

5

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Tanya A. Gee, Circuit Court Judge
Barbara Jo Wofford-Kanwat, Magistrate Court Judge

Appellate Case No. 2015-002576
Circuit Case No. 2015-CP-40-03354

The State Of South Carolina, Respondent,
v.
Gerald J. Nagy, Appellant.

RECORD ON APPEAL

RECEIVED

JUL 10 2017

SC Court of Appeals

Gerald J. Nagy
Mail Stop 149
911 Old Barnwell Road
West Columbia, South Carolina 29170
(803) 808-3438
Pro Se

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Attorney General

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Columbia, SC 29201
(803) 576-1802

ATTORNEYS FOR RESPONDENT

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SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA VERSUS

897.50

FIRST NAME Gerald		MIDDLE NAME J		LAST NAME Nagy	
STREET AND NO. 300 Timber Ridge Drive W. Columbia Sc		CITY Columbia		STATE Sc	
STATE LICENSED Sc		DRIVER'S LICENSE NO. 004773963		CDL ☐ YES ☒ NO	
VEH. LIC. NO. LBW 534		STATE Sc		DRI. LIC. CLASS D	
MAKE OF VEH Jeep		YEAR 99		COMM. VEH. HAZ. MT.	
STATE Sc		YEAR 99		MOPED MTRCYCL.	

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT Central Court		STREET AND NO. 1400 Huger Street	
DATE 12/18/2014	OF TRIAL 9AM	CITY Columbia	STATE Sc
VIOLATION - COURT APPEARANCE REQUIRED YES NO Speeding 80 69/60		VIOLATION SECTION NO. 56-5-1520	
OWNER OF VEHICLE Same		DATE OF ARREST 11/15/2014	
ADDRESS OF OWNER		DATE OF VIOLATION 11/15/2014	

BAIL DEPOSITED None	NAME OF ARRESTING OFFICER OXFORD BOURE JB	RANK Lt
-------------------------------	---	-------------------

ALL TIMES SHOWN ON THIS SUMMONS
ARE IN MILITARY TIME
PRESENT THIS SUMMONS TO THE
TRIAL COURT SHOWN ABOVE

Be sure you understand from the arresting officer the exact time and before whom you are to appear. IF THIS TICKET IS WRITTEN FOR A TRAFFIC VIOLATION AND YOU FORFEIT BAIL, PLEAD GUILTY OR NOLO CONTENDERE, OR ARE CONVICTED AFTER A TRIAL, THIS VIOLATION WILL BE PLACED AGAINST YOUR DRIVING RECORD, OR FORWARDED TO YOUR HOME STATE. FAILURE TO COMPLY WITH THE TERMS OF THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR DRIVERS LICENSE BY YOUR HOME STATE. YOU ARE REQUIRED BY LAW TO APPEAR IN COURT FOR CERTAIN OFFENSES.

COUNTY Rich	NUMBER 40
BADGE 771	TROOP 1
DAY 1	TIME OF VIOLATION 1020
W 2	WEATHER CLR
THU 3	HWY. NO. 26
FRI 4	MILES 102
SAT 5	CITY Irmo
SUN 6	CODE 1
MON 7	Lat 34 06 0410
TUE 8	Long 81 40 5090
WED 9	OFFENSE CODE 21
THUR 10	B.A. LEVEL -

DOCKET NO.

SEE IMPORTANT INFORMATION ON
THE REVERSE SIDE OF THIS TICKET

G 144808

VIOLATOR'S COPY

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2015CP4003354

State of South Carolina

Gerald S Nagy

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code 2001

Date 7/31/15

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 5th day of August, 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Kristen Ann Bales

Gerald S Nagy

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court

Jeanette W. McBride

SCANNED

COPY

STATE OF SOUTH CAROLINA	)	IN THE MAGISTRATES COURT
	)	
COUNTY OF RICHLAND	)	UNIFORM TRAFFIC TICKET #G-144808
	)	
State Of South Carolina	)	
	)	
Plaintiff	)	
	)	
vs.	)	MOTION FOR DISCLOSURE
	)	OF EVIDENCE
	)	
Gerald J. Nagy	)	
	)	
Defendant	)	

