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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELY COUNTY
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Case No.: 2013-CP-08-2002

The State..... Respondent,

v.

Jami Renee Morse..... Appellant.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)
THE STATE,)
v.)
JAMIE RENEE MORSE,)
Defendant.)

IN THE GOOSE CREEK MAGISTRATES
COURT FOR THE COUNTY OF BERKELEY

TICKET NO.: G284243
DRIVING UNDER THE INFLUENCE

ORDER GRANTING DEFENDANT'S
MOTION FOR DIRECTED VERDICT

DATE OF HEARING:
PRESIDING JUDGE:
PROSECUTING ATTORNEY:
DEFENDANT'S ATTORNEY:
CLERK OF COURT:

AUGUST 6, 2013
EDWARD L. SESSIONS
NONE APPEARED
MILTON D. STRATOS
CONNIE

This matter came before me on the 6th day of August, 2013 for trial on the charge of Driving Under the Influence 1st Offense. The record reflects that the Defendant was arrested on May 7, 2013 and received notice at that time that a trial was scheduled for July 3, 2013 and that her failure to appear would result in her being tried in her absence. Prior to the initial hearing, the Defendant, by and through her attorney, served notice on the court that she was requesting a trial by jury. A pre-trial hearing was heard on June 18, 2013 and Trooper C. Towns appeared on behalf of the State and attorney Milton D. Stratos appeared on behalf of the Defendant. On June 21, 2013 a jury trial date in this matter was confirmed and noticed of the trial to be heard on August 6, 2013 was served on all parties. The court notes that the State filed no request to continue and no one appeared on behalf of the State at the call of this case.

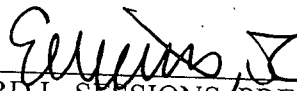
The court finds that South Carolina Highway Patrol Trooper C. Towns was notified of the jury trial date and did not contact the court and/or file any motion to continue prior to the case being called to trial. In that neither Trooper Towns nor any other agent of the South Carolina Highway Patrol appeared at the trial, the State failed to produce any evidence supporting any element of the offense of Driving Under the Influence. The Defendant then made a Motion for Directed Verdict based on the fact that no evidence was presented against the Defendant from which the court could find the Defendant guilty of Driving Under the Influence.

Based on the failure of the State to present any evidence from which this court could find

the Defendant guilty as charged, the court had no alternative other than to grant the Defendant's Motion for Directed Verdict. Wherefore, it is hereby:

ORDERED, ADJUDGED AND DECREED that the Defendant's Motion for Directed Verdict is hereby granted and the court enters a verdict of not guilty against the Defendant.

AND IT IS SO ORDERED on this the 13 day of August, 2013, in Goose Creek, South Carolina.



EDWARD L. SESSIONS, PRESIDING JUDGE,
GOOSE CREEK MAGISTRATE'S COURT,
COUNTY OF BERKELEY

FILED

AUG 13 2013

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

State of South Carolina,

Appellant,

vs.

Jami Renee Morse,

Respondent.

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

C/A # 2013-CP-08-2002

ORDER

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, SC

2013 DEC 11 AM 9:39

FILED

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This matter came before the Court on October 21, 2013, and again on October 24, 2013, pursuant to an appeal from the magistrate's court filed by the State of South Carolina. Appearing on behalf of the Appellant was Catherine Fant, Assistant General Counsel with the South Carolina Department of Public Safety. Milton D. Stratos appeared as attorney for Respondent.

Facts/Procedural History

On May 7, 2013, Respondent Jami Renee Morse was arrested by Trooper C. K. Towns of the South Carolina Highway Patrol for Driving Under the Influence and Leaving the Scene of an Accident Resulting in Personal Injury. The matter initially was scheduled for a bench trial on June 13, 2013; however, at Respondent's request the case was rescheduled for a jury trial set by the court on Tuesday, August 6th at 1:30 p.m. In the interim, on June 21st, the Highway Patrol placed Trooper Towns on indefinite leave. Although the case was scheduled for a jury trial, the magistrate called the case in the absence of a jury panel. Trooper Towns remained on leave and was not present. Thereafter, Respondent's attorney moved for a directed verdict, arguing the State "failed

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to produce any evidence from which the jury could find [his] client guilty." The magistrate orally granted the motion and directed a verdict of not guilty. On August 12, 2013, Respondent's attorney faxed a proposed order to the court without sending a copy of the proposed order to the State. Thereafter the magistrate signed the order as written and provided a copy to the State on August 13, 2013. This appeal followed.

Conclusions of Law

The State argues the lower court erred by 1) calling the case before the appointed time, 2) directing a verdict of not guilty, and 3) proceeding in the absence of Trooper Towns, the prosecuting authority. I agree that a directed verdict was improper because the State did not consent to trying the case without a jury.

At Respondent's request, this case was set for a jury trial. It appears, however, that on the day previously set for trial there was no jury venire present and thus no jury was selected and sworn. The State is entitled to notice of, and indeed must consent to, a defendant's decision to waive his or her right to a jury trial. State v. Hanson, 285 S.C. 543, 544, 331 S.E.2d 782, 782 (1985) ("A defendant's waiver of a jury trial is conditioned upon the consent of the prosecutor and the trial judge."); State v. Shuck, 278 S.C. 441, 298 S.E.2d 95 (1982) (stating a defendant in a non-capital criminal case may waive right to jury trial with the consent of the prosecuting attorney and trial judge); State v. Senter, 396 S.C. 547, 722 S.E.2d 233 (Ct. App. 2011) (affirming the conditioning of defendant's jury trial waiver upon consent of prosecutor and trial judge); Rule 14(b), S.C.R.Crim.P. ("A defendant may waive his right to a jury trial only with the approval of the solicitor and the trial judge."). Here, there is no evidence in the record that the State received notice of any purported jury trial waiver or assented to the court conducting a

Knd/2

bench trial. Thus, the magistrate erred in proceeding with a bench trial in the State's absence and directing a verdict of not guilty.

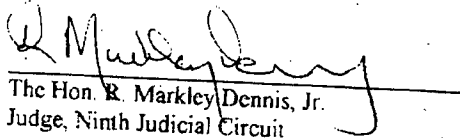
Respondent asserts the appeal is untimely and otherwise barred because the State failed to preserve any issue for review. Specifically, Respondent first claims the State did not file a notice of appeal in accordance with Magistrates Court Rule 16(b). This argument is futile as the South Carolina Rules of Magistrates Court by definition apply only to civil cases and I find the appeal was timely filed. Further, Respondent's citation to State v. Lippard, 2011-MO-003 (Ct. App. 2011), for the proposition that the State failed to preserve its appeal is similarly unavailing. Lippard, an unpublished opinion, is factually distinct. There, the Court of Appeals affirmed a magistrate's directed verdict in a bench trial on preservation grounds where the State, represented by the prosecuting trooper, did not object. Because Lippard did not involve either the absence of the State or a jury, it is not applicable in this instance.

Here, the magistrate erred as a matter of law in directing a verdict of not guilty prior to swearing a jury for trial. Because I find the magistrate court erred in granting a directed verdict, it is not necessary to address the State's remaining grounds for appeal and they are hereby denied.

RWD/3

IT IS THEREFORE ORDERED that the ruling below is reversed and the case is
remanded for a new trial.

IT IS SO ORDERED.


The Hon. R. Markley Dennis, Jr.
Judge, Ninth Judicial Circuit

This 9th day of December, 2013

Moncks Corner, South Carolina

RMD/4

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY
STATE OF SOUTH CAROLINA,

Appellant,

vs.

JAMI RENEE MORSE,

Respondent.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C/A # 2013-CP-08-_____

NOTICE OF APPEAL
AND APPEAL

NOTICE OF APPEAL
AND APPEAL

TO: The Honorable Edward L. Sessions, Berkeley County Magistrate Judge,
and Milton D. Stratos, Counsel for Respondent Jami Renee Morse

The State of South Carolina, by and through the undersigned counsel, hereby gives notice of its appeal and appeals from an order of the Hon. Edward L. Sessions issued August 13, 2013 and directing a verdict of not guilty in the above-referenced case.

The State received a copy of said order on August 13, 2013.

On May 7, 2013, Trooper C. K. Towns of the South Carolina Highway Patrol cited the Defendant for Driving Under the Influence in violation of S.C. Code § 56-5-2930 (Supp. 2012). (The Defendant was also ticketed for leaving the scene of an accident with injury and that charge is presently pending in general sessions court.) The matter initially was scheduled for a bench trial on June 13, 2013; however, at the

Defendant's request the case was rescheduled for a jury trial and set by the court on Tuesday, August 6th at 1:30 p.m. In the interim, on June 21st, the Highway Patrol placed Trooper Towns on indefinite leave without pay. Subsequent to this action, Trooper Towns notified the court that he was on leave and did not know when he would be returning to duty. Thereafter, on July 23, 2013, SCHP FSgt. Kyle Welch confirmed Trooper Towns' unavailability on the August 6th date in an e-mail to court clerk Connie Mills, wherein he attached a trooper work schedule indicating Towns' leave without pay ("LWOP") status for the week beginning August 4, 2013. In addition, on the morning of August 6, 2013, Cpl. Earl D. McAbee was present and informed the court that Trooper Towns remained on leave without pay and would not be available for trial.

On the afternoon of August 6th, the hit-and-run victim and his grandmother appeared at the magistrate's office approximately twenty minutes prior to the time for which they had been summoned - 1:30 p.m. On arrival they observed a sign on the door stating that all jurors had been dismissed for the day. An attorney in passing informed the family that the jurors were let go because the day's cases had "settled." Despite multiple notifications that Trooper Towns remained on leave, the court proceeded to call the case at 1:10:56 p.m. in the trooper's absence. No jury was sworn. Instead, the Defendant's attorney moved for a directed verdict, arguing the State "failed to produce any evidence from which the jury could find [his] client guilty." At 1:11:47 p.m., the court orally granted the motion.

Thereafter, on August 12, 2013, in an ex parte communication with the court, the Defendant's attorney faxed a proposed order for the judge's signature. No copy was provided to the Highway Patrol and it appears the judge signed the order as written by the

Defendant's attorney on August 13th. Because the order was submitted and signed without affording all parties an opportunity for review, the order contains purported factual findings that are vigorously disputed by the State. This appeal followed.

The State's appeal is based on the fact that the magistrate judge erred as a matter of law in directing a verdict of not guilty in this case for the reasons set forth below.

First, the trial judge erred in conducting any proceedings in the State's absence because the time for which the State had been summoned to appear for trial had not yet passed when the case was called. As noted above, the State was summoned to appear for trial on August 6, 2013 at 1:30 p.m. However, the recorded hearing on the Defendant's directed verdict motion indicates the motion was heard at 1:10 p.m. and granted by the court at 1:11 p.m., well before the scheduled time for trial. Although the court's order states that "neither Trooper Towns nor any other agent of the South Carolina Highway Patrol appeared at the 'trial,'" the State contends such a finding was impossible to make as the trial was not scheduled to begin until 1:30 p.m. at the earliest. It is axiomatic that a case should not be called for trial prior to the time which has been set by the court. To do so is the functional equivalent of giving no notice at all and proceedings without notice cannot stand. See State v. Jackson, 290 S.C. 435, 351 S.E.2d 167 (1986); Brewer v. South Carolina State H'way Dep't, 261 S.C. 52, 198 S.E.2d 256 (1973); State v. Fairey, 374 S.C. 92, 646 S.E.2d 445 (Ct. App. 2007).

Second, the magistrate judge erred in entering a "directed verdict" of "not guilty" because no evidence was presented to the court. A motion for directed verdict in a criminal case is properly made *after* the presentation of evidence. See Rule 19(a), S.C.R.Crim.P. ("On motion of the defendant or on its own motion, the court shall direct a

verdict in the defendant's favor on any offense charged . . . after the evidence on either side is closed . . ."); State v. Rainwater, 376 S.C. 256, 257 n.1, 657 S.E.2d 449, 449 n.1 (2008) ("It would be improper for the magistrate to grant a 'directed verdict' based on the insufficiency of the evidence when no evidence had yet been presented."). Here, no evidence was received because the State was not present; hence, there were no facts from which a "verdict" in the defendant's favor could be deduced. Accordingly, the trial court erred as a matter of law in granting a directed verdict.

Finally, even if the magistrate's order is construed as dismissing the case for lack of prosecution, see Rainwater, 376 S.C. at 257 n.1, 657 S.E.2d at 449 n.1 (interpreting magistrate's order as dismissal despite fact that both the oral pronouncement from the bench and the written return stated the magistrate was granting a directed verdict), the court's ruling is clearly erroneous. In the absence of an applicable statute granting such authority, a judge has no power to dismiss a criminal case prior to trial except at the behest of the prosecuting agent. See Ex Parte Brittan, 263 S.C. 363, 366, 210 S.E.2d 600, 601 (1974) ("A statute may authorize the court . . . to order an indictment or prosecution dismissed. But in the absence of such a statute . . . a court has no power . . . to dismiss a criminal prosecution except at the instance of the prosecutor. . .") (quoting 21 Am. Jur.2d Criminal Law § 517 (1965)); State v. Needs, 333 S.C. 134, 146, 508 S.E.2d 857, 863 (1998) ("[A] trial court generally has no power to dismiss a properly drawn indictment issued by a properly constituted grand jury before trial unless a statute grants that power to the court."); State v. Ridge, 269 S.C. 61, 236 S.E.2d 401 (1977) (same).

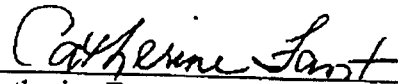
In Brittian, in deciding whether the failure of the State to proceed with a criminal prosecution at the scheduled time warranted a dismissal, our supreme court cited the court's lack of power to do so and reversed. In so doing, the court cited with approval an Illinois case wherein misdemeanor charges were dismissed for lack of prosecution. In that case, People v. Guido, 297 N.E.2d 18 (1973), it was held that a trial court in a criminal case "did not have the authority to dismiss a case on the ground that the State had failed to appear," basing its decision in part on the fact that "the State represents the people and th[at] considerations of public safety and welfare are involved." Brittian, 263 S.C. at 367, 210 S.E.2d at 601; see also Guido, 297 S.E.2d at 19 ("The court on its own motion, or on the motion of the defendant, has no power before trial, in the absence of a statute, to dismiss criminal charges . . . since this power rests initially and primarily with the prosecuting officer."). There is no statute in this state granting courts the power to dismiss criminal prosecutions prior to trial. Accordingly, the magistrate erred as a matter of law in disposing of the case of his own accord.

CONCLUSION

For the reasons stated above, the magistrate judge erred as a matter of law in directing a verdict of not guilty in the Defendant's favor or otherwise dismissing this case. In addition, the interests of justice dictate that the case be restored and scheduled for trial. Not only is the charge of driving under the influence a serious offense against society, in this particular instance the interests of a seriously injured victim were inappropriately disregarded in the process.

WHEREFORE, the State respectfully requests that this Honorable Court reverse the decision of the magistrate, and remand this case to the lower court for trial and for such other relief as the Court deems just and proper under the circumstances.

Respectfully submitted,



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Attorney for Appellant

This 5th day of September, 2013

Blythewood, South Carolina

OTHER COUNSEL OF RECORD:

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Telephone: (843) 216-7739

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA

Plaintiff(s)

vs.

