstances at issue. Moreover, Applicant entirely failed to present any legitimate justification for this Court to accept his contrary post hoc representations and depart from statements made by his attorneys, the Aiken County Solicitor, and Judge Early at the plea hearing.

As a matter of general impression on Applicant's action against Attorney Carrigg's performance, this Court finds Applicant's contention that his guilty plea on the Lexington County charges was rendered involuntary as a result of ineffective assistance of counsel at issue to be wholly incredible. In contrast, this Court finds Attorney Carrigg's testimony convincing

and his representation to be sound. Although Applicant made several prima facie showings of uncertain defects in the State's case that Attorney Carrigg may have exploited had the Lexington County Solicitor's Office proceeded to trial, Applicant fell well short of meeting his burden to prove Strickland's deficiency prong. Furthermore, this Court finds that Applicant lacks substantial standing in this forum when Applicant's own conduct in absconding and picking up additional narcotics charges, served to undermine Attorney Carrigg's ability to provide effective representation. Last, Applicant failed to meet his most basic burden on Strickland's prejudice prong that: (1) Attorney Carrigg's purported deficient advice on the terms of the plea agreement in conjunction with the attendant consequences of pleading guilty would have reasonably resulted in his rejection of the plea offer in favor of dire sentencing exposure in three separate dispositions; and, (2) production of relevant and material evidence at the PCR hearing to prove the merits of the post-hoc suppression argument concerning the admissibility of the narcotics evidence on Lexington County charges. Ultimately, any possible prejudice on this PCR action is fatally negated by the Applicant's valid Aiken County convictions for equally serious offenses that he is serving concurrently to his Lexington County sentences.

INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985). After careful review based on the standard discussed above, the Applicant has failed to carry his burden in this action.

Ineffective Assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to prepare with Applicant by going over the discovery materials and conducting an independent investigation of the case, specifically matters related to the search and subsequent relinquishment of Dempsey Sanders' vehicle and handling of the drug evidence and analysis conducted by SLED.

This Court finds this allegation to be without merit. A PCR applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was

ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). Criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and making an independent investigation of the facts and circumstances of the case." Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (internal citations omitted). The allegation rests entirely on speculation. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998) ("failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result").

For reasons stated in the companion Aiken County Order where Applicant had competent representation in making his knowing, intelligent, and voluntary decision to enter the joint plea, this Court finds this allegation to be without merit. This Court finds Attorney Carrigg's testimony more credible than Applicant's testimony. First, Applicant lacks the footing to challenge counsel's performance for failure to investigate suppression defenses in conjunction with investigating State's evidence when Applicant absconded and failed to cooperate with his attorney. See U.S. v. Pellerito, 878 F.2d 1535, 1543 (1st Cir. 1989) ("If counsel was ineffective in any sense, it was only because the client rendered him so, first by keeping Noriega in the dark, and then, by refusing to heed his advice. That is not the sort of "ineffectiveness" for which relief can be granted).

Second, Applicant failed to produce sufficient evidence to remove the underlying allegation from the realm of speculation. Notably missing in Applicant's case-in-chief was testimony or other credible evidence from the arresting officers concerning the search warrant

procedure. Contrast Kolle v. State, 386 S.C. 578, 590-91, 690 S.E.2d 73, 79-80 (2010) (“Initially, [the Court] agrees with the PCR judge's decision that plea counsel was deficient in failing to procure pertinent discovery materials, in particular the call/dispatch logs and the search warrant. If plea counsel had these materials, he could have effectively cross-examined the officers at the suppression hearing and pointed out the time discrepancies”).³

Third and most compelling, this Court rejects this allegation, and the entire Application for reasons stated in the companion Aiken County Order where Applicant had competent representation in making his knowing, intelligent, and voluntary decision to enter the joint plea. **See Dennis Sanders v. State**, C.A. No. 2012-CP-02-01278, Order of Dismissal, pp.14-17; p.18 (citing Franklin v. Catoe, 346 S.C. 563, 570 n. 3, 552 S.E.2d 718, 722 n. 3 (2001) (finding overwhelming evidence of guilt negated any claim that counsel's deficient performance could have reasonably affected the result of defendant's trial)). Even if there were potentially serious defects in the State's Lexington County case against Applicant, Applicant still failed to provide any credible evidence to support his allegation. Simply, the global structure of the favorable plea agreement all but negated the prospect of prejudice on this case. Judge Early made the critical determination that the Petitioner knowingly and voluntarily pled guilty; consequently, Applicant's plea constituted a waiver of non-jurisdictional defects and defenses, including challenges to the sufficiency of the evidence. See Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981); Rivers v. Strickland, 264 S.C. 121, 213 S.E.2d 97 (1975). Dispositively, Applicant

³ Further contrasted from Applicant's case, the PCR Judge in the Kolle petitioner's case evaluated the evidence presented in support of the PCR action in conjunction with the transcript of a prior suppression hearing. Here, Applicant pled guilty well before he had the opportunity to contest the admissibility of the narcotics at a suppression hearing. In comparison to Kolle, Applicant's burden to produce credible and compelling evidence is even more heightened here. Thus, the evidentiary import of Applicant's vast majority of exhibits lacked evidentiary import without relevant testimony from the necessary source witnesses. Thus, this Court notes that Applicant case-in-chief established significant noise without meaningful substance.

has produced no credible evidence that would now exempt Applicant from the presumption of truthfulness in his representations at the plea. Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367, 371 (1997) (“A statement that questions are “routine” is not an invitation to answer them untruthfully, nor does it constitute a reason to believe the questions and statements of the judge during a guilty plea proceeding mean nothing”). Therefore, this allegation is readily denied and dismissed with prejudice.

Ineffective Assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to discuss the waiver of venue and plea offer with Applicant prior to the day of the joint plea in Aiken County.

This Court finds this allegation to be facially without merit. Applicant's assertion that he desired a change of venue is entirely without legal justification. Applicant testified that the Aiken Count Solicitor aggressively prosecuted her cases because Applicant's third arrest involved child endangerment. Because a change of venue does equate to the removal of a particular prosecutor, this allegation is entirely without merit. Where further discussion is unnecessary, this allegation is readily denied and dismissed with prejudice.

Ineffective Assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to advise Applicant that he was being charged and would be required to plea to a trafficking charge and that he would not be eligible for parole under the joint plea agreement.

This allegation is summarily without merit. See Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983) (Parole eligibility has been held to be a collateral consequence of sentencing of which a defendant need not be specifically advised before entering a guilty plea); Smith v. State, 329 S.C. 280, 283, 494 S.E.2d 626, 628 (1997). Alternatively, for reasons previously

announced in this Order, the companion order, and for reasons that are manifestly obvious in the record, this allegation is summarily denied and dismissed with prejudice.

Prosecutorial misconduct for failing to disclose a SLED report that determined that the butterfly tablets seized from the vehicle were not illegal narcotics.