14 NOV 24 PM 3:03

TO THE PLAINTIFF NAMED ABOVE:

Come now the Defendant, Gerald J. Nagy, pro se, pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure (SCRCrimP), and moves the Prosecution to permit the Defendant to inspect and copy or photograph, including, but not limited to, the following, with the express provision that the duty of disclosure be a continuing one in the event that any such materials come into existence or become available after the initial disclosures:

1. Any relevant written or recorded statements made by the Defendant, or copies thereof, within the possession, custody or control of the Prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution; the substance of any oral statement which the Prosecution intends to offer in evidence in chief at the trial, or in rebuttal, made by the Defendant whether before or after arrest in response to interrogation by any person then known to the Defendant to be a prosecution agent.
2. Copies of the Defendants prior criminal record, if any, as is within the possession, custody, or control of the Prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution.

3. Books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the Prosecution, and which are material to the preparation of his defense or are intended for use by the Prosecution as evidence in chief at the trial, or in rebuttal, or were obtained from, or belong to, the Defendant.
4. Any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of the Prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense or are intended for use by the Prosecution as evidence in chief at the trial, or in rebuttal.
5. The name and home address of witnesses, or prospective prosecution witnesses, if any, which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, whether or not the Prosecution intends to call them at the trial, and any and all statements written or oral, if any, as is within the possession, custody, or control of the Prosecution, made by any witness, or prospective prosecution witness, which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense or are intended for use by the Prosecution as evidence in chief at the trial, or in rebuttal.
6. For all witnesses, or prospective prosecution witnesses listed in item #5 above, their employer name and address, date of employment, job title, position currently held, qualifications for that position, how they meet those qualifications, length of time in that position, positions previously held, training received, special training received, job related

certifications currently held, job related certifications previously held, the name of the certifying entity for those certifications, requirements for those certification, when those requirements were originally met, ongoing requirements for maintaining those certifications, and any other special job related skills or talents they may possess, which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense or are intended for use by the Prosecution as evidence in chief at the trial, or in rebuttal.

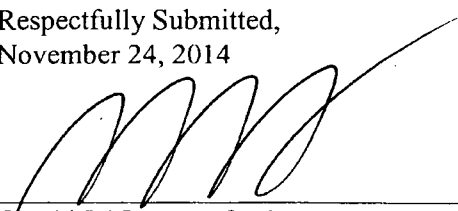
7. The method, means, and procedures used by the Arresting Officer to determine the lawful speed limit at the location of the alleged violation which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense whether or not this evidence is intended to be used by the Prosecution as evidence in chief at the trial, or in rebuttal.
8. The manufacturer name, manufacturer model, unit serial number, service records, owners manual, operators manual, operator training requirements, operator certification requirements, operation logs, Certification of trace to NIST standards, and chain-of-custody documentation indicating disclosure items were under the care and control of the Arresting Officer on the date of the alleged violation, for each and every mechanical, electrical, or electronic, speed detection and/or speed measuring device used for the purpose of gathering evidence prior to the above captioned Ticket being issued by the Arresting Officer, which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense whether or not this evidence is intended to be used by the Prosecution as evidence in chief at the trial, or in rebuttal.

9. All summons issued by the Arresting Officer, and all other officers employed by his employer, to any individual on the date of the Defendants alleged violation for the same or similar offenses alleged to have occurred within a five (5) statute mile distance on the same highway number of the alleged violation shown on the above captioned Ticket which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense whether or not this evidence is intended to be used by the Prosecution as evidence in chief at the trial, or in rebuttal.

The Defendant further moves that the compliance with the foregoing request be made within thirty (30) days from the service of this Motion, and upon failure of the Prosecution to so comply, the Defendant will move before the appropriate Court, by Notice and Motion, for an order prohibiting the Prosecution from introducing at trial, evidence not disclosed, and if the foregoing is denied, an order permitting the discovery and inspection requested and a continuance of the trial, or such order as the Court in its discretion deems just under the circumstances.