JAMI RENEE MORSE

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2013-CP - 08-_____

(Please Print)

Submitted By: Catherine Fant, Esq.
Address: Office of General Counsel
S.C. DEP'T OF PUBLIC SAFETY
POST OFFICE BOX 1993
BLYTHEWOOD, SC 29016

SC Bar #: 14021
Telephone #: 803. 896. 7965
Fax #: 803. 896. 7967
Other:
E-mail: CatherineFant@scdps.gov

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| <ul style="list-style-type: none"> <input type="checkbox"/> Contracts <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> Employment (120) <input type="checkbox"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Other (199) | <ul style="list-style-type: none"> <input type="checkbox"/> Torts - Professional Malpractice <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) Previous Notice of Intent Case #
20__-CP-_____ <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) | <ul style="list-style-type: none"> <input type="checkbox"/> Torts - Personal Injury <input type="checkbox"/> Assault/Slander/Label (300) <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Wrongful Death (360) <input type="checkbox"/> Other (399) | <ul style="list-style-type: none"> <input type="checkbox"/> Real Property <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input type="checkbox"/> Other (499) |
| <ul style="list-style-type: none"> <input type="checkbox"/> Inmate Petitions <input type="checkbox"/> PCR (500) <input type="checkbox"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) | <ul style="list-style-type: none"> <input type="checkbox"/> Judgments/Settlements <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760) <input type="checkbox"/> Other (799) | <ul style="list-style-type: none"> <input type="checkbox"/> Administrative Law/Relief <input type="checkbox"/> Reinstate Driver's License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture-Petition (840) <input type="checkbox"/> Forfeiture-Consent Order (850) <input type="checkbox"/> Other (899) | <ul style="list-style-type: none"> <input type="checkbox"/> Appeals <input type="checkbox"/> Arbitration (900) <input type="checkbox"/> Magistrate-Civil (910) <input checked="" type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Public Service Commission (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) |
| <ul style="list-style-type: none"> <input type="checkbox"/> Special/Complex /Other <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Other (699) | <ul style="list-style-type: none"> <input type="checkbox"/> Pharmaceuticals (630) <input type="checkbox"/> Unfair Trade Practices (640) <input type="checkbox"/> Out-of State Depositions (650) <input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660) <input type="checkbox"/> Sexual Predator (510) | | |

Submitting Party Signature:

Catherine Fant

Date: September 5, 2013

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

MANDATED ADR COUNTIES ONLY
Allendale, Anderson, Beaufort, Colleton, Florence, Greenville, Hampton, Horry,
Jasper, Lexington, Pickens (Family Court Only), Richland, Union and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

STATE OF SOUTH CAROLINA,
Plaintiff,

vs.

JAMI RENEE MORSE,
Defendant/Respondent.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

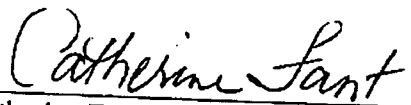
CERTIFICATE OF EXEMPTION
FROM MEDIATION

C/A # 2013-CP-08-_____

I certify that this action is exempt from mediation because:

- This is a special proceeding or action seeking extraordinary relief such as
- X This action is appellate in nature
- This is a post-conviction relief matter
- This is a forfeiture proceeding brought by the State
- This is a contempt of court proceeding; or
- The parties submitted the case to voluntary mediation with a certified mediator

Respectfully Submitted,



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Date: September 5, 2013

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BERKELEY)
)
 STATE OF SOUTH CAROLINA,)
 Appellant,)
 v.)
)
 JAMI RENEE MORSE,)
 Respondent.)
 _____)

IN THE MAGISTRATE'S COURT
 FOR THE COUNTY OF BERKELEY

CASE NO:

RESPONDENT'S REPLY

13 SEP 27 10:36 AM
 MARY P. BROWN
 CLERK OF COURT
 BERKELEY COUNTY, S.C.

FILED

Respondent, by and through the undersigned counsel, hereby responds to the facts and law as set forth in the Appellant's Notice of Appeal and Appeal.

The facts as set forth in the Appeal are inaccurate and contain numerous references to times, dates and dialogue that is not reflected in the transcript of this case. In reference to the factual findings, Respondent would concur with and adopt by reference the facts as set forth in the Magistrate's Return as if rewritten hereinafter verbatim.

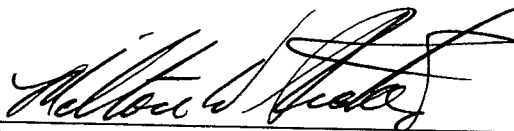
In addition to the facts set forth in the Magistrate's Return, Respondent opines that the State has failed to preserve the issue. The rendition of the facts by all parties leaves but one unanimous conclusion: the State failed to make a contemporaneous objection to the trial court's granting of a directed verdict. Furthermore, the State also failed to file the appropriate motion within the statutory time provided under the South Carolina Magistrate Court Rules, Rule 16(b). Respondent asserts that the failure of the State to make a contemporaneous objection and/or otherwise file notice of appeal pursuant to Rule 16(b) is an error fatal to their cause. No issue for appellate review has been preserved.

In a factually similar case, The State v. Rebecca Lippard, 2011-MO-003 (unpublished opinion dated January 18, 2011), the magistrate granted a directed verdict in favor of the defendant prior to selecting a jury. The State filed an appeal arguing that jeopardy had not attached and, citing State v. Rainwater, 376 S.C. 256, 657 S.E.2d 449 (2008), that the magistrate had committed legal error in granting the directed verdict. In their per curiam opinion, the Court refused to consider the State's arguments as the issue

had not been preserved and reaffirmed that issues not involving subject matter jurisdiction could not be raised for the first time on appeal. In finding that the State failed to provide any record indicating that a contemporaneous objection was made to the entry of a directed verdict and/or to the legal accuracy of the ruling, the Court found that the issue had not been preserved for appeal. In citing a litany of cases, including State v. Harris, 311 SC 162 (Ct. App. 1993), the Court affirmed the maxim that “an issue not raised at trial is waived on appeal.” Hence, the Court had no alternative than to affirm the magistrate’s ruling.

CONCLUSION

Notice of the jury trial scheduled for August 6, 2013 in the State v. Jami Renee Morse was sent to all parties on June 21, 2013. At no time prior to the call of this case for trial did the State contact the magistrate’s court and/or counsel for the Respondent and make a request for continuance and/or otherwise. The matter was called to trial after 1:30 p.m. and no one appeared on behalf of the State. Counsel for Respondent made a Motion for Directed Verdict which was granted by the trial court. The State failed to raise any objection at that time and did not file any post-trial motions. Respondent asserts that the State’s failure to object contemporaneously with the ruling of the trial court is fatal to their cause in this matter as no issue has been properly preserved for appellate review. Alternatively, the State’s failure to file a timely appeal in accordance with SCRCP 16(b) demands dismissal of this motion for appeal.



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STATE OF SOUTH CAROLINA)	
)	COURT OF COMMON PLEAS
COUNTY OF BERKELEY)	
State of South Carolina,)	
)	
Plaintiff,)	
)	
v.)	Case No. 13-CP-10-2002
)	
Jamie Renee Morse,)	
)	
Defendant)	

TRANSCRIPT OF HEARINGS

The within Hearings in the above-captioned matter were held on October 21st, 2013, and October 24th, 2013, before The Honorable R. Markley Dennis, Jr. in Courtroom B of the Berkeley County Courthouse, 300 California Avenue, Moncks Corner, South Carolina; attended by counsel as follows:

APPEARANCES:

Catherine Fant, Esq.
 S.C. DEPARTMENT OF PUBLIC SAFETY
 Appearing for State of South Carolina

Milton D. Stratos, Esq.
 STRATOS LAW FIRM
 1041 Johnnie Dodds Blvd, Ste 14A
 Mount Pleasant, South Carolina 29464
 ...Appearing for Defendant

Deborah Garrison
Circuit Court Reporter – 9th Judicial Circuit
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 Johns Island, South Carolina 29457
dgarrison@sccourts.org

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HEARING OF OCTOBER 21, 2013

3

THE COURT: Next is the State of South
4 Carolina versus Jamie Morse. This is an
5 appeal from magistrate's court. There is a
6 return from Judge Sessions in the file. Is
7 there anyone here?

8

MS. FANT: Yes, sir. My name is
9 Catherine Fant. I am the Assistant General
10 Counsel for the Department of Public Safety.

11

THE COURT: Okay.

12

MS. FANT: Also with me is Corporal
13 Granger from the South Carolina Highway
14 Patrol.

15

THE COURT: Mr. Stratos is the attorney
16 for the defendant?

17

MS. FANT: Yes, sir.

18

19 he is.

20

(MILTON STRATOS ENTERS COURTROOM)

21

MR. STRATOS: I was in the other court-
22 room, Judge. I'm sorry.

23

THE COURT: That's all right. I have
24 the appeal file. Thank y'all for your

25

submissions. I'll be happy to hear from you,

1 Ms. Fant.

2 MS. FANT: Yes, sir. Your Honor, the
3 State is appealing this case because we
4 believe that the magistrate court erred as a
5 matter of law, by proceeding as to any
6 matters in the case in the State's absence.

7 The first ground for appeal, uh, our
8 contention was -- that the case was called
9 before the time for trial. I understand that
10 the magistrate's return indicates that there
11 was a computer problem, but there were
12 witnesses there who also indicated that it
13 was called beforehand. I think that it is
14 important to note that there was a note on
15 the courthouse door, way before 1:30, that
16 said the jury could go home, that there was
17 no need for the jury to stay there. So if
18 the case was called on time, that would have
19 been the time to dismiss a jury. It's our
20 contention that the case was not timely
21 called. The underlying case cited, *Jackson,*
22 *et. al.*, it would be totally inappropriate to
23 proceed at a time prior to that.

24 Even if you accept that there was a
25 computer malfunction and the case was not

1 called in a -- in -- prior to 1:30, which was
2 the time trial was set, for which the summons
3 notified, the directed verdict granted by the
4 court was an error of law. It's black letter
5 law and in the Rules that a directed verdict
6 is made after the close of some evidence,
7 whether it be the defendant producing some
8 evidence or the State finishing its case.

9 Rule 19(a) says that the Court shall
10 direct a verdict in the defendant's favor
11 after the evidence on either side is closed.

12 In addition, in *State v. Rainwater*,
13 admittedly in a footnote, but in footnote
14 one, it does indicate that it's entirely
15 improper to proceed with a directed verdict
16 when in fact no evidence had been presented
17 to the court.

18 In this case, obviously no evidence could
19 be presented to the court because the State
20 was not present; and the judge proceeded
21 anyway.

22 The, uh, memo or return that was filed by
23 Mr. Stratos points to two things in
24 opposition to that. One was that Rule 16(a),
25 I believe it was, of the magistrate court

1 rules, that we were not timely following that
2 in terms of the appeal of the directed
3 verdict. I would point out that Rule 16(a)
4 in magistrate's court -- excuse me, it's
5 16(b). I apologize. Is in fact a rule that
6 applies to civil proceedings only. That is
7 set forth in the beginning, in the scope of
8 the magistrate's ruling. None of them apply
9 to criminal court. Therefore, it is the
10 rules of civil procedure that apply. In
11 fact, that is what the State followed in
12 filing its notice of appeal.

13 The second argument that he made was that
14 the State failed to make a contemporaneous
15 objection. Obviously the State cannot object
16 when they are not present.

17 But even more important, the case that
18 was cited there, the Laparde (phonetic) case,
19 uh, is of no help to the defendant. First,
20 it's an unpublished opinion which has no
21 precedential value; secondly, although the
22 return argues that that case was factually
23 similar to the case that we have before us
24 today, that is not true. In the Laparde
25 case, the State was present and failed to

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1 object to a directed verdict. Here, the
2 State wasn't there. I don't think that's any
3 help. So I therefore believe that it was
4 totally an error of law for the court to
5 direct a verdict without taking any evidence
6 and to proceed in the absence of the State.

7 That leads to the third argument and
8 grounds for appeal, which is that the
9 magistrate court erred as a matter of law
10 because the case law is quite clear in this
11 state that in the absence of any statutory
12 authority that the judge has no authority to
13 dismiss a criminal case except when requested
14 by the State, and that's prior to trial.
15 This is what happened. The principal case on
16 that is *Ex Parte Brittian*, 263 South Carolina
17 363.

18 In that case a lawyer actually did appear
19 -- the first time, the lawyer did not appear
20 or the State did not appear. The judge
21 continued the case in the interest of justice
22 and fairness to the prosecution. The second
23 time they were presented and represented.
24 The Motion was then granted and the Court,
25 quoting from Am Jur in criminal law had the

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1 direct language, (reading): "A statute may
2 authorize the court, either on its own motion
3 or the application of a prosecuting officer,
4 to order an indictment or prosecution
5 dismissed. But in the absence of such a
6 statute, the court has no power to dismiss a
7 criminal prosecution except at the instance
8 (sic) of the prosecutor."

9 In so doing it, this court -- the
10 Brittian court also cited a case from
11 Illinois, *People v Guido* (phonetic), where
12 exactly the same thing happened. The trial
13 court was not present -- excuse me. The
14 State was not present and, on appeal, it was
15 held that a trial could not proceed in the
16 absence of the State because of that reason,
17 that they just didn't have the authority just
18 because the State failed to appear, that that
19 is not a power within the court; basing that
20 on considerations of public safety and
21 welfare.

22 There are also two other cases from South
23 Carolina, both the *Ridge* case, which again
24 quotes *Brittian* and restates the Am Jur
25 proposition that the judge has no power to do

1 that in the absence of the State. And,
2 finally, *State v. Meads*, where the quote
3 said, "*Prosecutors may pursue a case to*
4 *trial, they may plea bargain it down to a*
5 *lesser offense or they may simple decide not*
6 *to prosecute the offense in its entirety.*
7 *The Judicial branch is not empowered to*
8 *infringe on this prosecutorial discretion.*
9 *Furthermore, a trial court has no power to*
10 *dismiss a properly drawn indictment issued by*
11 *a properly-constituted grand jury before*
12 *trial unless the statute grants that power to*
13 *the court. The prosecutor may, of course,*
14 *request a dismissal of the indictment or*
15 *charge."*

16 Obviously we feel that the ticket in
17 this case is the functional equivalent of an
18 indictment in General Session court. We
19 would argue that these cases all do apply to
20 the issue at-hand and that the Court was
21 absolutely without any power to go forward in
22 the absence of the State.

23 THE COURT: Thank you. Mr. Stratos

24 MR. STRATOS: Your Honor, I think the
25 failure of the computer time to be accurate

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1 here, uh, -- I attest to the fact that I
2 rarely am ever on time for a hearing. So --
3 this case wasn't called until well after the
4 time was set for the hearing. Notice was
5 sent to all parties in June, I believe, of
6 2013 indicating that the jury trial would
7 occur that, uh, -- that your failure to be
8 present could result in the dismissal of your
9 action. From that point until, I believe --
10 it was, what? August 16th? I received no
11 information or request for continuance from
12 the officer. The case was clearly called at
13 the appropriate time for trial. The officer
14 didn't appear. No one from the State
15 appeared on his behalf. We moved for a
16 directed verdict for failure to present any
17 evidence. I think the Supreme Court in
18 *Liberty* (phonetic) is right on point.

19 THE COURT: But you would agree that
20 the State was present in that case?

21 MR. STRATOS: The State was present in
22 this case but ---

23 THE COURT: In the case that you're
24 relying on?

25 MR. STRATOS: (Affirmative nod), but they

1 haven't argued that they didn't have notice
2 in this case. They just failed to appear.

3 THE COURT: The problem that we've got
4 -- and I just talked about this earlier this
5 morning. You were in the other room and I --
6 it may come about, and I hope that it does,
7 it will change some things and it certainly
8 would shift some things back to the court.
9 The problem that we have is -- and I've -- I
10 haven't looked at that rule, but I understand
11 what you're said. There are no restrictions
12 on the State. I mean, there really aren't.
13 We know what happens in civil trials. I've
14 done it. You've probably moved, I have too.
15 What I will do this morning in some of these
16 civil cases is I will dismiss them for
17 failure to prosecute. The reason for that is
18 because the rule says so, the rule gives me
19 that right.

20 I don't have any right to -- as much as
21 I think that there should be, I think that
22 there ought to be some punishment. They
23 haven't -- they keep kicking these around,
24 but nobody has developed it. Until we do, I
25 don't think that it's fair to hold a rule

1 that maybe ought to be, but nobody knows
2 about it yet.

3 What we have now is what we've had all
4 the time. The person that calls the case,
5 the person that has control, I think that's
6 where this case -- where you have the
7 problem. I can't dismiss a case for failure
8 to prosecute in a criminal case. I don't
9 have authority, that's not my prerogative.
10 It surely is not a directed verdict.

11 MR. STRATOS: The Court ---

12 THE COURT: I don't have it when
13 they're not here, Mr. Stratos. They were not
14 here, Mr. Stratos.

15 In that case, they were there. That's a
16 big difference.

17 MR. STRATOS: Well, what about the
18 objection, Your Honor?

19 THE COURT: What about what objection?
20 You can't object if you're not there.

21 MR. STRATOS: Well, thereafter you can
22 file for a new trial, you can file under
23 59(e).

24 THE COURT: Thank you, sir. The court
25 didn't have the right to do what it did. We

1 can -- you can appeal that and you can --
2 then you can set some law.

3 I agree with you that I think that there
4 ought to be a penalty when you don't show up
5 and notice was given. But the State -- the
6 court can't dismiss a criminal case for
7 failure to prosecute. Doesn't have
8 authority.