This Court finds that Applicant failed to meet his burden in proving that the non-disclosure of the SLED report was material, or that it was relevant to Applicant's decision to enter the joint plea agreement. Furthermore, Applicant has failed to show that the SLED report was relevant to Applicant's ability to present a credible case that warranted relief. In considering "prosecutorial misconduct," the United States Supreme Court has stated that prosecutors must "refrain from improper methods calculated to produce a wrongful conviction." Berger v. United States, 295 U.S. 78, 88, 55 S.Ct. 629, 79 L.Ed. 1314 (1935). The appropriate standard of review for prosecutorial misconduct is the narrow one of due process and not the broad exercise of supervisory power. See Darden v. Wainwright, 477 U.S. 168, 181, 106 S.Ct. 2464, 91 L.Ed.2d 144 (1986). See also Donnelly v. DeChristoforo, 416 U.S. 637, 642, 94 S.Ct. 1868, 1871, 40 L.Ed.2d 431 (1974) (not every trial error which might call for supervisory power violates fundamental fairness). The Supreme Court has recognized that prosecutorial misconduct may "so infec[t] the trial with unfairness as to make the resulting conviction a denial of due process." Donnelly v. DeChristoforo, 416 U.S. at 643, 94 S.Ct. 1868. A defendant's due process rights are violated when a prosecutor's misconduct renders a trial "fundamentally unfair." Darden v. Wainwright, 477 U.S. at 181, 106 S.Ct. 2464. See also Greer v. Miller, 483 U.S. 756, 765, 107 S.Ct. 3102, 97 L.Ed.2d 618 (1987); Williams v. Stewart, 441 F.3d 1030, 1042 (9th Cir.2006) (

citing Donnelly v. DeChristoforo, 416 U.S. at 643, 94 S.Ct. 1868 as articulating standard for prosecutorial misconduct).

This Court finds Attorney Carrigg's testimony on the matter to be credible. The fact that Lexington County Solicitor gave her case file to Attorney Carrigg before the plea hearing in Aiken evidenced his strong professional relationship with the Lexington County Solicitor's Office. Thus, the evidence before this Court shows that non-disclosure of one of the many SLED Reports was not intentional misconduct on part of the Lexington County Prosecutor. The Report in question concerned the chemical composition of butterfly tablets that were ancillary to the other narcotics seized from the vehicle at the CVS incident. This Court finds that Applicant's testimony that had he known of the potentially exculpatory report concerning the butterfly tablets, then he would have not entered the joint plea, to be incredible and entirely dubious. At best, the non-disclosure constituted ancillary sloppiness, not legitimate evidence to prove prejudice where Applicant's decision to plead guilty centered upon obtaining a joint plea agreement that included concurrent sentencing. For reasons previously announced in this Order, the companion order, and for reasons that are manifestly obvious in the record, this allegation is nothing more than a red herring and is readily denied and dismissed with prejudice.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 8th day of June, 2015.


HONORABLE D. CRAIG BROWN
Presiding Judge
Second Judicial Circuit

Florence, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2012CP3202136

Sanders

State of SC

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : ☐ Plaintiff ☐ Defendant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a) SCRCP
☐ Rule 43(k), SCRCP (Settled); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on June 22, 2015 and a copy mailed, emailed or placed in the appropriate attorney's box on this June 22, 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Tricia Blanchette

Walt Whitmire

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
Dennis Sanders, #245612,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

2012-CP-32-2136

FILED
2015 JUL -2 P 2:45

MOTION FOR REHEARING PURSUANT
TO RULE 59(A), SCRCP, AND/OR CLERK OF COURT
MOTION TO ALTER OR AMEND LEXINGTON SC
PURSUANT TO RULE 59(E), SCRCP

COMES NOW Applicant, through his undersigned attorney, and requests the entry of a new judgment, pursuant to Rule 59(a)(2), and/or amendment of the findings of fact and conclusions of law in the standing Order of Dismissal, pursuant to Rule 59(e), SCRCP.

This matter comes before the Court pursuant to an Application for Post Conviction Relief filed on May 23, 2012. Respondent submitted a Return on August 28, 2012. An evidentiary hearing was convened on January 13, 2015 at the Aiken County Courthouse in front of the Honorable D. Craig Brown. Applicant was present and was represented by Tricia A. Blanchette, Esquire. Respondent was represented by Walt Whitmire, Assistant Attorney General.

At the conclusion of the hearing, the Honorable D. Craig Brown took the matter under advisement. Thereafter, the request was made for Respondent to submit a proposed Order of Dismissal. Respondent complied, and an Order of Dismissal was signed by the Honorable D. Craig Brown on June 8, 2015.¹ The Order was filed on June 18, 2015, and Applicant, through counsel, received a signed and filed copy of the Order on June 24, 2015.

¹ Applicant's counsel was not provided a copy of the proposed Order prior to its signing and issuance; therefore, Applicant, through counsel could not ask the Court to include the below addressed issues prior to the issuance of the Order as is the suggested procedure in Marlar v. State, 375 S.C. 407, 653 S.E.2d 266 (2007)

In Marlar v. State, 375 S.C. 407, 653 S.E.2d 266 (2007), the South Carolina Supreme Court made it clear that a post conviction relief judge must make specific findings of fact and state expressly the conclusions of law relating to each issue presented. See also S.C. Code Ann. § 17-27-80. Therefore, Applicant would respectfully request that this Court ensure that specific findings of fact and conclusions of law are entered and that the arguments and testimony of each witness is properly addressed by obtaining and reviewing the evidentiary hearing transcript.

Specifically, several issues that were raised by Applicant have not been addressed in the standing Order of Dismissal. By way of his Application, Applicant requested a belated direct appeal and alleged that counsel was ineffective for failing to advise Applicant about and/or file a motion for reconsideration and/or direct appeal. At the evidentiary hearing, Applicant testified about counsel's failure to file a motion for reconsideration and/or appeal and about the attempts that were made to reach counsel to request that such was filed. The standing Order fails to address this issue that was clearly raised in the Application and was also testified to by Applicant at the evidentiary hearing.

Additionally, Applicant included the following by way of his Amendment: "Pursuant to Rule 15(b), SCRCP, Applicant would move to amend to conform to the evidence and testimony presented at the evidentiary hearing." At the beginning of the evidentiary hearing, Applicant's counsel informed the Court that Applicant would also be proceeding on an allegation of ineffective assistance of counsel during plea mitigation. While on the stand, Applicant testified about the mitigation offered by counsel. See Transcript pp. 31-34. The standing Order of Dismissal fails to address Applicant's allegation and testimony regarding the mitigation offered by counsel.

Next, under the issue stated as:

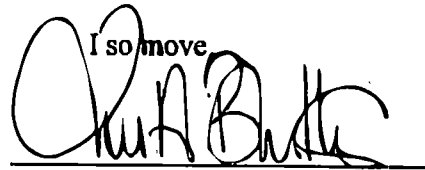
Ineffective Assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to discuss prior to the day of the joint plea whether Applicant would be entering his joint plea under the "new law" passed in June 2010, which was not in effect at the time of one of his Aiken County charges. Specifically, failure to advise Applicant that he would not be eligible for parole under the joint plea agreement.

The standing Order of Dismissal refers to the companion Order of Dismissal out of Aiken County, but both Orders fail to address Applicant's allegation and testimony regarding counsel's failure to advise him about the law under which he would enter his plea and be sentenced. Applicant has alleged that such failure rendered his plea involuntary and this allegation has not been addressed by this Court.