For the purpose of the motion, the Defendant asserts that any and all items requested in Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, and 9 above are material to the preparation of the defense of the case.

Respectfully Submitted,
November 24, 2014



Gerald J. Nagy, Defendant pro se
300 Timber Ridge Drive
West Columbia, South Carolina 29169
(803) 791-3438

COPY

STATE OF SOUTH CAROLINA	)	IN THE MAGISTRATES COURT
	)	
COUNTY OF RICHLAND	)	UNIFORM TRAFFIC TICKET #G-144808
	)	
State Of South Carolina	)	
	)	
Plaintiff	)	
	)	
vs.	)	MOTION TO COMPEL, OR EXCLUDE,
	)	OR DISMISS IN THE ALTERNATIVE
	)	- PRETRIAL HEARING REQUESTED -
Gerald J. Nagy	)	
	)	
Defendant	)	

Come now the Defendant, Gerald J. Nagy, pro se, and respectfully presents the following:

1. Plaintiff was served a MOTION FOR DISCLOSURE OF EVIDENCE on November 14, 2014, which was received on November 25, 2014. (Exhibit A)
2. Response to aforesaid Motion was due on December 15, 2014.
3. The Defense has made a good faith effort to obtain compliance by notifying Plaintiff via a Notice mailed on December 30, 2014. (Exhibit B)
4. Defendant has not received any response or correspondence from the Plaintiff, a Response now being Twenty Eight (28) days overdue as of the date of the filing of this motion, and believes Plaintiff will not respond absent an Order by this Court.

WHEREFORE: the Defendant requests this Honorable Court grant the following relief requested herein:

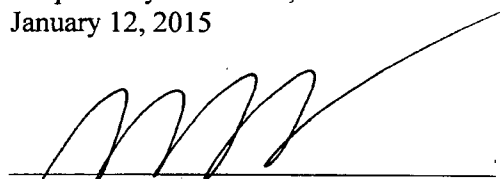
- A. An order by this Court compelling the Plaintiff to respond to the MOTION FOR DISCLOSURE OF EVIDENCE originally served on November 14, 2014.
- B. To the extent the Plaintiff fails to fully answer each item requested under Discovery,

COPY

those incomplete or not fully answered items will be, by Order of the Court, excluded from introduction as evidence in chief at trial.

C. In the alternative to "A." and "B." above, the Court grant to the Defendant an Order Of Dismissal With Prejudice.

Respectfully Submitted,
January 12, 2015



Gerald J. Nagy, Defendant pro se
300 Timber Ridge Drive
West Columbia, South Carolina 29169
(803) 791-3438

COPY

EXHIBIT A

COPY

STATE OF SOUTH CAROLINA	)	IN THE MAGISTRATES COURT
	)	
COUNTY OF RICHLAND	)	UNIFORM TRAFFIC TICKET #G-144808
	)	
State Of South Carolina	)	
	)	
Plaintiff	)	
	)	
vs.	)	MOTION FOR DISCLOSURE
	)	OF EVIDENCE
	)	
Gerald J. Nagy	)	
	)	
Defendant	)	

TO THE PLAINTIFF NAMED ABOVE:

Come now the Defendant, Gerald J. Nagy, pro se, pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure (SCRCrimP), and moves the Prosecution to permit the Defendant to inspect and copy or photograph, including, but not limited to, the following, with the express provision that the duty of disclosure be a continuing one in the event that any such materials come into existence or become available after the initial disclosures:

1. Any relevant written or recorded statements made by the Defendant, or copies thereof, within the possession, custody or control of the Prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution; the substance of any oral statement which the Prosecution intends to offer in evidence in chief at the trial, or in rebuttal, made by the Defendant whether before or after arrest in response to interrogation by any person then known to the Defendant to be a prosecution agent.
2. Copies of the Defendants prior criminal record, if any, as is within the possession, custody, or control of the Prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution.