9 MR. STRATOS: They ---

10 THE COURT: That's my ruling.

11 MR. STRATOS: One last thing.

12 THE COURT: That's my ruling.

13 MR. STRATOS: If I could just say one
14 thing. They dismissed five cases that day
15 with this officer. This is the only case
16 that ---

17 THE COURT: This officer dismissed the
18 case, correct?

19 MR. STRATOS: No. Well, ---

20 THE COURT: You know what, Mr. Stratos?
21 I appreciate that. I don't know what they
22 did, they weren't before me. But if those
23 five cases come before me, I promise you one
24 thing. I'll be consistent. They don't have
25 authority to dismiss them. One day they

1 might but they don't have it now.

2 MR. STRATOS: Thank you, sir.

3 THE COURT: If you will, prepare
4 an Order based on the authority. So it's
5 remanded for trial.

6 MS. FANT: Yes, sir.

7 (HEARING CONCLUDED)

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HEARING OF OCTOBER 24, 2013

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3
4 THE COURT: Thank y'all. I am sorry to
5 inconvenience everyone by having you return.
6 But after going back -- knowing that I
7 practiced law, Mr. Stratos, and knowing that
8 I had done the same thing, gave me concern
9 and I wanted to review the file in depth. If
10 that be the case, there were lots of cases
11 where cases were dismissed because there was
12 no one there to proceed. So I wanted to read
13 the case.

14 Of course, I agree fully with what I said
15 and I think that the *Ridge* case supports
16 that. The position that we can't dismiss a
17 case, uh, until the case is actually called.
18 In that case the Solicitor didn't call the
19 case, in reading it. But I think the judge
20 is right, and it's what I threatened to do
21 once before, in calling the case for trial,
22 that it needed to be -- and then changing you
23 mind after you didn't get what you were
24 looking for. That case talked about it, but
25 it is a three-to-two decision and I think

1 that I agree with Justice Rhodes and Justice
2 Ness, because they said that they would have
3 gone along with a dismissal. I think that is
4 ultimately what we are going to have when we
5 get the new system in place.

6 So I wanted to clarify my ruling, because
7 I said -- because this case was called for
8 trial. There is no question that it was
9 called for trial, and that's what the return
10 says, that it was called for trial. I agree
11 with the judge that if nobody is there to
12 present any evidence, there is no evidence
13 and therefore you direct a verdict. I've
14 done it when the evidence isn't sufficient in
15 a criminal case, at the close of the State's
16 case. Most of the time it's in
17 circumstantial evidence cases where they has
18 to be substantial circumstantial evidence.

19 So I want to focus this morning, because
20 I went back and read through all of the e-
21 mails. Everything that I saw -- there are
22 some concerns that I have. First of all, on
23 the notice, clearly there is a letter which
24 was after the date of the trial. August 7th, I
25 think was the date. It says that Patrolman

1 Townes is on basically leave without pay.
2 What I noted in going back and reading
3 meticulously your brief, and -- and the
4 appeal -- is that you referenced the July 23rd
5 notice to the magistrate about Townes being
6 on leave without pay.

7 I've looked at Exhibit 9, in fact looked
8 at the pages -- and I am looking at it right
9 now, it's a part of the record -- from August
10 4th through the 10th. I assume that when we
11 have -- and this is my part, not knowing what
12 it means. When I see "6p-6a-Z1", that's an
13 assignment indicating an area?

14 MS. FANT: Yes, sir.

15 THE COURT: Well, in that case, Townes
16 is not on -- he's off.

17 MS. FANT: He was in what they said on
18 that e-mail. Uh, ---

19 THE COURT: No, no. Ms. Fant, excuse
20 me for interrupting you. I'm talking about
21 that the notice of July 23rd says that he --
22 it doesn't say anything about him being on
23 administrative leave. In fact, it shows the
24 opposite.

25 MS. FANT: Correct, but they

1 supplemented the e-mail in ---

2 THE COURT: Where is it?

3 MS. FANT: They have it. They did not
4 put it in the return.

5 THE COURT: Do you have it?

6 MS. FANT: I do, Your Honor, (search-
7 ing files). It wasn't by e-mail. He dropped
8 it off in person.

9 THE COURT: Have you ever seen that?

10 MR. STRATOS: No, sir. And I would think
11 that an ex parte communication with the court
12 would not be admissible anyway.

13 THE COURT: Well, I don't know -- every
14 letter -- I don't know -- anything -- my
15 concern right now in this case is notice, to
16 be candid with you. What was notified about
17 availability, what was known to the court.

18 MS. FANT: Well, it ---

19 THE COURT: If you've got that, I'd
20 like to see it. We'll make it an exhibit.

21 MS. FANT: I do, Your Honor. I did
22 not have the trooper do an affidavit in this.
23 This is the first time that I've done an
24 appeal. I didn't know whether they'd be
25 admissible.

1 THE COURT: I don't think that they
2 really are from the standpoint -- why didn't
3 -- the question, Ms. Fant, is why didn't you
4 make a Motion for a new trial?

5 MS. FANT: I didn't -- for a new
6 trial?

7 THE COURT: (Affirmative nod.)

8 MS. FANT: Because I didn't think that
9 we were required to. I felt like when ----

10 THE COURT: If it was an improper
11 notice, why wouldn't that have been ---

12 MS. FANT: It wasn't -- no, no, no, it
13 was not improper notice.

14 THE COURT: So you are taking the
15 position that he couldn't do what he did?
16 That has been your argument?

17 MS. FANT: Yes, and it stems from the
18 fact that they discussed it -- four different
19 troopers discussed it with the judge. He
20 knew that -- the judge knew that the trooper
21 was on leave.

22 MR. STRATOS: I object to that. That is
23 not in the record.

24 THE COURT: It is not in the record.
25 I'm sorry but that is not in the record, that

1 is not a part of the record.

2 MS. FANT: And ---

3 THE COURT: This is going to be a
4 learning experience. From that one, I am
5 going to tell you right now that it is not
6 a part of the record. You better do it in
7 writing, you better get it in writing. You
8 better get receipt for it, because notice is
9 a critical factor in these cases, at least
10 for us. It's not in the record. The
11 magistrate says that he didn't have any
12 conversation. That's what he says.

13 MS. FANT: I realize that, Your Honor.
14 And I ---

15 THE COURT: And, so, you can take that
16 up somewhere else but it's not mine. I am
17 going by what he said and I have no reason to
18 believe that he is lying. I don't have any
19 reason to believe that anybody is lying. But
20 the question is -- the record is what it is.

21 What I do have, though, is this -- was
22 there a sign on the door saying, 'Jurors, you
23 are excused.' That's the issue.

24 MS. FANT: Your Honor, the ---

25 THE COURT: There was no jury. You had

1 requested a jury trial.

2 MR. STRATOS: That's correct, Your Honor.

3 THE COURT: You went there to have a
4 jury trial?

5 MR. STRATOS: I did, Your Honor.

6 THE COURT: The State thought that you
7 were having a jury trial.

8 MR. STRATOS: Yes, sir.

9 THE COURT: Everybody thought you were
10 having a jury trial.

11 MR. STRATOS: Yes, sir.

12 THE COURT: There was no jury.

13 MR. STRATOS: I can swear - no, I can't
14 swear. The older that I get, the less I
15 remember.

16 THE COURT: Mr. Stratos, let me ask you
17 a question.

18 MR. STRATOS: There was a room containing
19 a lot of people.

20 THE COURT: But you never selected a
21 jury?

22 MR. STRATOS: (Negative gesture), we
23 didn't select a jury.

24 THE COURT: And there's no writing of
25 yours saying that 'I waive my jury trial, and

1 want a bench trial'?

2 MR. STRATOS: No, sir.

3 THE COURT: And I think that the State
4 is entitled to know that, because they are
5 entitled to know how the case is going to
6 proceed. Anybody would be. On that basis ---

7 MR. STRATOS: May I?

8 THE COURT: Absolutely.

9 MR. STRATOS: My whole point here was
10 whether or not this court can actually
11 undertake jurisdiction on this appeal when
12 they never preserved any of this for appeal.

13 THE COURT: Oh, I think.

14 MR. STRATOS: It doesn't go to subject
15 matter.

16 THE COURT: I will be happy -- you can
17 raise that issue. I think, absolutely, that
18 once they had notice that they could appeal.
19 Because the whole issue was that they didn't
20 have notice of the trial, that's what they
21 are saying. So, therefore, they couldn't be
22 there to object.

23 MR. STRATOS: Isn't there a mechanism for

24 ---

25 THE COURT: No.

1 MR. STRATOS: --- for attacking that
2 issue?

3 THE COURT: There is. Appeal it.

4 MR. STRATOS: Let's say that I failed to
5 show ---

6 THE COURT: Mr. Stratos, let's agree to
7 disagree.

8 MR. STRATOS: Okay.

9 THE COURT: At this level, it doesn't
10 matter. I can believe, you can believe. We
11 are both lawyers and ---

12 MR. STRATOS: Right.

13 THE COURT: --- and you be right, I may
14 be wrong; or I may be right, you may be
15 wrong. That's an issue that is really an
16 issue that's inherent in this.

17 MR. STRATOS: Right.

18 THE COURT: My whole issue in this case
19 is that there was -- there was a notice that
20 the jurors had been excused. That's what is
21 in the return.

22 MR. STRATOS: And ----

23 THE COURT: There is a statement in the
24 return, in the appellate return ---

25 MR. STRATOS: But not in the magistrate's

1 return?

2 THE COURT: Well, that's -- there was
3 no jury picked. There is nowhere where it
4 says 'I empaneled the jury.' There -- and if
5 you didn't empanel the jury, then you really
6 are right back into the *Ridge* situation.

7 My position is that you had a trial, the
8 directed verdict was proper. I've made the
9 comment that a directed verdict would not
10 have been proper, and that is incorrect. A
11 directed verdict would have been proper, but
12 you'd had to have a jury present.

13 MR. STRATOS: No, because ---

14 THE COURT: Because you had requested
15 it.

16 MR. STRATOS: But then the dismissal --
17 when you fall back, when you don't have a
18 jury, you haven't drawn a jury, that's ---

19 THE COURT: Mr. Stratos, that's
20 precisely what I said. Come here, I want to
21 clarify it. The directed verdict was -- the
22 judge had the right to direct a verdict at
23 the end of the case, but the case couldn't go
24 forward -- but he didn't have the right to
25 direct a verdict when there was no jury

1 present. And you ---

2 MR. STRATOS: So that's a legal error on
3 his part, right?

4 THE COURT: No, it's not. It's a --
5 well, I don't care if it was a legal error or
6 -- it was an error that I think ---

7 MR. STRATOS: Isn't that a pivotal issue?

8 THE COURT: Yes, it's a pivotal issue
9 when ---

10 MR. STRATOS: If you allow the smoking
11 gun into evidence and the Supreme Court --
12 if no one objects, they can't raise that
13 issue ---

14 THE COURT: Mr. Stratos, it is a
15 pivotal issue for you?

16 MR. STRATOS: Yes, sir.

17 THE COURT: I can't -- I can't affirm
18 this because it was not properly set up. If
19 a jury had been empaneled, you got it, you
20 win, I affirm the decision. Bingo. Over.
21 It's that simple.

22 MR. STRATOS: Right.

23 THE COURT: If the jury had been
24 empaneled, the Motion for a directed verdict
25 is exactly what should have happened. You

1 win. The State is out. Because I think
2 notice -- I can't, from the record, and I am
3 not calling anybody a liar, but from the
4 record I cannot conclude that they were not
5 given notice, and should have been present.
6 But a jury was never empaneled.

7 If the whole purpose of this was to have
8 a jury trial, that was not accomplished and
9 therefore it is remanded. That's why it is
10 going back.

11 So prepare an Order, please, Ms. Fant, on
12 that basis, that basis alone.

13 MS. FANT: Thank you.

14 THE COURT: Thank you. I appreciate it
15 and I -- thank you again. I'm sorry for
16 inconveniencing you. I wanted to clarify my
17 position because I was totally wrong in what
18 I said. I -- after looking at it -- if the
19 jury had been empaneled, that was it. But I
20 know there wasn't a jury, because I know you
21 would have done it. He would have done it.
22 It was gone. All of that lends credence why
23 it wasn't done. There was no jury.

24 MR. STRATOS: No, ---

25 THE COURT: Thank you, Mr. Stratos. You

1 just said that you can't swear to that.

2 MR. STRATOS: No, sir, I can't say one
3 way or the other.

4 THE COURT: So you don't know.
5 You can't say one way or the other. You
6 don't know. Thank you, sir. Thank you very
7 much.

8 Just for future purposes, make sure
9 that those things were received. I don't
10 quarrel with it, I'm sure that it was, but I
11 -- it's just unfortunate. Thank you.

12 MR. STRATOS: Yes, sir.

13 THE COURT: Prepare the Order.

14 MS. FANT: Your Honor, I actually have
15 never prepared one of these. Is just brief or
16 do you want facts or ---

17 THE COURT: Whatever you think is
18 necessary to support the review at the next
19 level. Okay?

20 MS. FANT: Okay. Thank you.

21 THE COURT: Yes, ma'am. Basically
22 that's what I wanted here. There was no
23 jury. While the trial was commenced, there
24 was not a jury -- it was not a jury trial.
25 Because there was no jury, we can't go

1 forward. Okay?

2 MS. FANT: Thank you.

3 (HEARING CONCLUDED)

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STATE OF SOUTH CAROLINA) IN THE MAGISTRATE COURT
COUNTY OF BERKELEY) UTT No. G284243

State of South Carolina,)
vs.)
Jami Renee Morse,)
Defendant.)

TRANSCRIPT OF PROCEEDINGS
August 6, 2013
Berkeley County Magistrates Court
Goose Creek, South Carolina
Judge Edward L. Sessions

CLERK: State of South Carolina with Trooper Towns v. Jami Morse with attorney Milton Stratos.

THE COURT : Alright Mr. Stratos, is Ms. Morse here?

MR. STRATOS: She's outside Judge. I'll leave her out there. She's good.

THE COURT: Okay. . . . Go ahead. Any motions?

MR. STRATOS: Well, the case has been called for trial your Honor and I'd move for a directed verdict based on the fact that the State has failed to produce any evidence from which the jury could find my client guilty.

THE COURT: Has he supplied you any Rule 5?

MR. STRATOS: Yes sir.

THE COURT: It was? Has he supplied any Rule 5?

MR. STRATOS: I think so, yes.

THE COURT: Alright, he's not present in the court. The court grants the motion.
Thank you for coming.

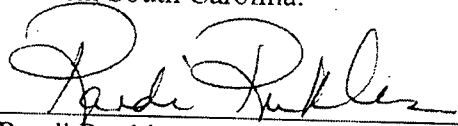
MR. STRATOS: Thank you. Did you go anywhere this summer?

THE COURT: I went to Mexico.

MR. STRATOS: Oh really. . . .

(PROCEEDING CONCLUDED)

This being a true and accurate transcript of the proceeding on August 6, 2013, before the Hon. Edward L. Sessions in the magistrates court in Goose Creek, South Carolina.



Randi Runkles
Paralegal
S. C. Department of Public Safety
Post Office Box 1993
Blythewood, South Carolina 29016

Sworn to, subscribed and acknowledged before me this 24th day of September, 2014.



Notary Public for the State of South Carolina

My commission expires:

PAULA CROCKETT Notary Public, State of South Carolina My Commission Expires Feb. 23, 2019

STATE OF SOUTH CAROLINA) IN THE MAGISTRATE'S COURT

COUNTY OF BERKELEY) NINTH JUDICIAL CIRCUIT

) C/A # 2013-CP-08- 2002

STATE OF SOUTH CAROLINA,

Appellant

) TICKET # G284243

)

)

)

MAGISTRATE'S RETURN

vs.

)

)

JAMI RENEE MORSE,

)

Respondent

)

)

2013 SEP 13 PM 5:01

FILED

On May 7, 2013, Trooper C. K. Towns of the South Carolina Highway Patrol issued a citation to the Defendant for Driving Under the Influence in violation of S.C. Code §56-5-2930. This matter was initially scheduled for a bench trial on June 13, 2013 at 2:00 p.m. at Central Traffic Court; however, on June 4, 2013, at the request of the Defendant's Attorney, Milton Stratos, a jury trial was requested (Exhibit 1). Once the jury trial was requested, it was transferred to the Goose Creek Magistrate's Office and clocked as received on June 12, 2013.

On June 18, 2013, the matter was scheduled for a Pre Trial Hearing (Exhibit 2). At the Pre Trial Hearing, parties present were: Trooper C.K. Towns; Attorney Milton Stratos and the Victim, Kristopher Browder. At that time, it was stated that discovery had not been received. An order was issued for Trooper C.K. Towns to provide discovery to the attorney within fifteen (15) days (Exhibit 3) from the receipt of the order. The order was signed and faxed on June 20, 2013 (Exhibit 4). Notices were then sent stating that the case was scheduled for a jury trial on August 6, 2013 at 1:30 p.m. via fax to the Trooper (Exhibit 5).