Finally, as has already been stated Applicant included a Rule 15(b), SCRCP, allegation in his Amendment. At the evidentiary hearing, John Carigg, Esquire, testified that he had not been provided a potentially exculpatory SLED report by the Lexington County Solicitor's Office. Thereafter, counsel for both parties agreed to an amendment to include the matter of prosecutorial misconduct and/or a Brady violation. Walt Whitmire, Assistant Attorney General, requested that the record be left open for time to obtain an Affidavit from the Solicitor assigned to Applicant's case. Applicant's counsel agreed to this request. At no time was notice given to Applicant or his counsel that an Affidavit had been obtained or the record officially closed. Furthermore, as is stated above, Applicant nor his counsel were provided notice that the Order of Dismissal had been submitted; therefore, Applicant could not raise the State's failure to obtain an Affidavit and/or the omission of any mention of the State's request prior to the instant motion. Therefore, Applicant, through counsel, would ask this Court to address the State's request to obtain an Affidavit that was not submitted and the issue not only under prosecutorial

misconduct, but also as a Brady violation, which is a recognized form of prosecutorial misconduct. See Gibson v. State, 334 S.C. 515, 514 S.E.2d 320 (1999).

In conclusion, Applicant would ask this Court to obtain and review the evidentiary hearing transcript to ensure the accuracy of the standing Order of Dismissal. Pursuant to Marlar, Applicant would ask this Court to address the above listed allegations that are omitted from the standing Order of Dismissal, and alter or amend the Order accordingly. Finally, under Rule 59, SCRCP, Applicant would ask this Court to reconsider the denial of relief and find that relief, in the form of a belated appeal or new trial, should be granted.

I so move


Tricia A. Blanchette
Attorney for Applicant
Post Office Box 12725
Columbia, South Carolina 29211

July 1, 2015
Columbia, SC

STATE OF SOUTH CAROLINA)
 COUNTY OF LEXINGTON)

Dennis Sanders, #245612,)
 Applicant,)

v.)

State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 ELEVENTH JUDICIAL CIRCUIT

2012-CP-32-2136

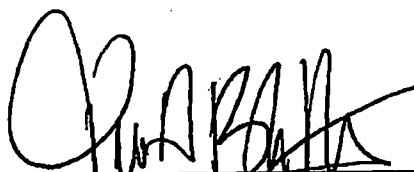
FILED

2015 JUL -2 P 2:45

CERTIFICATE OF SERVICE BETH A. CARRIGG
 CLERK OF COURT
 LEXINGTON SC

I, Tricia A. Blanchette, Attorney for Applicant, hereby certify that I placed in the mail this 1st day of July, 2015 a Rule 59 Motion to J. Walt Whitmire of the Attorney General's Office at:

Office of the Attorney General
 Att: J. Walt Whitmire, Ast. AG
 PO Box 11549
 Columbia, SC 29211



Tricia A. Blanchette
 PO Box 12725
 Columbia, SC 29211
 (803) 988-0008

July 1, 2015

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Dennis Sanders, #245612,

☒ Plaintiff

v.

State Of South Carolina

☐ Defendant.

IN THE COURT OF COMMON PLEAS

FILED

CASE NO.

2012-CP-32-2136

2015 JUL 2 2:45

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET32
CLERK OF COURT
LEXINGTON SC

Plaintiff's Attorney:

Tricia A. Blanchette, Bar No. 74904

Address:

PO Box 12725

Columbia, SC 29211

phone: 803-988-0008 fax: 803-988-8070

e-mail: blanchettelaw@gmail.com other:

Defendant's Attorney:

J. Walt Whitmire, Bar No.

Address:

PO Box 11549

Columbia, SC 29211

phone: 803-734-3737 fax: 803-734-4113

e-mail: other:

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Rule 59 Motion

Estimated Time Needed: 30 minutes Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ Defendant

July 1, 2015

Date submitted

SECTION III: Motion Fee

☐ PAID - AMOUNT:☒ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support☐ Domestic Abuse or Abuse and Neglect☐ Indigent Status☐ State Agency v. Indigent Party☐ Sexually Violent Predator Act☒ Post-Conviction Relief☐ Motion for Stay in Bankruptcy☐ Motion for Publication☐ Motion for Execution (Rule 69, SCRCP)☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.☐ Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Collected by: _____

Date Filed: _____

☐ MOTION FEE COLLECTED: _____☐ CONTESTED - AMOUNT DUE: _____

ORIGINAL

355

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)
 Dennis F. Sanders,)
 S.C.D.C. No. 245612,)
)
 Applicant,)
)
)
)
 v.)
)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS

ELEVENTH JUDICIAL CIRCUIT

Case No. 2012-CP-32-2136

**RETURN TO APPLICANT'S MOTION
 TO ALTER OR AMEND THE
 JUDGMENT**

FILED
 11-19-15
 11:19 AM
 CLERK OF COURT
 11-19-15

Respondent, by and through undersigned counsel, making its Return to Applicant's "Rule 59(e) SCRCP, Motion to Alter of Amend," would respectfully show unto this Court:

I.

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on May 23, 2012. Respondent made its return on August 28, 2012. An evidentiary hearing into the matter was convened on January 13, 2015, at the Aiken County Courthouse. Applicant was present at the hearing and was represented by Tricia Blanchette, Esq. Respondent was represented by Assistant Attorney General Walt Whitmire, Esq., of the South Carolina Attorney General's Office. Applicant subsequently filed a "Rule 59(e) SCRCP, Motion to Alter of Amend." This Return follows.

II.

In her motion, Applicant asks this Court to reconsider its ruling regarding the two issues raised. Respondent submits that this Court's Order of Dismissal contains the required findings of facts and conclusions of law as required by S.C. Code Ann. § 17-27-80 (1976) and Rule 52(a) SCRCP. See also McCray v. State, 305 S.C. 329, 408 S.E.2d 241 (1991). Respondent submits

that this Court properly ruled on all issues presented at the post-conviction relief hearing and Applicant's motion should be denied.

III.

WHEREFORE, having made its Return to the motion, the State requests that the relief requested in the Motion be denied and that said Motion be dismissed.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

WALT WHITMIRE
Assistant Attorney General

BY:


ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

Aug 3rd, 2015

FILED
2015 AUG -5 AM 11:19
CLERK OF COURT
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)
DENNIS F. SANDERS, #245612)
Applicant,)
vs)
STATE OF SOUTH CAROLINA,)
Respondent.)

IN THE COURT OF COMMON PLEAS

2012-CP-32-2136

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return to Applicant's Motion to Alter or Amend the Judgement** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Mrs. Tricia A. Blanchette, Esquire
Law Office of Tricia A. Blanchette, LLC
PO Box 12725
Columbia, SC 29211**

FILED
CLERK OF COURT
LEXINGTON SC
AUG 11 2015

DATED this 3rd day of August, 2015.

Ashley Haworth
Ashley Haworth, Legal Assistant
For Respondent

ORIGINAL

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

Dennis F. Sanders,
S.C.D.C. No. 245612,)

Applicant,)

v.)

State of South Carolina,
Respondent.)

IN THE COURT OF COMMON PLEAS

ELEVENTH JUDICIAL CIRCUIT

Case No. 2012-CP-32-2136

**ORDER DENYING APPLICANT'S
MOTION TO ALTER OR AMEND A
JUDGMENT**

This matter comes before this Court by way of Applicant's "Rule 59(e) Motion to Alter or Amend" asking this Court to alter or amend its Order of Dismissal denying Applicant post-conviction relief.

I.

An evidentiary hearing was convened before this Court on January 13, 2015 at the Lexington County Courthouse, at which Applicant was present with counsel. This Court denied Applicant's request for relief with prejudice. Applicant subsequently filed a motion to alter or amend, asking this Court to alter or amend, and reconsider its ruling. Respondent made a Return to this motion, asking that said motion be denied and dismissed.

III.