CF MS

On Tuesday, July 23, 2013 at 11:39 a.m., an email was sent via the court clerk Connie Mills, wherein she stated the dates and times of all Troopers who needed to appear for court and their specified time to appear (Exhibit 6). This notice was sent to FSgt. Kyle V. Welch and he opened the email and read it on Tuesday, July 23, 2013 @ 1:21 p.m. (Exhibit 7). At no time was an email returned to the court clerk stating that Trooper Towns was on leave without pay.

On Saturday, June 1, 2013 at 9:47 a.m. another email was sent to the following Troopers: Cpl. McAbee; Fsgt. Kyle Welch; Cpl. Pearson; Cpl. Wooten; and Sgt. Sigwald with no return email from either Trooper notifying the court clerk that Trooper Towns was on leave without pay (Exhibit 8). On June 1, 2013 at 10:02 a.m., Cpl. McAbee responded to the court clerk regarding the notice; however, there was no mention of Trooper Towns. Again on June 13, 2013 at 12:40 a.m., 8:08 a.m. and 8:10 a.m. and 8:39 a.m. Cpl. Pearson responded back to the court clerk with no mention of the status of Trooper Towns. On Saturday, June 1, 2013 at 11:20:54 a.m, FSgt. Welch read and opened the email and he never responded to the court clerk on the status of Trooper Towns (Exhibit 8).

On Tuesday, July 23, 2013 @ 1:30PM, FSgt. Welch sent an email to the court clerk with an attached schedule for the Troopers. Trooper Towns was on the schedule and there was nothing notating that Trooper Towns' leave without pay ("LWOP") status for the week beginning August 4, 2013 (Exhibit 9). On the morning of August 6, 2013, Trooper McAbee appeared for court and he never informed the court or the court clerk that Trooper Towns would not be available for court because of Towns' current status. Trooper McAbee was present for his trials for that morning and also remained afterwards and chatted with myself and the court clerk with no mention of the status of Trooper Towns.

On the afternoon of August 6, 2013, the case was called by the court clerk. Trooper Towns was not present for court. Attorney Milton Stratos, Defendant Jami Morse, and the alleged victim Kristopher Browder were present for court. Attorney Milton Stratos stated that (1) the state failed to provide anything to show that the defendant was guilty and (2) Motion for a directed verdict was made by Attorney Milton Stratos. The motion for a directed verdict was granted. After court was finished, the

grandmother and the victim were told of the outcome of the case. The grandmother was upset and was advised to speak with the South Carolina Highway Patrol concerning the case because she wanted to know why there was no one from the SCHP in the courtroom concerning the case.

On August 7, 2013 after the case of Trooper Towns was heard, an email was sent to the Chief Magistrate with a letter from FSgt. Welch asking for all of Trooper Towns' cases be continued because Trooper Towns will be on extended leave and there was no approximate return date for Trooper Towns (Exhibit 10). There was no ex parte communication between myself and Attorney Milton Stratos concerning the proposed order. Before Attorney Milton Stratos left the courtroom, he stated that he would send in an order for signature. The order was sent via fax on August 12, 2013 and placed in my box waiting on signature. It was signed on August 13, 2013 (Exhibit 11).

On August 12, 2013, Fsgt. Welch requested any and all paperwork and audio recording concerning The State of South Carolina v. Jami Morse. A letter along with all paperwork and the audio proceedings was completed and left for FSgt. Welch in my office. On August 13, 2013, Trooper S.P. Grainger came into the office and signed a document acknowledging acceptance of the items given to the SCHP (Exhibit 12). The SCHP was given two (2) audio recordings of the court proceedings, the Order granting Defendant's Motion for Directed Verdict, 1 letter from Judge Sessions, a copy of all paperwork concerning defendant Jami Morse, and a copy of all emails pertaining to the Troopers' court dates.

First, the State's Notice of Appeal and Appeal was not filed timely. According to §18-3-30, it states that, "*The appellant shall file the notice of appeal with the clerk of the circuit court and shall serve notice of appeal upon the magistrate who tried the case and upon the designated agent for the prosecuting agency or attorney who prosecuted the case within ten days after sentencing and state the grounds for his appeal.*" (Exhibit 13). This court did not receive notification of Appeal or the Appeal until thirty-four (34) days after the trial of August 6, 2013. No motion for a new trial was made by the state either.

Secondly, the time clock which is part of the audio recording equipment in the courtroom is incorrect; therefore, the time of hearing is incorrect. Our office has made numerous attempts to have the time corrected on our recording devices and our IT

Department has been unsuccessful in correcting the problem. As a result, we notate the correct time for the calling of the cases on the files. The court did not call the case until the scheduled time of 1:30 p.m.

CONCLUSION

The State filed no request to continue and no one appeared on behalf of the State at the call of the case. This court finds that all parties were notified of the jury trial date and time and Trooper Towns was notified via fax and he nor any of his superiors contacted this court nor were any motions to continue made prior to the case being called to trial. This court only received notification on August 7, 2013, which was after the hearing of this court case, that the SCHP would like to continue Trooper Towns' cases. Based on the failure of the State to present any evidence from which this court could find the Defendant guilty as charged, the court had no alternative other than to grant the Defendant's Motion for Directed Verdict.

Respectfully submitted,



Judge Edward L. Sessions
Berkeley County Magistrate
303-B North Goose Creek Blvd.
Goose Creek, SC 29445
Telephone: (843) 553-7080
Fax: (803) 553-7074

This 17 day of September, 2013
Goose Creek, SC

Enclosures:

Exhibits 1-13
Copy of Notice of Appeal and Appeal

STRATOS LAW, LLC

Milton D. Stratos, Esq.

1041 Johnnie Dodds Blvd, 14-A
Mt. Pleasant, SC 29464
843.216.7739
(f) 843.216.0804
www.stratoslaw.com

FILED

JUN 04 2013

BERKELEY COUNTY
SUMMARY COURT

June 4, 2013

*06/13/13 @ 2pm
TROOPER TOWNS*

Via Fax: (843) 719-4534
Berkeley County Magistrate's Court
Attn: Jury Trial Coordinator
223 Live Oak Drive
Moncks Corner, SC 29461

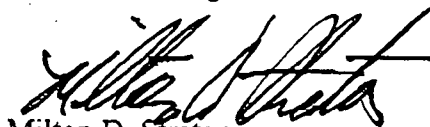
Re: **The State v. Jamie Morse**
Ticket Number: G284243
Date of Hearing: 6/13/13
Charge: DUI

2013 JUN -4 PM 3:42

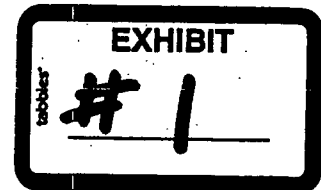
Dear Sir or Madam:

Please be advised that my office has been retained to represent the above named defendant regarding the charge of DUI. The case was mistakenly forwarded to your court for a remand bench trial. The case is actually a DUI 1st offense and we are requesting that you place this matter on the jury trial roster and that you notify my office of the date and time of trial as soon as you have an opportunity to schedule the same. If you have any questions or concerns, please do not hesitate to contact my office.

With kindest regards, I remain



Milton D. Stratos
Attorney at Law



mds/CSC

*email
Milton@stratoslaw.com*

S

52

**STATE OF SOUTH CAROLINA
COUNTY/CITY OF BERKELEY**

C K Towns
Troop 6
8740 North Park Blvd.
North Charleston, SC 29406

SUMMARY COURT SUMMONS

STATE VS. Jami Renee Morse
TICKET #(S) G284243
CHARGE DUI / Driving under the Influence, less than .10, 1st Offense

A Jury Trial has been requested in the above listed case. Please be advised that this case is now scheduled for a Pre-Trial Hearing. You are required to be present to answer roll as instructed.

You are hereby summoned to appear in the **Berkeley County/City Goose Creek Magistrate Court, 303-B North Goose Creek Blvd., Goose Creek, SC on June 18, 2013 at 1:00 PM.**

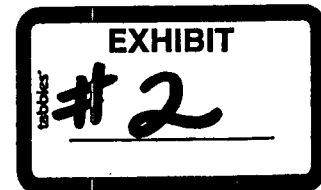
HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN SUCH CASES MADE AND PROVIDED.

E FILE COPY

JUDGE

**Berkeley County/City
Goose Creek Magistrate
303-B North Goose Creek Blvd.
Goose Creek, SC 29445
Phone: (843) 553-7080 Fax: (843) 553-7074**

June 13, 2013



STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)
)
STATE OF SOUTH CAROLINA,)
Plaintiff,)
)
Vs.)
)
JAMI MORSE,)
Defendant,)
_____)

IN THE MAGISTRATE'S COURT

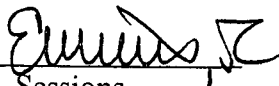
CASE NUMBER: **G284243**

THIS MATTER comes before the Court on Tuesday, June 18, 2013, pursuant for a Pre Trial Hearing.

By way of this order, all discovery needs to be furnished to Attorney Milton Stratos within 15 days of the receipt of this order (order will be faxed to all parties) or the above case could be dismissed (in particular video must be working).

Once Trooper C. Towns has made it known that the discovery material is ready for pick up, it is the attorney's obligation to make sure that it is picked up. All copies of correspondence between each individual regarding discovery materials ready for pickup shall be delivered to the Goose Creek Magistrate's Office for documentation purposes only.

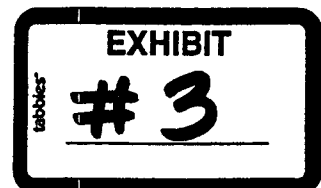
IT IS SO ORDERED.



Edward L. Sessions
Berkeley County Magistrate

Goose Creek, South Carolina
June 18, 2013

CASE NUMBER: **G284243 / Jami Morse**



Attorney Information:

Attorney Milton Stratos
1041 Johnnie Dodds Blvd., 14-A
Mt. Pleasant, SC 29464
843-216-7739
Fax: 843-216-0804
Email: milton@stratoslaw.com

Trooper Information:

C. Towns
8740 North Park Blvd
North Charleston, SC 29418
843-953-6010
Email: CourtneyTowns@scdps.gov

Courts Information:

Goose Creek Magistrate Office
Attn: Connie Mills
303-B North Goose Creek Blvd.
Goose Creek, SC 29445
843-471-2453 or 843-553-7080
Email: cmills@berkeleycountysc.gov

TRANSMISSION REPORT

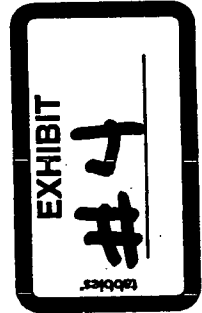
(THU) JUN 20 2013 14:47
BERKLEY COUNTY MAGISTRATE

User /Account :
DESTINATION : 8439536009
DEST. NUMBER : 8439536009

DOCUMENT# : 7540448-308
TIME STORED : JUN 20 14:46
TX START : JUN 20 14:46
DURATION : 23sec
COM. MODE : ECM

F-CODE :

PAGES : 2page
RESULT : OK



STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)
)
STATE OF SOUTH CAROLINA,)
Plaintiff,)
)
Vs.)
)
JAMI MORSE,)
Defendant,)
_____)

IN THE MAGISTRATE'S COURT

CASE NUMBER: G284243

THIS MATTER comes before the Court on Tuesday, June 18, 2013, pursuant for
a Pre Trial Hearing.

TRANSMISSION REPORT

(THU) JUN 20 2013 14:48
BERKLEY COUNTY MAGISTRATE

User /Account :
DESTINATION : 8432180804
DEST. NUMBER : 8432180804

DOCUMENT# : 7540448-309
TIME STORED : JUN 20 14:47
TX START : JUN 20 14:47
DURATION : 38sec
COM. MODE : ECM

F-CODE :

PAGES : 2page
RESULT : OK

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)
)
STATE OF SOUTH CAROLINA,)
Plaintiff,)
)
Vs.)
)
JAMI MORSE,)
Defendant,)
_____)

IN THE MAGISTRATE'S COURT

CASE NUMBER: G284243

THIS MATTER comes before the Court on Tuesday, June 18, 2013, pursuant for
a Pre Trial Hearing.

TRANSMISSION REPORT

(FRI) JUN 21 2013 9:30
BERKLEY COUNTY MAGISTRATE

User /Account :
DESTINATION : 8439536009
DEST. NUMBER : 8439536009

DOCUMENT# : 7540448-322
TIME STORED : JUN 21 9:29
TX START : JUN 21 9:30
DURATION : 18sec
COM. MODE : ECM

F-CODE :

PAGES : 1page
RESULT : OK



STATE OF SOUTH CAROLINA
COUNTY/CITY OF BERKELEY

TAXED

953-6009

C Towns
Troop 6
8740 North Park Blvd.
North Charleston, SC 29406

SUMMARY COURT SUMMONS

You are hereby summoned to be and appear in the **Goose Creek
Magistrate, 303-B North Goose Creek Blvd., on August 6, 2013 at 1:30 PM, to**

FAXED

953-6009

STATE OF SOUTH CAROLINA
COUNTY/CITY OF BERKELEY

C Towns
Troop 6
8740 North Park Blvd.
North Charleston, SC 29406

SUMMARY COURT SUMMONS

You are hereby summoned to be and appear in the **Goose Creek Magistrate, 303-B North Goose Creek Blvd., on August 6, 2013 at 1:30 PM**, to serve as a defendant/defense counsel/witness in the Jury Trial of **State vs. Jami Renee Morse**, Case Number: **G284243**, Charge: **DUI / Driving under the Influence, less than .10, 1st Offense.**

Failure to appear by the defendant, without leave of the Court, may subject the defendant to trial in absentia.

Becky Hammer / Clerk
JUDGE

Berkeley County/City
Goose Creek Magistrate
303-B North Goose Creek Blvd.
Goose Creek, SC 29445
Phone: (843) 553-7080 Fax: (843) 553-7074

June 21, 2013



Trooper Court Dates

Connie Mills <cmills@berkeleycountysc.gov>
To: Kyle Welch <KV.Welch@schp.org>

Tue, Jul 23, 2013 at 11:39 AM

~~August 6, 2013 @ 9:30AM~~

Trooper Hall
Trooper McAbee
Trooper Bamberg

~~August 6, 2013 @ 1:30PM~~

Trooper Towns
Trooper Reeder
Trooper F. Thompson

~~August 13, 2013 @ 9:30AM~~

Trooper Hanks
Trooper James

~~August 13, 2013 @ 1:30PM~~

Trooper Z. Thompson

~~August 20, 2013 @ 9:30AM~~

Trooper Woovis

~~August 20, 2013 @ 1:30PM~~

Trooper Jackson

~~August 27, 2013 @ 9:30AM~~

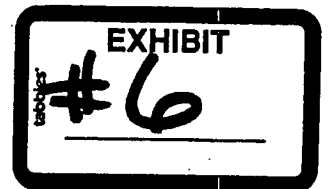
Trooper Pearson
Trooper Bamberg

~~August 27, 2013 @ 1:30PM~~

Trooper Hall
Trooper Elliott

~~September 10, 2013 @ 9:30AM~~

Trooper Diaz
Trooper Towns
Trooper Bamberg



This is what I have scheduled so far. These dates are subject to change. I will update you if there are any changes.



Read: Trooper Court Dates

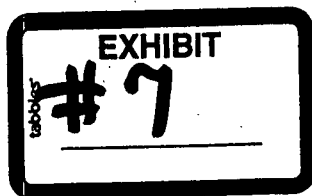
Welch, Kyle V. <KyleWelch@scdps.gov>
To: "cmills@berkeleycountysc.gov" <cmills@berkeleycountysc.gov>

Tue, Jul 23, 2013 at 1:21 PM

Your message

To: Welch, Kyle V.
Subject: Trooper Court Dates
Sent: Tuesday, July 23, 2013 11:39:44 AM (UTC-05:00) Eastern Time (US & Canada)

was read on Tuesday, July 23, 2013 1:21:51 PM (UTC-05:00) Eastern Time (US & Canada).





Troopers Court Dates

Connie Mills <cmills@berkeleycountysc.gov>

Sat, Jun 1, 2013 at 9:47 AM

To: "McAbee, Earl D." <McAbee_EarlD@scdps.net>, "Welch, Kyle V." <kwelch@schp.org>, "Pearson, Chadwick A." <Pearson_ChadwickA@scdps.net>, "Wooten, Christopher M." <Wooten_ChristopherM@scdps.net>

Cc: "Sigwald, Patrick W." <Sigwald_PatrickW@scdps.net>

Below you will see the dates that I have the Troopers coming in for court. If you see a problem with the dates, please let me know as soon as possible so that we can handle this immediately instead of waiting till the day the trooper is scheduled.

~~6/4/2013 - All cases were continued~~

6/6/2013

Brown
Andre
Bokern

6/11/2013

Z. Thompson
Hall
Wooten
Southerland

6/18/2013

Andre
Jackson
Towns
Diaz
Wooten

6/25/2013

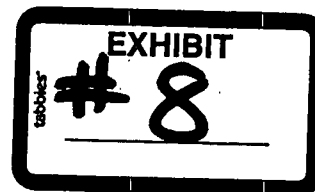
Mcabee
Reeder
Davis

7/16/2013

Hall
Elliott
Bamberg
F. Thompson

7/23/2013

Jackson
Sceviour



7/30/2013

Enxuto
Yacobozzi

8/6/2013

Hall
McAbee
Towns

8/13/2013

Hanks
James

8/20/2013

Woovis

Thanks,

Connie C. Mills

Connie C. Mills
Goose Creek Magistrate's Office
303-B North Goose Creek Blvd.
Goose Creek, SC 29445
843-553-7080 / Fax: 843-553-7074
843-471-2453
cmills@berkeleycountysc.gov

As for me and my house,
we will serve the Lord.

McAbee, Earl D. <EarlMcAbee@scdps.gov>
To: Connie Mills <cmills@berkeleycountysc.gov>

Sat, Jun 1, 2013 at 10:02 AM

Connie,

If its not too much trouble can you denote beside the Troopers name the defendants name, that way we can send this email to the troopers as well and they can be preparing for trial and trying to workout the cases if possible and if i see any conflicts with any of my guys i will let you know..

Thanks
Dean

Sent from my iPhone
[Quoted text hidden]
cmills@berkeleycountysc.gov<mailto:cmills@berkeleycountysc.gov>

As for me and my house,
we will serve the Lord.

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential, proprietary, and/or privileged information protected by law. If you are not the intended recipient, you may not read, use, copy, or distribute this e-mail message or its attachments. If you believe you have received this e-mail message in error, please contact the sender by reply e-mail or telephone immediately and destroy all copies of the original message.

Connie Mills <cmills@berkeleycountysc.gov>
To: "McAbee, Earl D." <EarlMcAbee@scdps.gov>

Sat, Jun 1, 2013 at 10:10 AM

I just faxed up all the court notices this morning. They should have them when they come in to check their boxes but I will send you the names just in case. Thanks a bunch for working with me on this and if the Troopers can work them out and let me know via email to me and the attorney on the case then that will help me in determining if jurors need to be present or not. I hate to keep bringing in jurors and the cases keep getting worked out.

[Quoted text hidden]

Connie C. Mills

Connie C. Mills
Goose Creek Magistrate's Office
303-B North Goose Creek Blvd.
Goose Creek, SC 29445
843-553-7080 / Fax: 843-553-7074
843-471-2453
cmills@berkeleycountysc.gov

As for me and my house,
we will serve the Lord.

Pearson, Chadwick A. <ChadwickPearson@scdps.gov>
To: Connie Mills <cmills@berkeleycountysc.gov>

Thu, Jun 13, 2013 at 12:40 AM

Connie,

I'm not on this list but got a notice for 6-13....do I have court today or not? Thanks,

Chad

Sent from my iPhone

On Jun 1, 2013, at 9:47 AM, "Connie Mills" <cmills@berkeleycountysc.gov<mailto:cmills@berkeleycountysc.gov>> wrote:

[Quoted text hidden]

cmills@berkeleycountysc.gov<mailto:cmills@berkeleycountysc.gov>

As for me and my house,
we will serve the Lord.

[Quoted text hidden]

Connie Mills <cmills@berkeleycountysc.gov>
To: "Pearson, Chadwick A." <ChadwickPearson@scdps.gov>

Thu, Jun 13, 2013 at 8:08 AM

Yes sir. I must have left you off of it. I do apologize. Are you working today?

[Quoted text hidden]

Connie C. Mills

Connie C. Mills
Goose Creek Magistrate's Office
303-B North Goose Creek Blvd.
Goose Creek, SC 29445
843-553-7080 / Fax: 843-553-7074
843-471-2453
cmills@berkeleycountysc.gov

As for me and my house,
we will serve the Lord.

Pearson, Chadwick A. <ChadwickPearson@scdps.gov>
To: Connie Mills <cmills@berkeleycountysc.gov>

Thu, Jun 13, 2013 at 8:10 AM

No ma'am, I'm off.

Sent from my iPhone

On Jun 13, 2013, at 8:08 AM, "Connie Mills" <cmills@berkeleycountysc.gov<mailto:cmills@berkeleycountysc.gov>> wrote:

Yes sir. I must have left you off of it. I do apologize. Are you working today?

On Thu, Jun 13, 2013 at 12:40 AM, Pearson, Chadwick A. <ChadwickPearson@scdps.gov<mailto:ChadwickPearson@scdps.gov>> wrote:

Connie,

I'm not on this list but got a notice for 6-13....do I have court today or not? Thanks,

Chad

Sent from my iPhone

[Quoted text hidden]

cmills@berkeleycountysc.gov<mailto:cmills@berkeleycountysc.gov><mailto:cmills@berkeleycountysc.gov<mailto:cmills@berkeleycountysc.gov>>

[Quoted text hidden]

Connie Mills <cmills@berkeleycountysc.gov>
To: "Pearson, Chadwick A." <ChadwickPearson@scdps.gov>

Thu, Jun 13, 2013 at 8:36 AM

Okay no problem. I will continue your case. In the mean time if you want to call the attorney sometime and discuss the case with him. Attorney is Tim Kulp and his number is 853-310
[Quoted text hidden]

Pearson, Chadwick A. <ChadwickPearson@scdps.gov>
To: Connie Mills <cmills@berkeleycountysc.gov>

Thu, Jun 13, 2013 at 8:39 AM

Sweet! Thx Connie :) have a great day!!

Sent from my iPhone

On Jun 13, 2013, at 8:36 AM, "Connie Mills" <cmills@berkeleycountysc.gov<mailto:cmills@berkeleycountysc.gov>> wrote:

Okay no problem. I will continue your case. In the mean time if you want to call the attorney sometime and discuss the case with him. Attorney is Tim Kulp and his number is 853-310

On Thu, Jun 13, 2013 at 8:10 AM, Pearson, Chadwick A. <ChadwickPearson@scdps.gov<mailto:ChadwickPearson@scdps.gov>> wrote:
No ma'am, I'm off.

Sent from my iPhone

On Jun 13, 2013, at 8:08 AM, "Connie Mills" <cmills@berkeleycountysc.gov<mailto:cmills@berkeleycountysc.gov><mailto:cmills@berkeleycountysc.gov>>> wrote:

Yes sir. I must have left you off of it. I do apologize. Are you working today?

On Thu, Jun 13, 2013 at 12:40 AM, Pearson, Chadwick A. <ChadwickPearson@scdps.gov<mailto:ChadwickPearson@scdps.gov><mailto:ChadwickPearson@scdps.gov><mailto:ChadwickPearson@scdps.gov>>> wrote:
Connie,

I'm not on this list but got a notice for 6-13....do I have court today or not? Thanks,

Chad

Sent from my iPhone

[Quoted text hidden]

cmills@berkeleycountysc.gov<mailto:cmills@berkeleycountysc.gov><mailto:cmills@berkeleycountysc.gov<mailto:cmills@berkeleycountysc.gov>>><mailto:cmills@berkeleycountysc.gov<mailto:cmills@berkeleycountysc.gov>>>

[Quoted text hidden]

Connie Mills <cmills@berkeleycountysc.gov>
To: "Pearson, Chadwick A." <ChadwickPearson@scdps.gov>

Thu, Jun 13, 2013 at 8:40 AM

Any thing for you my friend.



Read: Troopers Court Dates

Welch, Kyle V. <KyleWelch@scdps.gov>

Sat, Jun 1, 2013 at 11:20 AM

To: "cmills@berkeleycountysc.gov" <cmills@berkeleycountysc.gov>

Your message

To: Welch, Kyle V.

Subject: Troopers Court Dates

Sent: Saturday, June 01, 2013 9:47:05 AM (UTC-05:00) Eastern Time (US & Canada)

was read on Saturday, June 01, 2013 11:20:54 AM (UTC-05:00) Eastern Time (US & Canada).



FW: [Image File] Sgt Welch, KMBT222, #364

Welch, Kyle V. <KyleWelch@scdps.gov>
To: Connie Mills <cmills@berkeleycountysc.gov>

Tue, Jul 23, 2013 at 1:30 PM

Connie,


Here are our schedules through the 2nd week of September.

First Sergeant K.V. Welch
South Carolina Highway Patrol
South Carolina Department of Public Safety
8740 North Park Boulevard
North Charleston, SC 29406
843-953-6026 (Office)
843-209-5058 (Cell)
843-953-6009 (Fax)
kwelch@scdps.gov
www.scdps.gov/schp

—Original Message—

From: Troop6postA@scdps.net [mailto:Troop6postA@scdps.net]
Sent: Wednesday, July 24, 2013 2:20 AM
To: Welch, Kyle V.
Subject: [Image File] Sgt Welch, KMBT222, #364

FROM:
Image data has been attached to
the E-Mail.

 **KMBT22220130724021931.pdf**
1089K

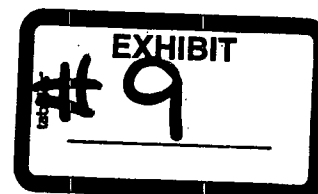
Connie Mills <cmills@berkeleycountysc.gov>
To: "Welch, Kyle V." <KyleWelch@scdps.gov>

Tue, Jul 23, 2013 at 1:32 PM

Thanks a bunch.
[Quoted text hidden]

Connie C. Mills

Connie C. Mills
Goose Creek Magistrate's Office
303-B North Goose Creek Blvd.
Goose Creek, SC 29445
843-553-7080 / Fax: 843-553-7074
843-471-2453
cmills@berkeleycountysc.gov



69

SOUTH CAROLINA HIGHWAY PATROL
12 HOUR ROTATING WORK SCHEDULE
POST-A TROOP-SIX

MONTH/DATE JULY 21-27, 2013		21	22	23	24	25	26	27
NIGHT SHIFT 6PM TO 6AM (5)		SUN	MON	TUE	WED	THU	FRI	SAT
CALL#	NAME							
T F-39	L/Cpl R.G. Elliott	OFF	6P-6A-26C	6P-6A26C	OFF	OFF	5P-5A-Z1	5P-5A-Z1
E F-45	L/Cpl C.D.Jackson	OFF	5P-1A-Z1	5P-5A-Z1	OFF	OFF	6P-6A26B	6P-6A26B
A F-73	Trp. C.L. Hall	OFF	6P-6A-Z1	6P-6A26C	OFF	OFF	6P-6A-Z1	6P-6A-Z1
M F-78	Trp B.J. Bamberg	OFF	6P-6A-Z1	6P-2A-Z1	OFF	OFF	6P-6A26C	6P-6A26C
A								
T								
E F-44	L/Cpl F.G.Thompson	5A-5P26B	OFF	OFF	6P-6A-Z1	6P-6A-Z1	OFF	OFF
A F-46	L/Cpl. Z.K.Thompson	AL	OFF	OFF	5P-5A26B	5P-5A26B	OFF	OFF
M F-53	L/Cpl A.M.Rogers	6A-6P-Z1	OFF	OFF	6P-6A26C	6P-2A26C	OFF	OFF
F-69	Tfc P.V. Yacobozzi	AL	OFF	OFF	AL	AL	OFF	OFF
F-82	Trp M.D. Sceviour	6A-6P26B	OFF	OFF	6P-6A-Z1	6P-6A-Z1	OFF	OFF
B								

DAY SHIFT 6AM TO 6PM		21	22	23	24	25	26	27
CALL#	NAME	SUN	MON	TUE	WED	THU	FRI	SAT
T F-50	L/Cpl N.J. Reeder	OFF	6A-6P-Z1	6A-6P-Z1	OFF	OFF	5A-526B	5A-5P26B
A F-67	Tfc S.D. Southerland	OFF	OFF	6A-6P26C	OFF	SPL-2(12)	6A-2P-Z1	6A-6P-Z1
M F-74	Trp. T.H. Woovis	OFF	6A-6P-Z1	6A-6P-Z1	OFF	OFF	6A-6P26C	SPL-3
F-77	Trp T.J. Andre	OFF	5A-5P-Z1	5A-5P-Z1	OFF	OFF	6A-6P-Z1	SPL-3
C								
T F-37	L/Cpl J.L.Davis	SP-1 (8)	OFF	OFF	6A-6P26B	6A-6P-Z1	OFF	OFF
E F-55	L/Cpl. P.M. Hanks	6P-6A26C	OFF	OFF	6A-6P-Z1	6A-2P-Z1	OFF	OFF
A F-60	S/Trp C.K. Towns	6P-6A-Z1	OFF	OFF	6A-2P-Z1	6A-6P-Z1	OFF	OFF
M F-79	Trp J.R. Diaz	5P-5A26B	OFF	OFF	6A-6P26C	6A-6P26C	OFF	OFF
F-84	Trp. M.A. Bruggeman	6P-6A26C	OFF	OFF	6A-6P-Z1	6A-2P-Z1	OFF	OFF
D F-59	L/Cpl. S.P. Grainger	OFF	8A-6P26B	8A-6P26B	8A-6P-Z1	8A-6P26B	OFF	OFF

SUPERVISORS		SUN	MON	TUE	WED	THU	FRI	SAT
CALL#	NAME							
F-9	F/Sgt K.V.Welch	OFF	10A-6P	10-A-6P	8A-4P	10A-6P	8A-4P	OFF
F-11	Sgt. P.W.Sigwald	OFF	AL	AL	AL	AL	AL	OFF
C F-20	Cpl C.A.Pearson	OFF	6A-2P	OFF	OFF	SPL-2(12)	6A-6P	6A-6P
A F-23	Cpl. C.M. Wooten	OFF	6P-6A	6P-4A	OFF	OFF	6P-6A	8P-6A
B F-24	Cpl. E.D. McAbee	6A-6P	OFF	OFF	6P-6A	6P-4A	OFF	OFF
D F-25	Cpl. C.E. Cooper	6P-6A	OFF	OFF	6A-6P	6A-2P	OFF	OFF

SPECIALS: Denotes Court/BAU/Retiree Hearings

SPL-1: National Black Troopers Coalition Conference

SPL-2: Basic Immigration Enforcement Training; 0900-1700 @ Blythewood

SPL-3: Beaufort Water Festival; 0800-1200. Reporting location will be sent to you at a later date.