This Court's Order of Dismissal contains the required findings of facts and conclusions of law as required by S.C. Code Ann. § 17-27-80 (1976) and Rule 52(a) SCRPC. See also McCray v. State, 305 S.C. 329, 408 S.E.2d 241 (1991). Having carefully reviewed the entire record in this matter, this Court finds that there is no basis for altering or amending its prior

DCB
P. 10/2

ruling. Therefore, this Court hereby denies the Applicant's Motion in its entirety, and affirms the previous Order of Dismissal.

This Court notes that if the Petitioner desires to secure appellate review of this Order and the Order of Dismissal, a notice of appeal must be filed and served within thirty days of the service of this Order. Petitioner is directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of appeal has been timely filed.

AND, IT IS SO ORDERED this 5 day of August, 2015


HONORABLE D. CRAIG BROWN
Presiding Judge
Eleventh Judicial Circuit

Florence, South Carolina

ORIGINAL

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOR THE ELEVENTH JUDICIAL CIRCUIT

COUNTY OF LEXINGTON)

C.A. No. 2012-CP-32-2136

Dennis F. Sanders,
S.C.D.C. No. 245612,

Applicant,

v.

State of South Carolina,

Respondent.

ORDERBETH A. CANNING
CLERK OF COURT
LEXINGTON, SC

2015 DEC 16 AM 11:11

FILED

Respondent, by and through undersigned counsel, made a Motion for Relief from Judgment or Order, pursuant to Rule 60(a), SCRPC, in which the following was shown:

1. The matter is before the Court by way of post-conviction relief (PCR) action;
2. On May 21, 2012, Applicant waived jurisdiction in Lexington County and pled guilty in Aiken County to trafficking methamphetamine, ten to twenty-eight grams, second offense.¹ He was sentenced by the Honorable Doyet A. Early, III, to twenty (20) years imprisonment. Applicant did not appeal;
3. On May 23, 2012, Applicant filed the above-captioned PCR action alleging his plea counsel was ineffective and his guilty plea was involuntary;
4. An evidentiary hearing was convened before this Court on January 13, 2015. On June 8, 2015, this Court denied and dismissed the matter with prejudice;
5. Applicant filed a timely Notice of Appeal.² Thereafter, Respondent brought to this Court's attention that the Order denying Applicant's PCR application did not have the

¹ Applicant simultaneously pled guilty to offenses from Aiken County.

² Applicant's appeal is currently pending on *certiorari* before the Supreme Court of South Carolina.

correct procedural history;³

6. Upon discovering the mistake, Respondent submitted a Motion to Obtain Leave from the Supreme Court of South Carolina to move this Court to correct the mistake pursuant to Rule 60(a). Petitioner has consented to this motion through counsel.

Conclusion

This Court therefore grants Respondent's Motion to correct the Procedural History in its Order dismissing Applicant's application in this matter, pursuant to Rule 60(a), SCRCP. Pursuant to this Order, this Court issues an Amended Order reflecting the proper procedural history.

IT IS THEREFORE ORDERED:

1. That this Court's June 8, 2015, Order dismissing Applicant's Post-Conviction Relief application be corrected to reflect the accurate procedural history.

AND IT IS SO ORDERED this 18 day of Nov., 2015.


HONORABLE D. CRAIG BROWN
Presiding Judge
Second Judicial Circuit

Flower, South Carolina

FILED
2015 DEC 16 A 11:15
BETH A. CHAMBERG
CLERK OF COURT
LEXINGTON, SC

³ This matter was heard alongside Applicant's PCR application for the offenses from Aiken County. (2012-CP-02-1278). That matter was also dismissed. However, the procedural history from the Order dismissing Applicant's Aiken County PCR application was inadvertently copied onto the Order dismissing the application in this case.

ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

Dennis F. Sanders, #245612,

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS
) FOR THE ELEVENTH JUDICIAL CIRCUIT

2015 DEC 16 A 11: 16 2012-CP-32-2136

DET. A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

AMENDED ORDER OF DISMISSAL¹

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on May 23, 2012. Respondent made its return on August 28, 2012. An evidentiary hearing into the matter was convened on January 13, 2015, at the Aiken County Courthouse. Applicant was present at the hearing and was represented by Tricia Blanchette, Esquire. Respondent was represented by Assistant Attorney General Walt Whitmire of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Lexington County Clerk of Court. The Applicant was indicted during the April 2011 term of the Lexington County Grand Jury for trafficking methamphetamine, ten to twenty-eight grams, third offense (2011-GS-32-0789). Applicant was represented by John W. Carrigg, Jr., Esquire on this charge. On May 21, 2012, Applicant waived jurisdiction in Lexington County and pled guilty in Aiken County to the lesser included

¹ An Order dismissing this matter was originally filed on June 18, 2015. However, due to a clerical error, that Order contained the incorrect procedural history. This Order contains the corrected procedural history, and is issued pursuant to Rule 60(a), SCRCP.

offense of trafficking methamphetamine, ten to twenty-eight grams, second offense.² He was sentenced by the Honorable Doyet A. Early, III, to twenty (20) years. Judge Early ordered that sentence be run concurrently with his Aiken County sentences. Applicant did not appeal his guilty pleas or sentences.

ALLEGATIONS

In his current Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

As to Attorney Carrigg:

1. Ineffective Assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to prepare with Applicant by going over the discovery materials and conducting an independent investigation of the case, specifically matters related to the search and subsequent relinquishment of Dempsey Sanders' vehicle and handling of the drug evidence and analysis conducted by SLED.
2. Ineffective assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to discuss prior the day of the joint plea whether Applicant was subject to and would enter his joint plea under the "new law" passed in June 2010, which was not in effective at the time of one of his Aiken County Charges.³
3. Ineffective Assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to advise that Applicant that he was being charged and would be required to plea to a trafficking charge and that he would not be eligible for parole under the joint plea agreement.
4. Ineffective assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to discuss the waiver of venue and plea offer with Applicant prior to the day of the joint plea in Aiken County

² Included in the plea, Applicant also pled guilty to several Aiken County offenses.

³ This Court adopts its finding from the companion order. See Dennis Sanders v. State, C.A. No. 2012-CP-02-01278, Order of Dismissal, p.14. Therefore, further comment in this Order is unnecessary.

5. Prosecutorial misconduct for failing to disclose a SLED report that determined that the butterfly tablets seized from the vehicle were not illegal narcotics

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf and presented testimony from Judy Sanders (hereinafter "Sanders"), Denise Sanders (hereinafter "sister"), John Carrigg, Esquire (hereinafter "Attorney Carrigg"), Charles H.S. Lyons (hereinafter "Attorney Lyons"), and Michael Routzong (hereinafter "Attorney Routzong"). This Court also had before it a copy of the Plea transcript, the Aiken County Clerk of Court records, Lexington County Court records, Applicant's South Carolina Department of Correction records, the PCR application, and return.

During the evidentiary hearing, Applicant called Judy Sanders to testify on his behalf. Sanders testified that she attempted to reach Attorney Lyons on defendant's behalf. Sanders stated that she was attempting to check on the progress of the case. Sanders stated that she was told that Applicant faced up to ten years from Attorney Lyons' paralegal. Sanders stated that Applicant discussed wanting a trial.

Following Sander's testimony, Sister testified on Applicant's behalf. Sister stated that Applicant was her brother. Sister could not recall when she spoke with Attorney Lyons. Sister couldn't get a hold of Attorney Lyons. Sister stated she wasn't sure if she was present at 2004 plea. Sister stated she was under the impression that Applicant was facing ten years.