ZONES: Z1:North Area/ Berkeley Z2:West Ashley Z3:East Cooper Z26C:Chas I-26 Z26B:Berk I-26

SCHP-A-003D

3/8/2000

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Sgt. K.V. Welch

SUPERVISOR

Lt. J.T. Manley

APPROVAL

SOUTH CAROLINA HIGHWAY PATROL
12 HOUR ROTATING WORK SCHEDULE
POST-A TROOP-SIX

MONTH/DATE JULY 28-AUG 3, 2013		28	29	30	31	1	2	3
NIGHT SHIFT 6PM TO 6AM (6)		SUN	MON	TUE	WED	THU	FRI	SAT
CALL#	NAME							
T F-39	L/Cpl R.G. Elliott	5P-1A-Z1	OFF	OFF	6P-6A26C	6P-6A26C	OFF	OFF
E F-45	L/Cpl C.D. Jackson	6P-6A26B	OFF	OFF	5P-5A-Z1	5P-5A-Z1	OFF	OFF
A F-73	Trp C.L. Hall	6P-6A-Z1	OFF	OFF	6P-6A26B	6P-6A26B	OFF	OFF
M F-78	Trp B.J. Bamberg	6P-6A26C	OFF	OFF	6P-4A-Z1	6P-6A-Z1	OFF	OFF
A								
T	NAME							
E F-44	L/Cpl. F.G. Thompson	OFF	6P-6A26C	6P-2A26C	OFF	OFF	6P-6A-Z1	6P-6A-Z1
A F-46	L/Cpl. Z.K. Thompson	OFF	AL (8)	AL (12)	OFF	OFF	AL (12)	AL (12)
M F-53	L/Cpl A.M. Rogers	OFF	5P-5A-Z1	OFF	OFF	OFF	6P-6A26C	6P-6A26C
	F-69 Tfc P.V. Yacobozzi	OFF	6P-6A26B	6P-6A26B	OFF	OFF	5P-5A-Z1	5P-5A-Z1
	F-82 Trp M.D. Sceviour	OFF	COMP(8)	6P-6A-Z1	OFF	OFF	6P-6A26B	6P-6A26B
B								

DAY SHIFT (6AM TO 6PM)		28	29	30	31	1	2	3
CALL#	NAME	SUN	MON	TUE	WED	THU	FRI	SAT
T F-50	L/Cpl N.J. Reeder	5A-5P26B	OFF	OFF	8A-2P-Z1	6A-6P-Z1	OFF	OFF
E F-67	Tfc S.D. Southerland	6A-6P-Z1	OFF	OFF	5A-5P26B	5A-5P26B	OFF	OFF
A F-74	Trp. T.H. Woovls	6A-6P26C	OFF	OFF	6A-6P-Z1	6A-2P-Z1	OFF	OFF
M F-77	Trp T.J. Andre	6A-2P-Z1	OFF	OFF	6A-6P26C	6A-6P26C	OFF	OFF
C								
CALL #	NAME							
E F-37	L/Cpl J.L. Davis	OFF	6A-6P26B	OFF	OFF	OFF	6A-6P-Z1	6A-6P-Z1
A F-55	L/Cpl. P.M. Hanks	OFF	6A-6P-Z1	6A-6P-Z1	OFF	OFF	6A-6P26C	6A-6P26C
M F-60	S/Trp C.K. Towns	OFF	5A-5P26C	5A-5P26C	OFF	OFF	6A-6P-Z1	6A-6P-Z1
D F-79	Trp J.R. Diaz	OFF	6A-6P-Z1	6A-2P-Z1	OFF	OFF	5A-5P26B	5A-5P26B
	F-84 Trp. M.A. Bruggeman	OFF	6A-6P-Z1	6A-6P-Z1	OFF	OFF	6A-6P26C	6A-6P26C
	F-59 L/Cpl. S.P. Grainger	OFF	OFF	8A-6P-Z1	8A-6P-Z1	8A-6P-Z1	8A-6P-Z1	OFF

SUPERVISORS		SUN	MON	TUE	WED	THU	FRI	SAT
CALL#	NAME							
F-9	F/Sgt K.V. Welch	OFF	8A-4P	8A-4P	8A-4P	8A-4P	8A-4P	OFF
F-11	Sgt. P.W. Sigwald	OFF	AL (8)	AL (8)	AL (8)	HL (8)	HL (8)	OFF
C F-20	Cpl C.A. Pearson	6A-6P	OFF	OFF	6A-6P	6A-6P	OFF	OFF
A F-23	Cpl. C.M. Wooten	6P-6A	OFF	OFF	6P-6A	6P-4A	OFF	OFF
B F-24	Cpl. E.D. McAbee	OFF	6P-6A	6P-4A	OFF	OFF	6P-6A	6P-6A
B F-25	Cpl. C.E. Cooper	OFF	6A-6P	6A-6P	OFF	OFF	6A-6P	6A-6P

SPECIALS:

ZONES: Z1:North Charleston/Berkeley Z2:West Ashley Z3:East Cooper Z26C:Chas I-26 Z26B:Berk I-26

SCHP-A-003D
3/8/2000
6

Sgt. K.V. Welch

SUPERVISOR

Lt. J.T. Manley

APPROVAL

SOUTH CAROLINA HIGHWAY PATROL
12 HOUR ROTATING WORK SCHEDULE
POST-A TROOP-SIX

MONTH/DATE		AUGUST 4-10, 2013		4	5	6	7	8	9	10
NIGHT SHIFT (6PM TO 6AM) (7)		SUN	MON	TUE	WED	THU	FRI	SAT		
CALL#	NAME									
T F-39	L/Cpl R.G. Elliott	OFF	6P-6A26C	6P-6A26C	OFF	OFF				
E F-45	L/Cpl C.D. Jackson	OFF	5P-1A26B	5P-5A26B	OFF	OFF				
A F-73	Trp. C.L. Hall	OFF	9A-9P-Z1	9A-9P-Z1	OFF	OFF				
M F-78	Trp. B.J. Bamberg	OFF	6P-6A-Z1	6P-2A-Z1	OFF	OFF				
A										
T	NAME									
E F-44	L/Cpl F.G. Thompson	6P-6A-Z1	OFF	OFF	5P-5A26B	5P-5A26B				
A F-46	L/Cpl. Z.K. Thompson	OFF	OFF	OFF	6P-6A26C	6P-6A26C				
M F-53	L/Cpl A.M. Rogers	OFF	SPL-1 (8)	SPL-1 (8)	SPL-1 (8)	SPL-1 (8)				
	Tfc P.V. Yacobozzi	5P-5A26C	OFF	OFF	6P-6A-Z1	6P-6A-Z1				
	F-82 Trp. M.D. Sceviour	6P-6A26B	OFF	OFF	OFF	6P-6A-Z1				
B										
DAY SHIFT (6AM TO 6PM)		4	5	6	7	8				
CALL#	NAME	SUN	MON	TUE	WED	THU				
T F-50	L/Cpl N.J. Reeder	OFF	AL (12)	AL (12)	OFF	OFF				
E F-67	Tfc S.D. Southerland	OFF	SPL-2 (8)	SPL-2 (8)	SPL-2 (8)	OFF				
A F-74	Trp. T.H. Woovis	OFF	6A-6P26C	6A-6P26C	OFF	OFF				
M F-77	Trp. T.J. Andre	OFF	6A-6P-Z1	6A-6P-Z1	OFF	OFF				
C										
	NAME									
T F-37	L/Cpl J.L. Davis	5A-5P26B	OFF	OFF	5A-5P-Z1	5A-5P-Z1				
E F-55	L/Cpl. P.M. Hanks	6A-6P26C	OFF	OFF	6A-6P-Z1	6A-6P26C				
A F-60	S/Trp C.K. Towns	6A-2P-Z1	OFF	OFF	6A-6P-Z1	6A-6P-Z1				
M F-79	Trp. J.R. Diaz	OFF	OFF	OFF	6A-6P26C	6A-6P-Z1				
	F-84 Trp. M.A. Bruggeman	6A-6P26C	OFF	OFF	6A-6P-Z1	OFF				
D										
	F-59 L/Cpl. S.P. Grainger	OFF	8A-6P26B	8A-6P SPL3	8A-6P26B	8A-6P26B				
		SUN	MON	TUE	WED	THU				
SUPERVISOR	NAME									
F-9	F/Sgt K.V. Welch	OFF	AL(8)	SPL-3	6A-2P	6A-2P				
F-11	Sgt. P.W. Sigwald	OFF	OFF	10A-6P	10A-6P	10A-6P				
C F-20	Cpl C.A. Pearson	OFF	6A-6P	6A-6P	OFF	OFF				
A F-23	Cpl. C.M. Wooten	OFF	6P-4A	6P-4A	OFF	OFF				
B F-24	Cpl. E.D. McAbee	6P-6A	OFF	6A-6P	6A-6P	OFF				
D F-25	Cpl. C.E. Cooper	6A-6P	OFF	OFF	6P-4A	6P-4A				
Denotes Court Date										
SPL-1: Guest Instructor, SCCJA, 5400 Broad River Rd @ 0800 hours, Room HP 111 (Traffic Stops)										
SPL-2: DPS Office of Highway Safety Training Conference: Double Tree Hotel, Bush River Rd. Report @ 0730 hrs.										
SPL-3: Employee of the Quarter, 0930 hours @ Blythewood, Room CG-52										
REQUIRED ABSENCE WEEKEND										
ZONES: Z1:North Area/Berkeley Z2:West Ashley Z3:East Cooper Z26C:Chas I-26 Z26B:Berk I-26										
P-A-003D										
## _____										

Sgt. K.V. Welch
SUPERVISOR

Lt. J.T. Manley
APPROVAL

SOUTH CAROLINA HIGHWAY PATROL
12 HOUR ROTATING WORK SCHEDULE
POST-A TROOP-SIX

MONTH/DATE Aug 18 thru Aug 24, 2013			18	19	20	21	22	23	24
DAY SHIFT 6AM TO 6PM (1)			SUN	MON	TUE	WED	THU	FRI	SAT
CALL#	NAME								
T	F-39	L/Cpl R.G. Elliott	OFF	6A-4P-Z1	6A-2P-Z1	OFF	OFF	6A-6P26B	6A-6P26B
E	F-45	L/Cpl. C.D.Jackson	OFF	6A-2P-Z1	6A-6P-Z1	OFF	OFF	5A-5P-Z1	5A-5P-Z1
A	F-73	Trp. C.L. Hall	OFF	5A-5P26C	6A-5P26C	OFF	OFF	6A-2P-Z1	6A-6P-Z1
M	F-78	Trp B.J. Bamberg	OFF	6A-6P-Z1	6A-6P-Z1	OFF	OFF	6A-6P26C	6A-6P26C
A									
T	F-44	L/Cpl F.G.Thompson	6P-6A-Z1	OFF	OFF	6A-2P-Z1	6A-6P-Z1	OFF	OFF
E	F-46	L/Cpl. Z.K.Thompson	6P-6A26C	OFF	OFF	6A-6P-Z1	6A-2P-Z1	OFF	OFF
A	F-53	L/Cpl A.M.Rogers	5P-5A26B	OFF	OFF	6A-6P26C	6A-6P-Z1	OFF	OFF
M	F-69	Tfc P.V. Yacobozzi	AL (8)	OFF	OFF	6A-6P-Z1	6A-6P-Z1	OFF	OFF
	F-82	Trp M.D. Sceviour	6P-2A-Z1	OFF	OFF	6A-6P26B	6A-6P26C	OFF	OFF
B									

NIGHT SHIFT (6PM TO 6AM)			SUN	MON	TUE	WED	THU	FRI	SAT
CALL#	NAME								
T	F-50	L/Cpl N.J. Reeder	OFF	6P-2A-Z1	6P-6A-Z1	OFF	OFF	6P-6A26C	6P-6A26C
E	F-67	Tfc S.D. Southerland	OFF	5P-5A26C	5P-5A26C	OFF	OFF	6P-6A-Z1	6P-6A-Z1
A	F-74	Trp. T.H. Wovols	OFF	6P-6A-Z1	6P-6A-Z1	OFF	OFF	5P-5A26B	5P-5A26B
M	F-77	Trp T.J. Andre	OFF	6P-6A26B	6P-2A26B	OFF	OFF	6P-6A-Z1	6P-6A-Z1
C									
T	F-37	L/Cpl J.L. Davis	6A-6P-Z1	OFF	OFF	6P-2A26B	6P-6A26B	OFF	OFF
E	F-55	L/Cpl. P.M. Hanks	5A-5P26B	OFF	OFF	6P-6A-Z1	6P-2A-Z1	OFF	OFF
A	F-60	S/Trp. C.K. Towns	6A-6P26C	OFF	OFF	5P-5A-Z1	5P-5A-Z1	OFF	OFF
M	F-79	Trp J.R. Diaz	AL (8)	OFF	OFF	6P-6A26C	6P-6A26C	OFF	OFF
	F-84	Trp. M.A. Bruggeman	6A-6P-Z1	OFF	OFF	6P-6A-Z1	6P-6A-Z1	OFF	OFF
D									
	F-59	L/Cpl. S.P. Grainger	OFF	8A-6P26B	8A-6P26B	8A-6P-Z1	8A-6P26B	OFF	OFF

SUPERVISORS			SUN	MON	TUE	WED	THU	FRI	SAT
CALL#	NAME								
	F-9	F/Sgt. K.V.Welch	OFF	8A-4P	8A-4P	8A-4P	8A-4P	8A-4P	OFF
	F-11	Sgt. P.W.Sigwald	OFF	10A-6P	10A-6P	10A-6P	10A-6P	10A-6P	OFF
C	F-20	Cpl C.A.Pearson	OFF	6P-4A	6P-4A	OFF	OFF	6P-6A	6P-8A
A	F-23	Cpl. C.M. Wooten	OFF	6A-6P	6A-6P	OFF	OFF	6A-6P	6A-6P
B	F-24	Cpl. E.D. McAbee	6P-6A	OFF	OFF	6A-2P	6A-6P	OFF	OFF
D	F-25	Cpl. C.E.Cooper	6A-6P	OFF	OFF	6P-4A	6P-4A	OFF	OFF

SPECIALS:		
	Denton's Court	

ZONES: Z1:North Area/Berkeley Z2:West Ashley Z3:East Cooper Z26C:Chas I-26 Z26B:Berk I-26

SCHP-A-003D
3/8/2000
1

F/Sgt K.V. Welch
SUPERVISOR

Lt. J.T. Manley
APPROVAL

SOUTH CAROLINA HIGHWAY PATROL
12 HOUR ROTATING WORK SCHEDULE
POST-A TROOP-SIX

MONTH/DATE Aug 25 thru Aug 31, 2013			25	26	27	28	29	30	31
DAY SHIFT 6AM TO 6PM (2)			SUN	MON	TUE	WED	THU	FR	SAT
CALL#	NAME								
T F-39	L/Cpl R.G. Elliott		6A-6P26B	6A-6P-Z1	OFF	6A-6P-Z1	SP-1 (12)	OFF	OFF
E F-45	L/Cpl C.D. Jackson		5A-5P-Z1	OFF	OFF	OFF	6A-6P26C	OFF	OFF
MC F-73	Trp. C.L. Hall		OFF	OFF	OFF	5A-5P26B	6A-6P-Z1	OFF	OFF
F-78	Trp B.J. Bamberg		6A-6P26C	OFF	OFF	6A-2P-Z1	5A-5P-Z1	OFF	OFF
A									
T									
E F-44	L/Cpl F.G. Thompson		OFF	6A-6P-Z1	6A-6P26C	OFF	OFF	6A-6P26B	6A-6P26C
A F-46	L/Cpl. Z.K. Thompson		OFF	5A-5P26B	5A-5P26B	OFF	OFF	6A-6P26B	6A-6P26B
M F-53	L/Cpl A.M. Rogers		OFF	6A-6P-Z1	6A-2P-Z1	OFF	SP-1 (12)	OFF	6A-6P26B
F-69	Tfc P.V. Yacobozzi		OFF	7A-7P26C	6A-6P-Z1	OFF	SP-1 (12)	OFF	6A-6P26B
B F-82	Trp M.D. Scaivour.		OFF	6A-6P-Z1	6A-6P-Z1	OFF	OFF	6A-6P26B	6A-6P26B

NIGHT SHFT (6PM TO 6AM)			SUN	MON	TUE	WED	THU	FR	SAT
CALL#	NAME								
T F-50	L/Cpl. N.J. Reeder		6P-6A26C	OFF	OFF	OFF	6P-6A-Z1	6P-6A-Z1	OFF
A F-67	Tfc. S.D. Southerland		6P-2A-Z1	OFF	OFF	6P-6A26C	6P-6A26C	OFF	OFF
M F-74	Trp. T.H. Wovvis		OFF	OFF	OFF	9A-5P-Z1	6A-6P-Z1	OFF	6P-6A-Z1
F-77	Trp T.J. Andre		5P-5A-Z1	OFF	OFF	9A-9P26B	SP-1 (12)	OFF	OFF
C									
T F-37	L/Cpl J.L. Davis		OFF	6P-6A-Z1	6P-6A-Z1	OFF	OFF	6P-6P26C	6P-6P26C
E F-55	L/Cpl. P.M. Hanks		OFF	6P-6A26B	6P-6A26B	OFF	OFF	6P-6A-Z1	6P-6A-Z1
A F-60	S/Trp. C.K. Towns		OFF	6P-6A-Z1	6P-2A-Z1	OFF	OFF	6P-6A26B	6P-6A26B
M F-79	Trp J.R. Diaz		OFF	5P-5A-Z1	OFF	OFF	SP-1 (12)	6P-6A-Z1	6P-6A-Z1
F-84	Trp. M.A. Bruggeman		OFF	6P-2A26C	6P-6A26C	OFF	OFF	6P-6A-Z1	6P-6A-Z1
D									
F-59	L/Cpl. S.P. Grainger		OFF	8A-6P-Z1	8A-6P-Z1	6A-6P-Z1	OFF	6P-6A-Z1	OFF

SUPERVISORS			SUN	MON	TUE	WED	THU	FR	SAT
CALL#	NAME								
F-9	F/Sgt K.V. Welch		OFF	8A-4P	8A-4P	8A-4P	8A-4P	6P-6A	OFF
F-11	Sgt. P.W. Sigwald		OFF	OFF	10A-6P	10A-6P	10A-6P	10A-6P	OFF
C F-20	Cpl C.A. Pearson		6P-6A	6A-6P	OFF	6P-6A	6P-6A	OFF	OFF
A F-23	Cpl. C.M. Wooten		6A-6P	OFF	OFF	6A-6P	6A-2P	OFF	OFF
B F-24	Cpl. E.D. McAbee		OFF	6A-6P	6A-6P	OFF	OFF	6A-6P	6A-6P
D F-25	Cpl. C.E. Cooper		OFF	6P-6A	6P-6A	OFF	OFF	6P-6A	6P-6A

SPECIALS: Danotes Court
SP-1: USC v UNC; Seawells Cafateria, Reporting time and details to follow

LABOR DAY WEEKEND
ZONES: Z1:North Area/Berkeley Z2:West Ashley Z3:East Cooper Z26C:Chas I-26 Z26B:Berk I-26



South Carolina Department of Public Safety
S.C. Highway Patrol

To: Honorable Ava Bryant Ayers
From: First Sergeant K.V. Welch
Date: August 7, 2013
Re: Lance Corporal C.K. Towns

This letter is to inform you, as well as all Berkeley County Magistrates that Trooper Towns will be on extended leave and I don't have an approximate return date. I am asking that all cases that have been scheduled for pre-trials, preliminary hearings, Bench trials, or jury trials be postponed until such time that they can be appropriately dealt with by Trooper Towns or SChP. Can you please advise the area magistrate's of this situation and, if there is a conflict to let me know. In the future, can you have all magistrates direct Trooper Town's mail or notifications to my attention? If you have any questions, please give me a call at 843-209-5058 or you can email me at kvwelch@scdps.gov.

FILED

AUG 07 2013

Goose Creek Magistrate Office



Courtesy - Efficiency - Service

POST OFFICE BOX 1993, 10311 WILSON BLVD., BLYTHEWOOD, SOUTH CAROLINA 29016

STRATOS
Law Firm, LLC

ATTORNEYS AND COUNSELORS AT LAW

CHARLESTON, SC

1041 JOHNNIS DODDS BLVD., SUITE 14A
MOUNT PLEASANT, SC 29464
TELEPHONE 843.216.7739
FACSIMILE 843.216.0804
www.stratoslaw.com

FACSIMILE TRANSMISSION COVERSHEET

RECEIVED
AUG 12 2013
BY: _____

DATE: 8/12/2013

TO:

<i>NAME:</i>	<i>FAX No.:</i>	<i>PHONE No.:</i>
Goose Creek Magistrate Attn: Connie, Clerk of Court	(843) 553-7074	(843) 553-7080

FROM:

MILTON D. STRATOS, ESQ.

PHONE: (843) 216- 7739

FAX: (843) 216-0804

RE:

<i>CLIENT/CASE NAME:</i>	<i>CLIENT MATTER NUMBER:</i>	<i>SUBJECT:</i>
Jami Morse	G284243	Motion for Directed Verdict

NO. OF PAGES: ~~4~~ 4

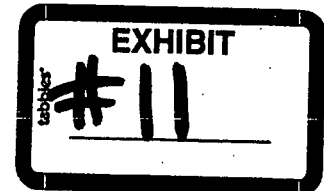
HARD COPY TO FOLLOW?:

YES

NO

MESSAGE:

PLEASE SEE ATTACHED.



CAUTION - CONFIDENTIAL

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO CONTAIN PRIVILEGED ATTORNEY-CLIENT INFORMATION OR WORK PRODUCT. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THE FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE U.S. POSTAL SERVICE. THANK YOU.

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL AS SOON AS POSSIBLE.

843.216.7739

STRATOS LAW FIRM, LLC

Milton D. Stratos, Esq.
1041 Johnnie Dodds Blvd., 14-A
Mt. Pleasant, SC 29464
843.216.7739
[f] 843.216.0804
www.stratoslaw.com

August 12, 2013

VIA US MAIL

Goose Creek Magistrate Court
Attn: Clerk of Court
303-B North Goose Creek Blvd.
Goose Creek, SC 29445

Re: The State v. Jami Morse
Case No.: G284243
Proposed Order Granting Defendant's Motion for Directed Verdict

To Whom It May Concern:

Enclosed, please find a copy of Mr. Stratos' proposed Order Granting Defendant's Motion for Directed Verdict. I have also included two additional copies so that if this meets with Judge Sessions' approval, the signed copies may be returned to our office in the provided, self-address envelope. Thank you for your assistance in this matter.

Please feel free to contact me with any questions or concerns you may have.

With kindest regards,



Malena A. Dinwoodie
Assisting
Milton D. Stratos

MDS/mad

STATE OF SOUTH CAROLINA)	IN THE GOOSE CREEK MAGISTRATES
)	COURT FOR THE COUNTY OF BERKELEY
COUNTY OF BERKELEY)	
)	
THE STATE,)	TICKET NO.: G284243
)	DRIVING UNDER THE INFLUENCE
v.)	
)	ORDER GRANTING DEFENDANT'S
)	MOTION FOR DIRECTED VERDICT
JAMIE RENEE MORSE,)	
Defendant.)	

DATE OF HEARING:	AUGUST 6, 2013
PRESIDING JUDGE:	EDWARD L. SESSIONS
PROSECUTING ATTORNEY:	NONE APPEARED
DEFENDANT'S ATTORNEY:	MILTON D. STRATOS
CLERK OF COURT:	CONNIE

This matter came before me on the 6th day of August, 2013 for trial on the charge of Driving Under the Influence 1st Offense. The record reflects that the Defendant was arrested on May 7, 2013 and received notice at that time that a trial was scheduled for July 3, 2013 and that her failure to appear would result in her being tried in her absence. Prior to the initial hearing, the Defendant, by and through her attorney, served notice on the court that she was requesting a trial by jury. A pre-trial hearing was heard on June 18, 2013 and Trooper C. Towns appeared on behalf of the State and attorney Milton D. Stratos appeared on behalf of the Defendant. On June 21, 2013 a jury trial date in this matter was confirmed and noticed of the trial to be heard on August 6, 2013 was served on all parties. The court notes that the State filed no request to continue and no one appeared on behalf of the State at the call of this case.

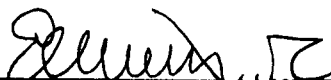
The court finds that South Carolina Highway Patrol Trooper C. Towns was notified of the jury trial date and did not contact the court and/or file any motion to continue prior to the case being called to trial. In that neither Trooper Towns nor any other agent of the South Carolina Highway Patrol appeared at the trial, the State failed to produce any evidence supporting any element of the offense of Driving Under the Influence. The Defendant then made a Motion for Directed Verdict based on the fact that no evidence was presented against the Defendant from which the court could find the Defendant guilty of Driving Under the Influence.

Based on the failure of the State to present any evidence from which this court could find

the Defendant guilty as charged, the court had no alternative other than to grant the Defendant's Motion for Directed Verdict. Wherefore, it is hereby:

ORDERED, ADJUDGED AND DECREED that the Defendant's Motion for Directed Verdict is hereby granted and the court enters a verdict of not guilty against the Defendant.

AND IT IS SO ORDERED on this the 13 day of August, 2013, in Goose Creek, South Carolina.



EDWARD L. SESSIONS, PRESIDING JUDGE,
GOOSE CREEK MAGISTRATE'S COURT,
COUNTY OF BERKELEY

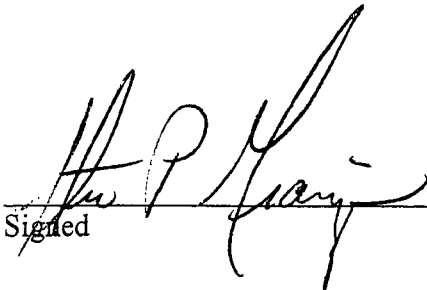


Berkeley County Summary Courts
Magistrate Edward L. Sessions
303B North Goose Creek Blvd, Goose Creek, South Carolina 29445
Phone (843) 553-7080 Fax (843) 553-7074

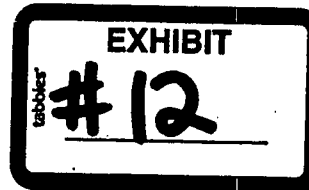
August 13, 2013

I have picked up the following items from the Goose Creek Magistrate's Office concerning the jury trial case of State (Trooper Towns) vs. Jamie Morse (Attorney Milton Stratos).

- 2 CD audio recordings
- Order Granting Defendant's Motion for Directed Verdict
- Letter from Judge Sessions
- Copy of All paperwork concerning defendant Jamie Morse
- Copy of All emails pertaining to the Troopers' court dates


Signed _____

08/13/13
Date _____



Appeals

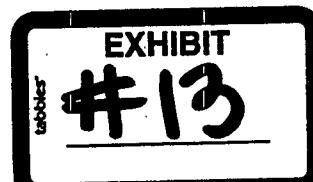
a. Magistrate Courts

Any person convicted of any offense by a magistrate may appeal the sentence to the Court of Common Pleas for that county. (§18-3-10). The appellant shall file the notice of appeal with the clerk of the circuit court and shall serve notice of appeal upon the magistrate who tried the case and upon the designated agent for the prosecuting agency or attorney who prosecuted the case within ten days after sentencing and state the grounds for his appeal (§18-3-30). If a defendant makes a motion for a new trial within five (5) days as provided in § 22-3-1000, and the motion is denied the time for appeal is extended to thirty days. § 22-3-1000 provides: "No motion for a new trial may be heard unless made within five days from the rendering of the judgment. The right of appeal from the judgment exists for thirty days after the rendering of the judgment. A magistrate's order of restitution may be appealed within thirty days. The order of restitution may be appealed separately from an appeal, if any, relating to the conviction."

Payment of any fine imposed by the magistrate will not bar an appeal. Appeal lies only from a final judgment of the magistrate, as opposed to an interlocutory order from which no appeal lies. Upon service of the notice of appeal on the magistrate, the magistrate shall admit the defendant to bail if he so demands. (§18-3-50). The conditions of bail are that the defendant appear at the court appealed to until final judgment is rendered, that he abide by this judgment and that he be of good behavior pending final disposition of the case.

When a defendant is convicted of an offense which requires suspension or revocation of his or her driver's license (see b. Offenses Requiring Revocation or Suspension of Drivers' Licenses under No. 13 Sentencing), and the defendant appeals the conviction, the appeal acts as a supersedeas and stays such suspension or revocation for 60 days. See § 56-1-430 which provides: "Upon conviction of an offense making mandatory the suspension or revocation of the driver's license of the person so convicted, an appeal taken from such conviction shall act as a supersedeas so as to preclude for a period of sixty days from the date of conviction, any such suspension or revocation." Under § 56-1-430, the stay is for only 60 days. "Prompt disposition of appeal required to set aside conviction. Defendant was charged with knowledge of the time limit imposed on the magistrate for filing the record and of the sixty-day supersedeas provided by this section and having failed to take any step toward effecting a prompt disposition of his appeal, he was not entitled to have his conviction set aside and the charges against him dismissed." State v. Adams, 244 S.C. 323, 137 S.E.2d 100 (S. C. 1964). See also Opinion No. 3681 of Attorney General dated January 2, 1974. "The failure of a magistrate or recorder to file a return so that the appeal can be heard does not entitle the defendant to a stay of license suspension or dismissal of the charge. His remedy is to apply for an order of mandamus to require the trial judge to file the return." 1974 S.C. Op. Atty. Gen. 12. "Appeal from a conviction of reckless homicide stays suspension of the defendant's driver's license for sixty days only." 1965-66 Ops. Att'y. Gen., No. 2116, p 226.

The magistrate is required to file a copy of the notice of appeal with the clerk of court within ten days of service, together with the record, a statement of all the proceedings in the case, a list of the witnesses and the substance of their testimony, taken at the trial as provided in §22-3-790.



(§18-3-40). The clerk then places the case upon the motion calendar of the Court of Common Pleas. (§18-3-60). The appeal is not "de novo." That is, the appeal is heard on the grounds of exceptions and the record of the magistrate without the examination of the witnesses. The circuit court will affirm, reverse, or modify the magistrate's sentence as it sees fit. § 18-3-70. However, if the circuit court finds the magistrate's return to be inadequate, the circuit court judge may direct the magistrate to do an amended return, and may do so as often as may be necessary. The circuit court judge may also compel the magistrate to comply with his or her order. § 18-7-80. See also: Chapman v. Computers, Parts & Repairs, 334 S.C. 387, 513 S.E.2d 120 (Ct. App. 1999).





**S. C. DEPARTMENT
OF PUBLIC SAFETY**
OFFICE OF GENERAL COUNSEL

P.O. Box 1993 • Blythewood, S.C. 29016
Tel: (803) 896-7965 • Fax: (803) 896-7967

September 5, 2013

Mary P. Brown, Clerk
Berkeley County Circuit Court
P. O. Box 219
300 B California Avenue
Moncks Corner, SC 29461

Re: State of South Carolina vs. Jami Renee Morse
Ticket No. G284243
Appeal # 2011-CP-08-_____

Dear Ms. Brown:

Please find enclosed the State's Notice of Appeal and Appeal and a Certificate of Service to be filed of record.

A copy of this Notice has been served upon all parties.

With kind regards, I am

Yours very truly,

Randi Runkles
Paralegal
Office of General Counsel

/rr

Enclosures

cc: Honorable Edward L. Sessions
Milton D. Stratos, Esq.

FILED

SEP 09 2013

Goose Creek Magistrate Office

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

STATE OF SOUTH CAROLINA)

Plaintiff(s))

vs.)

JAMI RENEE MORSE)

Defendant(s))

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2013-CP - 08- _____

(Please Print)

Submitted By: Catherine Fant, Esq.

Address: Office of General Counsel

S.C. DEP'T OF PUBLIC SAFETY

POST OFFICE BOX 1993

BLYTHERWOOD, SC 29016

SC Bar #: 14021

Telephone #: 803. 896. 7965

Fax #: 803. 896. 7967

Other:

E-mail: CatherineFant@scdps.gov

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint. This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules. This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules. This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20-CP-..., Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Assault/Stander/Libel (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Other (799)
Administrative Law/Relief: Reinstate Driver's License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Commission (990), Employment Security Comm (991), Other (999)
Special/Complex/Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Sexual Predator (510)

Submitting Party Signature:

Catherine Fant

Date: September 5, 2013

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Colleton, Florence, Greenville, Hampton, Horry,
Jasper, Lexington, Pickens (Family Court Only), Richland, Union and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA :
COUNTY OF BERKELEY :

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA, :
Plaintiff, :

vs. :

JAMI RENEE MORSE, :
Defendant/Respondent. :

CERTIFICATE OF EXEMPTION
FROM MEDIATION

C/A # 2013-CP-08-_____

I certify that this action is exempt from mediation because:

- This is a special proceeding or action seeking extraordinary relief such as
- This action is appellate in nature
- This is a post-conviction relief matter
- This is a forfeiture proceeding brought by the State
- This is a contempt of court proceeding; or
- The parties submitted the case to voluntary mediation with a certified mediator

Respectfully Submitted,



Catherine Fant
Assistant General Counsel
S. C. Department of Public Safety
Office of General Counsel
P. O. Box 1993
Blythewood, SC 29016
Telephone: (803) 896-7965
Email: CatherineFant@scdps.gov

Date: September 5, 2013

STATE OF SOUTH CAROLINA	:	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY	:	NINTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA,	:	C/A # 2013-CP-08-_____
Appellant,	:	
vs.	:	<u>NOTICE OF APPEAL</u>
JAMI RENEE MORSE,	:	<u>AND APPEAL</u>
Respondent.	:	

NOTICE OF APPEAL
AND APPEAL

TO: The Honorable Edward L. Sessions, Berkeley County Magistrate Judge,
and Milton D. Stratos, Counsel for Respondent Jami Renee Morse

The State of South Carolina, by and through the undersigned counsel, hereby gives notice of its appeal and appeals from an order of the Hon. Edward L. Sessions issued August 13, 2013 and directing a verdict of not guilty in the above-referenced case. The State received a copy of said order on August 13, 2013.