Following Sister's testimony, Applicant testified on his own behalf and stated that he retained Attorney Carrigg to initially represent him at the bond hearing concerning his January 2011 Lexington County charges that stemmed from the CVS drug store incident. He testified he first met Attorney Carrigg at the preliminary hearing. In support of his allegations on Attorney

Carrigg's purported ineffective performance for failing to independently investigate, evaluate, and advise Applicant on Lexington County law enforcement's case against him, Applicant introduced a number of exhibits in support of his personal version of the evidence.⁴ Applicant testified to his version of inaccuracies in the incident report, his speculative theories on a variety of legal matters ranging from purported defects in the State's chain-of-custody of the drugs to S.L.E.D.'s drug analysis report on his designer drugs also discovered with the methamphetamine from the search of the vehicle.

Applicant alleged Attorney Carrigg performance was ineffective for failing to investigate and evaluate the merits of pursuing a suppression defense. Applicant testified to his version of the facts of the CVS incident and subsequent search that led to his arrest. He testified to his personal opinions regarding the purported lack of probable cause to support the search warrant and purported facial defects in the document itself. In support of this allegation, Applicant presented law enforcement documents that he claims he was unaware of when he made the decision to enter the joint guilty agreement. Applicant testified that counsel failed to apprise him of these purportedly critical discovery materials during the representation; notably, Applicant testified that he was perplexed and disappointed in Attorney Carrigg's inability to locate him to discuss these matters after he absconded.

Applicant alleged Attorney Carrigg's performance was ineffective for failing to investigate and apprise him of one of S.L.E.D.'s reports on the numerous drugs obtained from the incident that some of the non-methamphetamine drugs were not scheduled narcotics. He

⁴ The Court notes that Applicant obtained said documents after his adjudication during his confinement in the Dept. of Corrections from one of two sources: (1) a copy of Attorney Carrigg's case file that contained the State's discovery disclosures to Attorney Carrigg; (2) P.C.R. counsel's F.O.I.A. requests on State law enforcement agencies made for the purposes of this civil action.

testified that he detrimentally relied on the Lexington County Solicitor's Office not prosing the charges on these non-scheduled narcotics in making his decision to accept the joint plea. Applicant testified that he would not have pled guilty on Lexington County charges had he known that several of the less significant indictments were rendered baseless by S.L.E.D.'s drug analysis report. Applicant also alleged his Lexington County guilty pleas were rendered involuntary because Attorney Carrigg's performance was ineffective in failing to advise him on the strategic advantage of asserting venue in Lexington County for the joint plea hearing.

Applicant pursued several allegations of ineffective assistance of counsel related to Attorney Carrigg's performance in advising him on the terms of the joint plea agreement. First, Applicant testified that he entered the joint plea under the purported pretense that he was facing a ten year prison sentence; thus, he now asserts that he would not have entered the joint plea had he known that he was looking at a twenty year aggregate sentence. Last, Applicant alleged Attorney Carrigg's performance was ineffective for failing to file a post-plea motion for reconsideration and to file a notice of appeal on Applicant's behalf. It was Applicant's opinion that Judge Early comments at the guilty plea hearing showed that Attorney Carrigg's performance was ineffective in presenting a mitigation theory that Applicant produced, transported, etc., the narcotics to support his personal addiction. Applicant testified that he desired Attorney Carrigg file a motion for reconsideration of sentence to remedy the matter.

Additionally, Applicant testified that he was arrested on February 24, 2010 as a result of a traffic stop. Applicant stated that he made bond in January 2011. Applicant stated he hired an attorney out of Augusta. Applicant stated he then appeared in court with Mr. Lyons as an associate of Hawks Law firm in Augusta, Georgia. Applicant stated he was up for trial a week

before September 1st guilty plea. Applicant stated that he did not discuss arrest warrants or indictments with Attorney Lyons. Applicant clarified and stated that he barely went over the arrest warrants. Applicant stated that some of his charges fell under the "old law." Applicant stated that he pled guilty to pseudoephedrine less than 28 grams. Applicant explained that he was originally charged with possession of pseudoephedrine less than 9 grams.

Applicant stated the charges stemmed from a traffic stop. Applicant stated that he never saw any of the pseudoephedrine. Applicant stated that he had two other people with him in the car. Specifically, Applicant stated John Hicks and Benji Young were both with him in the car at the time of the stop. Applicant stated he made Attorney Lyons aware of all this information prior to his plea. Applicant stated that he never thought to ask about the pseudoephedrine.

Applicant stated Attorney Lyons never secured a plea offer. Applicant opined that Attorney Lyons was not prepared for trial. Applicant stated he wanted ten year offer and State wanted twenty year offer. Applicant stated his family wrote all letters.

Additionally, Applicant stated Attorney Routzong represented him on charges as a result of a search of the residence he was living in. Specifically, Applicant stated he woke up to a knock on the door. Applicant stated the police detained him and other occupants while they searched the house. Applicant stated he never saw a drug report or search warrant. Applicant stated he and Attorney Routzong discussed filing a motion to suppress but that it would require them to push forward with trial. Applicant stated that he was facing the possibility of life without parole. Applicant opined that the search of his residence was illegal. Applicant recalled waiving presentment on each indictment. Applicant felt there was some issue with the ½ mile of school zone charge.

Attorney Carrigg's testimony

Attorney Carrigg testified at the PCR hearing to the course of his conduct during the representation. Attorney Carrigg outlined his over two decades of experience in practicing criminal defense law. Attorney Carrigg explained the circumstances surrounding getting retained on Applicant's case, which was initially limited to just the bond hearing. Attorney Carrigg met with Applicant and discussed the case during the initial stages of the representation. In April, Attorney Carrigg also provided Applicant physical copies of the State's initial discovery disclosures. He recalled that they reviewed the incident report, among other things. Upon Attorney Carrigg's initial evaluation of the State's evidence, he discovered a possible suppression defense based upon the relationship between probable cause determination and the ownership of vehicle. Attorney Carrigg also testified that several different solicitor's prosecuted Applicant's Lexington County charges during the short course of the representation. Upon PCR counsel's questioning on one of the numerous S.L.E.D. analysis reports, Attorney Carrigg testified that the State never provided him the report in question. The report revealed that certain pills found in Applicant's possession that appeared to be illegal narcotics in fact lacked the chemical compositions of any scheduled drugs.

Attorney Carrigg testified that Applicant disappeared soon into his representation. Attorney Carrigg outlined his general practice in obtaining contact information from a client at the outset of a case. Attorney Carrigg's attempts to locate Applicant, based upon the thorough information provided by Applicant, proved futile. Next, Attorney Carrigg contacted Applicant's former girlfriend and his family. His additional efforts only yielded him an address. Attorney

Carrigg penned correspondence to Applicant and he testified that he desired to be relieved because Applicant's conduct severely hampered his ability to provide meaningful representation.

Applicant's Aiken attorneys, not Applicant, notified Attorney Carrigg that the Aiken County police had arrested Applicant for a third set of serious methamphetamine related charges that stemmed from a new incident. Similar to testimonies from both Aiken attorneys, the State's evidence of overwhelming guilt was substantially certain on each set of the Aikens charges, it became apparent to all that a joint plea agreement, that shielded Applicant from a presumptive aggregate life sentence on all three future dispositions, was in Applicant's best interests. Attorney Carrigg outlined his communications with the Aiken Attorneys and Lexington County Solicitor in a chronological manner. Attorney Carrigg communicated with Applicant in September then further discussed the case with him on the day of the joint plea hearing. Attorney Carrigg testified with certainty that Applicant's decision to accept the joint plea agreement was made after he fully discussed the strengths and weaknesses of the State's Lexington County case, the terms of the plea agreement, the benefits/detriments to Applicant's exposure for incarceration, among other things. Attorney Carrigg advised Applicant that joint plea agreement included concurrent service on all convictions that exposed him to a maximum thirty years imprisonment. A maximum ten year term was never part of the negotiations. Furthermore, Attorney Carrigg disagreed with Applicant's post hoc assessment of the mitigation strategy; thus, he testified that Applicant's opinion of Judge Early's comments was unfounded.

Attorney Lyons' testimony

Attorney Lyons testified that Applicant was a difficult client and continually "ran around." Attorney Lyons stated Applicant was difficult to contact. Attorney Lyons clarified and

stated that he did not have a personal problem with Applicant; simply put Applicant was missing in action throughout most, if not all, of his representation. Attorney Lyons stated he reviewed discovery with Applicant prior to his plea. Attorney Lyons stated he reviewed the drug Analysis with Applicant. Attorney Lyons recalled Applicant pointing out weight, but that Applicant was charged with possession with intent to distribute. Attorney Lyons stated that he was going to plea Applicant to a trafficking charge. Attorney Lyons noted that he had a favorable plea deal worked out for Applicant prior to him picking up additional charges in Aiken County.

Attorney Lyons stated that the problem in his case was that Applicant was the only person to "run" from the scene when the police arrived. Attorney Lyons stated at no point in time did he tell Applicant that he could not have a trial. Attorney Lyons stated the State wanted at least a twenty year sentence and Applicant was aware of this fact. Attorney Lyons stated at the time of plea, Applicant knew of the evidence against him and "it was a done deal."

Attorney Lyons stated Applicant wanted a change of venue to Lexington County. Attorney Lyons stated he did not know how the Lexington County Solicitor felt about the case, but he knew the Aiken County Solicitor was very upset about the methamphetamine being cooked in front of his child.

Attorney Lyons stated Judge Early does not put much stock into defense counsel's arguing their defense to charges that were being dismissed. Attorney Lyons recalled advising Applicant of his right to appeal the guilty plea. Attorney Lyons stated he knew Judge Early would not reconsider the sentence. Attorney Lyons stated Applicant was potentially facing Life Without Parole had he not pled guilty to all charges at one time. Attorney Lyons explained that

all three charges could have been tried separately and would have given Applicant "three strikes."

Attorney Routzong's testimony

Following Attorney Lyons testimony, Attorney Routzong was called to testify by the State. Attorney Routzong stated he was appointed sometime after June 11th. Attorney Routzong stated that he met with defendant less than five times. Attorney Routzong testified that he filed Rule 5 and Brady motions. Attorney Routzong stated he received and reviewed discovery with Applicant prior to his plea. Attorney Routzong stated that he would have reviewed the drug analysis with Applicant prior to his plea.

Attorney Routzong stated that he attempted to try and get a "global resolution" regarding Applicant's three pending charges. Attorney Routzong stated that he explained to Applicant that he could proceed to trial if he wanted a trial. Attorney Routzong stated that he addressed the potential threat of a life without parole sentence if the solicitors in Aiken and Lexington tried him separately on all three charges. Attorney Routzong stated that each of the three separate incidents had charges that amounted to a "strike" under our current law. Attorney Routzong stated Applicant could have potentially received three strikes based off of all his charges had he not pled guilty to all three separate charge on the same day. Attorney Routzong stated there was a letter written for mitigation. Attorney Routzong stated the letter was very well written. Attorney Routzong stated that he was very careful to tailor his arguments to Judge Early.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to

observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

As a matter of general global impression, this Court finds that the credible evidence and testimony dispositive shows Applicant, as an experienced and knowledgeable participant in General Sessions Court, made a knowing, intelligent, voluntary decision to enter the joint plea agreement on three (3) distinct sets of charges that he accrued during a brief period of his continued brazen involvement with substantial narcotics crime. This Court finds that had Applicant proceeded to separate trials on each set of his charges, he faced the likely probability of receiving a presumption life sentence based upon the aggravating circumstances at issue. Moreover, Applicant entirely failed to present any legitimate justification for this Court to accept his contrary post hoc representations and depart from statements made by his attorneys, the Aiken County Solicitor, and Judge Early at the plea hearing.

As a matter of general impression on Applicant's action against just Attorney Carrigg's performance, this Court finds Applicant's contention that his guilty plea on the Lexington County charges was rendered involuntary as a result of ineffective assistance of counsel at issue to be wholly incredible. In contrast, this Court finds Attorney Carrigg's testimony convincing and his representation to be sound. Although Applicant made several prima facie showings of uncertain defects in the State's case that Attorney Carrigg may have exploited had the Lexington County Solicitor's Office proceeded to trial, Applicant fell well short of meeting his burden to prove Strickland's deficiency prong. Furthermore, this Court finds lacks substantial standing in this forum, where his conduct served to undermine Attorney Carrigg's ability to provide

effective representation by absconding and by picking up a new, third, set of serious narcotics charges. Last, Applicant failed to meet his most basic burden on Strickland's prejudice prong that: (1) Attorney Carrigg's purported deficient advice on the terms of the plea agreement in conjunction with the attendant consequences of pleading guilty that would have reasonably resulted in his rejection of the plea offer in favor of dire sentencing exposure in three separate dispositions; (2) production of relevant and material evidence at the PCR hearing to prove the merits of the post-hoc suppression argument concerning the admissibility of the narcotics evidence on Lexington County charges. Ultimately, any possible prejudice on this PCR action is fatally negated by the Applicant's valid Aiken County convictions for equally serious offenses that he is serving concurrently to his Lexington County sentences.

INEFFECTIVE ASSISTANCE OF COUNSEL

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must

overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985). After careful review based on the standard discussed above, the Applicant has failed to carry his burden in this action.

Ineffective Assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to prepare with Applicant by going over the discovery materials and conducting an independent investigation of the case, specifically matters related to the search and subsequent relinquishment of Dempsey Sanders' vehicle and handling of the drug evidence and analysis conducted by SLED.

This Court finds this allegation to be without merit. A PCR applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). Criminal defense attorneys have a duty to undertake a reasonable investigation, which at a minimum includes interviewing potential witnesses and

making an independent investigation of the facts and circumstances of the case.” Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011) (internal citations omitted). The allegation rests entirely on speculation. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998) (“failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result”).

For reasons stated in the companion Aiken County Order where Applicant had competent representation in making his knowing, intelligent, and voluntary decision to enter the joint plea, this Court finds this allegation to be without merit. This Court finds Attorney Carrigg’s testimony more credible than Applicant’s testimony. First, Applicant lacks the footing to challenge counsel’s performance for failure to investigate suppression defenses in conjunction with investigating State’s evidence when Applicant absconded and failed to cooperate with his attorney. See U.S. v. Pellerito, 878 F.2d 1535, 1543 (1st Cir. 1989) (“If counsel was ineffective in any sense, it was only because the client rendered him so, first by keeping Noriega in the dark, and then, by refusing to heed his advice. That is not the sort of “ineffectiveness” for which relief can be granted).