On May 7, 2013, Trooper C. K. Towns of the South Carolina Highway Patrol cited the Defendant for Driving Under the Influence in violation of S.C. Code § 56-5-2930 (Supp. 2012). (The Defendant was also ticketed for leaving the scene of an accident with injury and that charge is presently pending in general sessions court.) The matter initially was scheduled for a bench trial on June 13, 2013; however, at the

Defendant's request the case was rescheduled for a jury trial and set by the court on Tuesday, August 6th at 1:30 p.m. In the interim, on June 21st, the Highway Patrol placed Trooper Towns on indefinite leave without pay. Subsequent to this action, Trooper Towns notified the court that he was on leave and did not know when he would be returning to duty. Thereafter, on July 23, 2013, SChP FSgt. Kyle Welch confirmed Trooper Towns' unavailability on the August 6th date in an e-mail to court clerk Connie Mills, wherein he attached a trooper work schedule indicating Towns' leave without pay ("LWOP") status for the week beginning August 4, 2013. In addition, on the morning of August 6, 2013, Cpl. Earl D. McAbee was present and informed the court that Trooper Towns remained on leave without pay and would not be available for trial.

On the afternoon of August 6th, the hit-and-run victim and his grandmother appeared at the magistrate's office approximately twenty minutes prior to the time for which they had been summoned – 1:30 p.m. On arrival they observed a sign on the door stating that all jurors had been dismissed for the day. An attorney in passing informed the family that the jurors were let go because the day's cases had "settled." Despite multiple notifications that Trooper Towns remained on leave, the court proceeded to call the case at 1:10:56 p.m. in the trooper's absence. No jury was sworn. Instead, the Defendant's attorney moved for a directed verdict, arguing the State "failed to produce any evidence from which the jury could find [his] client guilty." At 1:11:47 p.m., the court orally granted the motion.

Thereafter, on August 12, 2013, in an ex parte communication with the court, the Defendant's attorney faxed a proposed order for the judge's signature. No copy was provided to the Highway Patrol and it appears the judge signed the order as written by the

Defendant's attorney on August 13th. Because the order was submitted and signed without affording all parties an opportunity for review, the order contains purported factual findings that are vigorously disputed by the State. This appeal followed.

The State's appeal is based on the fact that the magistrate judge erred as a matter of law in directing a verdict of not guilty in this case for the reasons set forth below.

First, the trial judge erred in conducting any proceedings in the State's absence because the time for which the State had been summoned to appear for trial had not yet passed when the case was called. As noted above, the State was summoned to appear for trial on August 6, 2013 at 1:30 p.m. However, the recorded hearing on the Defendant's directed verdict motion indicates the motion was heard at 1:10 p.m. and granted by the court at 1:11 p.m., well before the scheduled time for trial. Although the court's order states that "neither Trooper Towns nor any other agent of the South Carolina Highway Patrol appeared at the 'trial,'" the State contends such a finding was impossible to make as the trial was not scheduled to begin until 1:30 p.m. at the earliest. It is axiomatic that a case should not be called for trial prior to the time which has been set by the court. To do so is the functional equivalent of giving no notice at all and proceedings without notice cannot stand. See State v. Jackson, 290 S.C. 435, 351 S.E.2d 167 (1986); Brewer v. South Carolina State H'way Dep't, 261 S.C. 52, 198 S.E.2d 256 (1973); State v. Fairey, 374 S.C. 92, 646 S.E.2d 445 (Ct. App. 2007).

Second, the magistrate judge erred in entering a "directed verdict" of "not guilty" because no evidence was presented to the court. A motion for directed verdict in a criminal case is properly made *after* the presentation of evidence. See Rule 19(a), S.C.R.Crim.P. ("On motion of the defendant or on its own motion, the court shall direct a

verdict in the defendant's favor on any offense charged . . . after the evidence on either side is closed"); State v. Rainwater, 376 S.C. 256, 257 n.1, 657 S.E.2d 449, 449 n.1 (2008) ("It would be improper for the magistrate to grant a 'directed verdict' based on the insufficiency of the evidence when no evidence had yet been presented."). Here, no evidence was received because the State was not present; hence, there were no facts from which a "verdict" in the defendant's favor could be deduced. Accordingly, the trial court erred as a matter of law in granting a directed verdict.

Finally, even if the magistrate's order is construed as dismissing the case for lack of prosecution, see Rainwater, 376 S.C. at 257 n.1, 657 S.E.2d at 449 n.1 (interpreting magistrate's order as dismissal despite fact that both the oral pronouncement from the bench and the written return stated the magistrate was granting a directed verdict), the court's ruling is clearly erroneous. In the absence of an applicable statute granting such authority, a judge has no power to dismiss a criminal case prior to trial except at the behest of the prosecuting agent. See Ex Parte Brittan, 263 S.C. 363, 366, 210 S.E.2d 600, 601 (1974) ("A statute may authorize the court . . . to order an indictment or prosecution dismissed. But in the absence of such a statute . . . a court has no power . . . to dismiss a criminal prosecution except at the instance of the prosecutor. . . .") (quoting 21 Am. Jur.2d Criminal Law § 517 (1965)); State v. Needs, 333 S.C. 134, 146, 508 S.E.2d 857, 863 (1998) ("[A] trial court generally has no power to dismiss a properly drawn indictment issued by a properly constituted grand jury before trial unless a statute grants that power to the court."); State v. Ridge, 269 S.C. 61, 236 S.E.2d 401 (1977) (same).

STRATOS LAW LLC

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October 29, 2013

The Honorable Markley R. Dennis, Jr.
Circuit Judge of the Ninth Judicial
Post Office Box 1800
Moncks Corner, SC 29461

RE: The State v. Jamie Morse
Appeal from Magistrate Edward Sessions

Dear Judge Dennis:

Please be advised that I never had the opportunity to review the proposed order prior to Ms. Fant forwarding the document to the court. I object to the findings set forth in the Order as there is no supporting record for the findings set out in the second and third paragraphs of the proposed order.

Specifically, the order states, "upon arrival they observed a sign on the door stating that all jurors had been dismissed for the day." This contention is not supported by the record. It is being raised for the first time. Secondly, the order states that "[a]n attorney in passing informed the family that the jurors were released because the day's cases had settled." This contention is unsupported by the record. The same is true of the first sentence, third paragraph, of the Order, "[a]lthough the case was scheduled for a jury trial, the magistrate called the case in the absence of a jury panel." Again, this is not supported by the record.

Ms. Fant goes on supplanting the record with facts not in evidence under the section entitled Conclusions of Law. There is fact in the record to support the contention that the case was called "before the appointed time." Lastly, second sentence, fifth paragraph, is unsupported

by the record in stating, “[i]t appears, however, that a notice excusing the jury venire was in place before the magistrate called the case.”

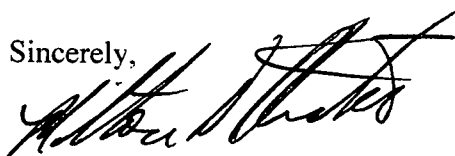
We are confined to the record on appeal and neither Ms. Fant nor I can fabricate evidence to suit our position. Ms. Fant, as the attorney for the South Carolina Highway Patrol, had a duty to file the appropriate motion to address her concerns after the court’s disposition was served upon her client. The order which Ms Fant submitted ignores the record and conjures facts to support her position.

I am requesting that the Order specifically address the basis for denying Respondents argument that this court is without jurisdiction on the following two grounds: (1) That the State failed to file an objection and/or post trial Motion pursuant to the SC Rules of Civil and Criminal Procedure to supplement the record and/or to state their objections to the trial court thereby preserving their right of appeal, and (2) That the State failed to file the appeal within the statutory period granted to The State by the South Carolina Rules of Criminal Procedure and/or the statutory provisions of the South Carolina Code of Laws.

I fervently object to Ms. Fant’s supplanting the record with her own facts. Please allow my position to become part of the record in this case.

With kindest regards, I remain

Sincerely,



Milton D. Stratos

MDS/amd

Cc: Catherine Fant, Esquire

Milton D. Stratos

From: Dennis, R. Markley Jr. Secretary (Linda J. Droze) <MDennisSC@sccourts.org>
Sent: Tuesday, October 22, 2013 2:41 PM
To: Milton@stratoslaw.com; catherinefant@scdps.gov
Subject: State vs. Jamie Renee Morse

Dear Counsel:

After the Hearing yesterday I have done further reading and feel it necessary to reopen this matter for further Hearing. I will available for the remainder of the week to accomplish this and would appreciate it if you would communicate with each other and advise me when it would be convenient to accomplish this. Also, if you want to do it by telephone that will be agreeable with me, however there won't be a record of same.

I will await to hear from you both.

Thanks, Judge Dennis

SOUTH CAROLINA HIGHWAY PATROL
12 HOUR ROTATING WORK SCHEDULE
POST-A TROOP-SIX

8/8KVVW 8/4 JTM

MONTH/DATE		AUGUST 4-10, 2013		4	5	6	7	8	10
NIGHT SHIFT 6PM TO 6AM (7)		SUN	MON	TUE	WED	THU			SAT
CALL#	NAME								
T F-39	L/Cpl R.G. Elliott	OFF	6P-6A26C	6P-6A26C	OFF	OFF	OFF	5P-5A26C	5P-5A-Z1
E F-45	L/Cpl C.D. Jackson	OFF	5P-1A26B	5P-5A26B	OFF	OFF	OFF	9A-9P-Z1	6P-6A26C
A F-73	Trp. C.L. Hall	OFF	9A-9P-Z1	9A-9P-Z1	OFF	OFF	OFF	6P-6A26B	6P-6A26B
M F-78	Trp. B.J. Bamberg	OFF	4P-4A-Z1	6P-6A-Z1	OFF	OFF	OFF	1P-1A-Z1	1P-1A-Z1
NAME									
E F-44	L/Cpl F.G. Thompson	6P-6A-Z1	OFF	OFF	5P-5A26B	5P-5A26B	OFF	OFF	OFF
A F-46	L/Cpl. Z.K. Thompson	OFF	OFF	OFF	6P-6A26C	6P-6A26C	5P-1A-Z1	OFF	OFF
M F-53	L/Cpl A.M. Rogers	OFF	SPL-1 (8)	SPL-1 (8)	SPL-1 (8)	SPL-1 (8)	SPL-1	OFF	OFF
F-69	Tfc P.V. Yacobozzi	5P-5A26C	OFF	OFF	6P-6A-Z1	6P-6A-Z1	OFF	OFF	OFF
F-82	Trp. M.D. Scevour	6P-6A26B	OFF	OFF	OFF	6P-6A-Z1	5P-1A-Z1	OFF	OFF
NAME									
T F-50	L/Cpl N.J. Reeder	OFF	AL (12)	AL (12)	OFF	OFF	AL (12)	AL (12)	AL (12)
E F-67	Tfc S.D. Southerland	OFF	SPL-2 (8)	SPL-2 (8)	SPL-2 (8)	OFF	6A-6P26C	6A-6P26C	6A-6P26C
A F-74	Trp. T.H. Wovvis	OFF	6A-6P26C	6A-6P26C	OFF	OFF	5A-5P-Z1	5A-5P-Z1	5A-5P-Z1
M F-77	Trp. T.J. Andre	OFF	6A-6P-Z1	6A-6P26B*	OFF	OFF	6A-6P26B	6A-6P26B	6A-6P26B
NAME									
T F-37	L/Cpl J.L. Davis	SL (12)	OFF	OFF	5A-5P-Z1	5A-5P-Z1	OFF	OFF	OFF
E F-55	L/Cpl. P.M. Hanks	6A-6P26C	OFF	OFF	5A-6P**	6A-6P26C	OFF	OFF	OFF
A F-60	S/Trp C.K. Towns	LWOP	OFF	OFF	LWOP	LWOP	OFF	OFF	OFF
M F-79	Trp. J.R. Diaz	OFF	OFF	OFF	6A-6P26C	6A-6P**	OFF	5P-1A-Z1	5P-1A-Z1
F-84	Trp. M.A. Bruggeman	6A-6P26C	OFF	OFF	6A-6P**	OFF	OFF	5P-1A-Z1	5P-1A-Z1
D F-59	L/Cpl. S.P. Grainger	OFF	8A-6P26B	8A-6P SPL3	8A-6P26B	8A-6P26B	OFF	OFF	OFF
NAME									
F-9	F/Sgt K.V. Welch	OFF	8A-4P	SPL-3 (8)	8A-4P**	6A-2P	5P-1A	OFF	OFF
F-11	Sgt. P.W. Sigwald	OFF	OFF	10A-6P	10A-6P	10A-6P	8A-4P	5P-1A	5P-1A
C F-20	Cpl C.A. Pearson	OFF	6A-6P	6A-6P**	OFF	OFF	6A-6P	6A-6P	6A-6P
A F-23	Cpl. C.M. Wooten	OFF	6P-4A	6P-4A	OFF	OFF	6P-6A	6P-8A	6P-8A
B F-24	Cpl. E.D. McAbee	6P-6A	OFF	6A-6P**	6A-6P**	OFF	OFF	OFF	OFF
D F-25	Cpl. C.E. Cooper	6A-6P	OFF	OFF	6P-4A	6P-4A	OFF	OFF	OFF
** Denotes Court Date									
SPL-1: Guest Instructor; SCCJA, 5400 Broad River Rd @ 0800 hours, Room HP 111 (Traffic Stops)									
SPL-2: DPS Office of Highway Safety Training Conference. Double Tree Hotel, Bush River Rd. Report @ 0730 hrs.									
SPL-3: Employee of the Quarter; 0930 hours @ Blythewood, Room CG-52									
DUI MEDIA BLITZ WEEKEND ***8-9-13 LEN Meeting @ 1200 Ryans Resturant, Summerville SC***									
ZONES: Z1:North Area/Berkeley Z2:West Ashley Z3:East Cooper Z26C:Chas I-26 Z26B:Berk I-26									

Revised: 8/4, 8/5

Sgt. K.V. Welch
SUPERVISOR

Lt. J.T. Manley
APPROVAL

UNIFORM TRAFFIC TICKET

57

STATE OF SOUTH CAROLINA VERSUS

FIRST NAME: JAMES MIDDLE NAME: PENCE LAST NAME: MORSE

STREET AND NO.: 105A FREEHOLD DR CITY: GOOSE CREEK STATE: SC ZIP CODE: 29445

STATE LICENSED: SC DRIVER'S LICENSE NO.: 100064408 CDL: YES NO: D

VEH. LIC. NO.: MAKE OF VEH: HONDA YEAR: 05 COUL. VEH.: AUTO HAZ. MT.: MOPED: WTRD/VCL: COMB.:

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT: CTC STREET AND NO.: 723 W. W. DAVIS DR

DATE OF TRIAL: 6/13/2013 TIME OF TRIAL: 1400 CITY: MONROE CORNER STATE: SC ZIP CODE: 29661

VIOLATION - COURT APPEARANCE REQUIRED: YES NO: VIOLATION SECTION NO.: 96-52530

OWNER OF VEHICLE: C. STILES DATE OF ARREST: 5/17/2013

ADDRESS OF OWNER: SAME DATE OF VIOLATION: 5/17/2013

BAIL DEPOSITED: \$100 NAME OF ARRESTING OFFICER: C. TOWNS

DESCRIPTION OF ACCUSED: W/F 8/11/1965 5'3" 110 BLU BROWN EYES

COUNTY: BERK NUMBER: 2356

CASE BEFORE: MAGISTRATE [] MUN. COURT []

CIRCUIT COURT [] FAMILY COURT [] FEDERAL COURT []

NAME OF TRIAL COURT: DIDS WEATHER: CLR

DEFENDANT: DID NOT APPEAR [] APPEARED []

NOLLE PROSSED [] DISPOSITION: GUILTY [] FORFEITED BOND [] PLED: NOLO CONTENDERE []

TRIAL BY: TRIAL JUDGE [] JURY []

VERDICT OF TRIAL IF ANY: GUILTY [] NOT GUILTY [] DATE OF TRIAL IF ANY: 20

JAIL [] SUSPEND [] FINE [] AMT. COLLECTED [] AMT. SUSPENDED []

COMMITTED TO: Vehicle Searched: YES Arrest as Result of Collision: YES

CERTIFIED CORRECT: DATE: OFFENSE CODE: 99 B.A. LEVEL: .08

G 284243

DRIVER'S RECORD COPY

1993-101192

DOCKET NO.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELY COUNTY
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Case No.: 2013-CP-08-2002

The State..... Respondent,

v.

Jami Morse Appellant.

CERTIFICATE OF COUNSEL

In compliance with South Carolina Appellate Court Rules, Rule 210(g), and by my signature below, I certify that the Record on Appeal contains all material proposed to be included and not any other material.



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Attorney for Respondent