Second, Applicant failed to produce sufficient evidence to remove the underlying allegation from the realm of speculation. Notably missing in Applicant’s case-in-chief was testimony or other credible evidence from the arresting officers concerning the search warrant procedure. Contrast Kolle v. State, 386 S.C. 578, 590-91, 690 S.E.2d 73, 79-80 (2010) (“Initially, [the Court] agree with the PCR judge’s decision that plea counsel was deficient in failing to procure pertinent discovery materials, in particular the call/dispatch logs and the search

warrant. If plea counsel had these materials, he could have effectively cross-examined the officers at the suppression hearing and pointed out the time discrepancies").⁵

Third and most compelling, this Court rejects this allegation, and the entire Application for reasons stated in the companion Aiken County Order where Applicant had competent representation in making his knowing, intelligent, and voluntary decision to enter the joint plea. See Dennis Sanders v. State, C.A. No. 2012-CP-02-01278, Order of Dismissal, pp.14-17; p.18 (citing Franklin v. Catoe, 346 S.C. 563, 570 n. 3, 552 S.E.2d 718, 722 n. 3 (2001) (finding overwhelming evidence of guilt negated any claim that counsel's deficient performance could have reasonably affected the result of defendant's trial)). Even if there were potentially serious defects in the State's Lexington County case against Applicant. Applicant still failed to provide any credible evidence to support his allegation. Simply, the global structure of the favorable plea agreement all but negated the prospect of prejudice on this case. Judge Early made the critical determination that the Petitioner knowingly and voluntarily pled guilty; consequently, Applicant's plea constituted a waiver of non-jurisdictional defects and defenses, including challenges to the sufficiency of the evidence. See Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981); Rivers v. Strickland, 264 S.C. 121, 213 S.E.2d 97 (1975). Dispositively, Applicant has produced no credible evidence that would now exempt Applicant from the presumption of truthfulness in his representations at the plea. Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367, 371 (1997) ("A statement that questions are "routine" is not an invitation to answer them

⁵ Further contrasted from Applicant's case, the PCR Judge in the Kolle petitioner's case evaluated the evidence presented in support of the PCR action in conjunction with the transcript of a prior suppression hearing. Here, Applicant pled guilty well before he had the opportunity to contest the admissibility of the narcotics at a suppression hearing. In comparison to Kolle, Applicant's burden to produce credible and compelling evidence is even more heightened here. Thus, the evidentiary import of Applicant's vast majority of exhibits lacked evidentiary import without relevant testimony from the necessary source witnesses. Thus, this Court notes that Applicant case-in-chief established significant noise without meaningful substance.

untruthfully, nor does it constitute a reason to believe the questions and statements of the judge during a guilty plea proceeding mean nothing"). Therefore, this allegation is readily denied and dismissed with prejudice.

Ineffective Assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to discuss the waiver of venue and plea offer with Applicant prior to the day of the joint plea in Aiken County.

This Court finds this allegation to be facially without merit. The fact that the Applicant desired a change of venue is entirely without legal justification. Applicant testified that the Aiken County Solicitor aggressively prosecuted her cases because Applicant's third arrest involved child endangerment. Because a change of venue does equate to the removal of a particular prosecutor, this allegation is entirely without merit. Where further discussion is unnecessary, this allegation is readily denied and dismissed with prejudice.

Ineffective Assistance of plea counsel that resulted in an involuntary guilty plea due to counsel's failure to advise that Applicant that he was being charged and would be required to plea to a trafficking charge and that he would not be eligible for parole under the joint plea agreement.

This allegation is summarily without merit. See Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983) (Parole eligibility has been held to be a collateral consequence of sentencing of which a defendant need not be specifically advised before entering a guilty plea); Smith v. State, 329 S.C. 280, 283, 494 S.E.2d 626, 628 (1997). Alternatively, for reasons previously announced in this Order, the companion order, and that are manifestly obvious in the record, this allegation is summarily denied and dismissed with prejudice.

Prosecutorial misconduct for failing to disclose a SLED report that determined that the butterfly tablets seized from the vehicle were not illegal narcotics.

This Court finds that Applicant failed to meet his burden in proving that the non-disclosure of the SLED report was material, or that it was relevant to Applicant's decision to enter the joint plea agreement. Furthermore, Applicant has failed to show that the SLED report was relevant to Applicant's ability to present a credible case that warranted relief. In considering "prosecutorial misconduct," the United States Supreme Court has stated that prosecutors must "refrain from improper methods calculated to produce a wrongful conviction." Berger v. United States, 295 U.S. 78, 88, 55 S.Ct. 629, 79 L.Ed. 1314 (1935). The appropriate standard of review for prosecutorial misconduct is the narrow one of due process and not the broad exercise of supervisory power. See Darden v. Wainwright, 477 U.S. 168, 181, 106 S.Ct. 2464, 91 L.Ed.2d 144 (1986). See also Donnelly v. DeChristoforo, 416 U.S. 637, 642, 94 S.Ct. 1868, 1871, 40 L.Ed.2d 431 (1974) (not every trial error which might call for supervisory power violates fundamental fairness). The Supreme Court has recognized that prosecutorial misconduct may "so infec[t] the trial with unfairness as to make the resulting conviction a denial of due process." Donnelly v. DeChristoforo, 416 U.S. at 643, 94 S.Ct. 1868. A defendant's due process rights are violated when a prosecutor's misconduct renders a trial "fundamentally unfair." Darden v. Wainwright, 477 U.S. at 181, 106 S.Ct. 2464. See also Greer v. Miller, 483 U.S. 756, 765, 107 S.Ct. 3102, 97 L.Ed.2d 618 (1987); Williams v. Stewart, 441 F.3d 1030, 1042 (9th Cir.2006) (citing Donnelly v. DeChristoforo, 416 U.S. at 643, 94 S.Ct. 1868 as articulating standard for prosecutorial misconduct).

This Court finds Attorney Carrigg's testimony on the matter to be credible. The fact that Lexington County Solicitor gave her case file to Attorney Carrigg before the plea hearing in Aiken evidenced his strong professional relationship with the Lexington County Solicitor's

Office. Thus, the evidence before this Court shows that minimal non-disclosure of one of the many SLED Reports occurred absent intentional misconduct on part of the Lexington County Prosecutor. The Report in question concerned the chemical composition of butterfly tablets that were ancillary to the other narcotics seized from the vehicle at the CVS incident. This Court finds that Applicant's testimony that had he known of the potentially exculpatory report concerning the butterfly tablets, then he would have not entered the joint plea, to be incredible and entirely dubious. At best, the non-disclosure constituted ancillary sloppiness, not legitimate evidence to prove prejudice where Applicant's decision to plead guilty centered upon obtaining a joint plea agreement that included concurrent sentencing. For reasons previous announced in this Order, the companion order, and that are manifestly obvious in the record, this allegation is nothing more than a red herring and is readily denied and dismissed with prejudice.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 18 day of Nov., 2015.


 HONORABLE D. CRAIG BROWN
 Presiding Judge
 Second Judicial Circuit

Flowers, South Carolina

FILED
 2015 DEC 16 A 11:16
 BETTIE A. CASHING
 CLERK OF COURT
 LEXINGTON, SC

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2012CP3202136

Dennis F Sanders #245612

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order, (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

1/13/2016

Date

For Clerk of Court Office Use Only

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on January 14, 2016, to attorneys of record or to parties (when appearing pro se) as follows:

Tricia A. Blanchette PO Box 12725 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

Patrick Lowell Schmeckpeper PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg/kpk

Court Reporter

Beth A. Carrigg - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

WITNESSES

Lexington Police Department

Cameron Jay Mortenson

Law Enforcement Case #: 11001558

AHE

ARREST WARRANT NUMBER**I627844**

ACTION OF GRAND JURY

TRUE BILL


Foreperson of Grand Jury

Date: 4/11/11

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011GS3200789**The State of South Carolina****County of Lexington**

COURT OF GENERAL SESSIONS**APRIL TERM 2011**

THE STATE**vs.****Dennis F Sanders**

CDR #: 0452

Indictment for**TRAFFICKING METHAMPHETAMINE
(10-28 GRAMS) -3RD OFFENSE****§ 44-53-0375(C)(1)(c)**

DONALD V. MYERS, SOLICITOR

384
ARREST WARRANT

I-627844

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
LEXINGTONTHE STATE
against

ENNIS F SANDERS

Address:
ELION SC 29123Phone: _____ SSN: _____
Sex: M Race: W Height: 6-2 Weight: 240
State: SC DL#: 9DOB: _____ Agency ORI#: SC0320400Prosecuting Agency: TOWN OF LEXINGTON POLICEProsecuting Officer: DETECTIVE C. MORTENSONOffense: TRAFFICKING METHAMPHETAMINE - 3RDOFFENSE _____ Offense Code: 0452Order/Ordinance Sec. 44-53-0375 (C) (1) (C)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
to be arrested and brought before me to be
all with according to law.

Signature of Judge

(L.S.)

RETURN

Copy of this arrest warrant was delivered to
defendant DENNIS F SANDERS

Signature of Constable/Law Enforcement Officer

TURN WARRANT TO:

JHN RAKOWSKY, MUNICIPAL JUDGE
1 MAIDEN LANE
XINGTON, SC 29072
303) 951-4634

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
LEXINGTON

AFFIDAVIT

Personally appeared before me the affiant DETECTIVE C. MORTENSON
being duly sworn deposes and says that defendant DENNIS F. SANDERS
did within this county and state on _____State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of LEXINGTON
in the following particulars:DESCRIPTION OF OFFENSE: 44-53-0375 (C) (1) (C) / TRAFFICKING
OFFENSEI further state that there is probable cause to believe that the defendant named al
the crime set forth and that probable cause is based on the following facts:THAT DURING THE COURSE OF AN INVESTIGATION ON THE NIGHT OF JANUARY 2
SANDERS, ALONG WITH A CO-DEFENDANT, WERE FOUND TO BE IN POSSESSION
METHAMPHETAMINE THAT WAS PACKAGED IN MULTIPLE CLEAR PLASTIC BAGS ATHE METHAMPHETAMINE WAS FOUND DURING A LAWFUL SEARCH OF THE DEFENDANT
SEARCH WARRANT FOR SAID VEHICLE.THIS INVESTIGATION TOOK PLACE AT 5608 SUNSET BLVD. IN THE LEXINGTON AREA
CAROLINA.

SAID OFFENSE IS WITHOUT LEGAL JUSTIFICATION OR EXCUSE.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
LEXINGTONAffiant's Address MAIDEN
LEXINGTON

Affiant's Telephone _____

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY C

It appearing from the above affidavit that there are reasonable grounds to be
on _____ defendant DENNIS F SANDERS

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

☐ County/ ☒ Municipality of LEXINGTON) as set fDESCRIPTION OF OFFENSE: DRUGS / TRAFFICKING IN METH OR COCAINE
BUT LESS THAN 28 G - 3RD OR SUB. OFFENSE (FEL., 25Y TOHaving found probable cause and the above affiant having sworn before me, you are empow
defendant and bring him or her before me forthwith to be dealt with according to the law. A
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 1-25-11

Signature of Issuing Judge _____ (L.S.)

Judge Code: 5058Judge's Address 521 G

Judge's Telephone _____

Issuing Court: Magist

ORIGINAL

BAIL set by

ge

e and Amc

ne of Surety:

8B

PRELIMINARY HEARING held by

ge

ense Attorney:

ision:

DISPOSITION before

dge

(indicate jury trial, bench trial, plea, nol: pros., etc.)

sposition:

ntence:

JURORS

WITNESSES

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

CODEFENDANTS

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

STATE

vs.

Dennis F Sanders,

Defendant.

IN THE COURT OF GENERAL SESSIONS

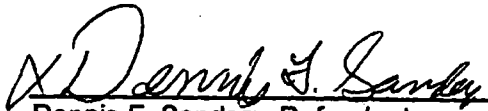
WAIVER OF VENUE AND JURISDICTION

Indictment 2011-GS-32-00789

I have been advised that I have the legal right to have my cases heard and tried in Lexington County, South Carolina, and I understand this right. But, I give up and waive this right.

I want to plead guilty in Aiken County, South Carolina. This is my decision, and I know what I am doing. I have been advised, and I know, that I cannot be forced or made to plead guilty in Aiken County. I am the only person who can make this decision.

It is my decision, and I ask the Judge to let me plead guilty in Aiken County. I do not want to be tried or plead guilty in Lexington County. This is my decision and my choice, and I understand what I am doing.


Dennis F. Sanders, Defendant

Witness:


Attorney for Defendant

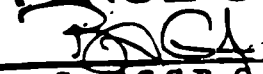
Date: September 1, 2011

STATE OF SOUTH CAROLINA	)	INDICTMENT FOR
	)	TRAFFICKING METHAMPHETAMINE (10-28
COUNTY OF LEXINGTON	)	GRAMS) -3RD OFFENSE
	)	
		§ 44-53-0375(C)(1)(c)

At a Court of General Sessions, convened on APRIL 2011, the Grand Jurors of Lexington County present upon their oath:

That **Dennis F Sanders** did in Lexington County on or about January 24, 2011, knowingly and intentionally, willfully and unlawfully sell, cultivate, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise, aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or was knowingly and intentionally in actual or constructive possession of or did knowingly and intentionally attempt to become in actual or constructive possession of Methamphetamine, a controlled substance under provisions of § 44-53-110, et. Seq. Code of Laws of South Carolina 1976, as amended, in a quantity of ten (10) grams or more but less than 28 grams, in violation of § 44-53-375 (C)(1)(c), Code of Laws of South Carolina, 1976, as amended. Such being the third of subsequent offense.

A TRUE COPY


Lex. Co. C.C.C.P., G.S. & F.C.

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


ASSISTANT SOLICITOR

388

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
 STATE VS.
Dennis F Sanders

AKA: _____
 Race: _____ Sex: M Age: 39

DOB: _____ SS#: _____

Address: Fox Trot Trl

City, State, Zip: Pelion, SC 29123-9742

DL#: _____ SID#: _____

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒

In disposition of the said indictment comes now the Defendant who was

TO: Drugs / Trafficking in meth. or cocaine base - 10 g or more, but less than 28 g - 2nd offense

in violation of § 44-53-0375(C)(1)(b) of the S.C. Code of Laws, bearing CDR Code # 0451

☐ 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. D.F.S. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Elizabeth B. Young 13947 Solicitor Dennis F Sanders 15239 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 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 § 17-25-125.
 Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-23-20, 16-23-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

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

Clerk of Court/ Deputy Clerk _____

Court Reporter: Chen Young

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS3200789

A/W#: 1627844

Date of Offense: 1/24 /2011

S.C. Code § : 44-53-0375(C)(1)(c)

CDR Code #: 0452

SENTENCE SHEET 5-30 years
\$50,000

☐ CONVICTED OF or ☒ PLEADS

A TRUE COPY

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge T. B. Carter

Judge Code: 0136

Sentence Date: Sept 1, 2011