3. Books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are within the possession, custody or control of the Prosecution, and which are material to the preparation of his defense or are intended for use by the Prosecution as evidence in chief at the trial, or in rebuttal, or were obtained from, or belong to, the Defendant.
4. Any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof, which are within the possession, custody, or control of the Prosecution, the existence of which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense or are intended for use by the Prosecution as evidence in chief at the trial, or in rebuttal.
5. The name and home address of witnesses, or prospective prosecution witnesses, if any, which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, whether or not the Prosecution intends to call them at the trial, and any and all statements written or oral, if any, as is within the possession, custody, or control of the Prosecution, made by any witness, or prospective prosecution witness, which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense or are intended for use by the Prosecution as evidence in chief at the trial, or in rebuttal.
6. For all witnesses, or prospective prosecution witnesses listed in item #5 above, their employer name and address, date of employment, job title, position currently held, qualifications for that position, how they meet those qualifications, length of time in that position, positions previously held, training received, special training received, job related

certifications currently held, job related certifications previously held, the name of the certifying entity for those certifications, requirements for those certification, when those requirements were originally met, ongoing requirements for maintaining those certifications, and any other special job related skills or talents they may possess, which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense or are intended for use by the Prosecution as evidence in chief at the trial, or in rebuttal.

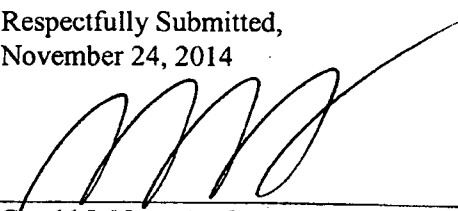
7. The method, means, and procedures used by the Arresting Officer to determine the lawful speed limit at the location of the alleged violation which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense whether or not this evidence is intended to be used by the Prosecution as evidence in chief at the trial, or in rebuttal.
8. The manufacturer name, manufacturer model, unit serial number, service records, owners manual, operators manual, operator training requirements, operator certification requirements, operation logs, Certification of trace to NIST standards, and chain-of-custody documentation indicating disclosure items were under the care and control of the Arresting Officer on the date of the alleged violation, for each and every mechanical, electrical, or electronic, speed detection and/or speed measuring device used for the purpose of gathering evidence prior to the above captioned Ticket being issued by the Arresting Officer, which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense whether or not this evidence is intended to be used by the Prosecution as evidence in chief at the trial, or in rebuttal.

9. All summons issued by the Arresting Officer, and all other officers employed by his employer, to any individual on the date of the Defendants alleged violation for the same or similar offenses alleged to have occurred within a five (5) statute mile distance on the same highway number of the alleged violation shown on the above captioned Ticket which is known, or by the exercise of due diligence may become known, to the Attorney for the Prosecution, and which are material to the preparation of the defense whether or not this evidence is intended to be used by the Prosecution as evidence in chief at the trial, or in rebuttal.

The Defendant further moves that the compliance with the foregoing request be made within thirty (30) days from the service of this Motion, and upon failure of the Prosecution to so comply, the Defendant will move before the appropriate Court, by Notice and Motion, for an order prohibiting the Prosecution from introducing at trial, evidence not disclosed, and if the foregoing is denied, an order permitting the discovery and inspection requested and a continuance of the trial, or such order as the Court in its discretion deems just under the circumstances.

For the purpose of the motion, the Defendant asserts that any and all items requested in Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, and 9 above are material to the preparation of the defense of the case.

Respectfully Submitted,
November 24, 2014



Gerald J. Nagy, Defendant pro se
300 Timber Ridge Drive
West Columbia, South Carolina 29169
(803) 791-3438

COPY

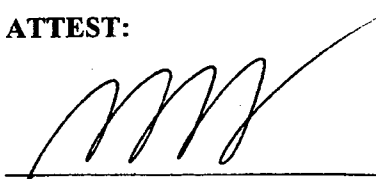
CERTIFICATE OF SERVICE

I, Gerald J. Nagy, hereby attest and affirm that on this date, November 24, 2014, I served the within and foregoing MOTION FOR DISCLOSURE OF EVIDENCE by depositing copy of the aforementioned document with the method and on the parties as indicated below:

Via postage prepaid United States Postal Service First Class Certified Mail, with Domestic Return Receipt Requested, article addressed to:

Trooper Jonathan B. Oxandaboure
Troop 1, Badge 771
South Carolina State Highway Patrol
1626 Shop Road
Columbia, South Carolina 29201

ATTEST:



Gerald J. Nagy

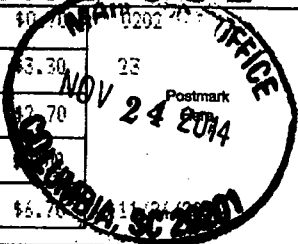
U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

COLUMBIA, SC 29201

OFFICIAL USE

Postage	\$	\$1.70
Certified Fee		\$3.30
Return Receipt Fee (Endorsement Required)		\$2.70
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	\$5.70



Sent To: **Trooper Jonathan B. Oxandaboure**
 Street, Apt. No., or PO Box No.: **1626 Shop Road**
 City, State, ZIP+4: **Columbia, SC 29201**

PS Form 3800, August 2006

See Reverse for Instructions

COLUMBIA MPO
 COLUMBIA, South Carolina
 292019998

4518030202 -0097

11/24/2014 (803)733-4649 02:50:28 PM

Sales Receipt		
Product Description	Sale Unit Qty Price	Final Price
COLUMBIA SC 29201-4848 Zone-0		\$0.70
First-Class Mail Letter		
1.10 oz.		
Expected Delivery: Tue 11/25/14		
Return Rcpt (Green Card)		\$2.70
00 Certified		\$3.30
USPS Certified Mail #:		
70091410000185360722		

Issue Postage: \$6.70

Total: \$6.70

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Trooper Jonathan B. Oxandaboure
1626 Shop Road
Columbia, SC 29201

2. Article Number
 (Transfer from service label)

7009 1410 0001 8536 0722

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

[Signature]

☐ Agent

☐ Addressee

B. Received by (Printed Name)

[Signature]

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☒ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

English

Customer Service

USPS Mobile



Search or Enter

Quick Tools

Mail & Ship

Track & Manage

Postal Store

Business

USPS Tracking™

Customer
Have questions?

Tracking Number: 70091410000185360722

On Time

Expected Delivery Day: Tuesday, November 25, 2014

Product & Tracking Information

Available Actions

Postal Product:
First-Class Mail®Features:
Certified Mail™

Return Receipt

Return Receipt After Delivery

November 25, 2014 , 12:59
pm

Delivered

COLUMBIA, SC 29201

Your item was delivered at 12:59 pm on November 25, 2014 in COLUMBIA, SC 29201.

November 25, 2014 , 7:40
am

Arrived at Unit

COLUMBIA, SC 29205

November 25, 2014 , 5:14
amDeparted USPS Origin
Facility

COLUMBIA, SC 29201

November 24, 2014 , 5:55
pmArrived at USPS Origin
Facility

COLUMBIA, SC 29201

November 24, 2014 , 2:49
pm

Acceptance

COLUMBIA, SC 29201

Track Another Package

Tracking (or receipt) number

<https://tools.usps.com/go/TrackConfirmAction.action?tRef=fullpage&tLc=1&text28777=&tLabels=7009...> 1/11/2015


Track It

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Search or Enter

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EXHIBIT B

Gerald J. Nagy

300 Timber Ridge Drive • West Columbia, South Carolina 29169
803.791.3438

Notice

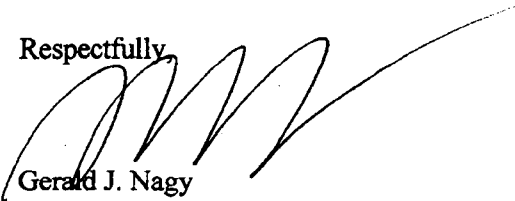
December 30, 2014

Trooper Jonathan B. Oxandaboure
Troop 1, Badge 771
South Carolina State Highway Patrol
1626 Shop Road
Columbia, South Carolina 29201

Dear Trooper Oxandaboure,

I am writing you today in reference to the Summons (#G-144808) you recently issued to me. On November 25th I sent you a Discovery Motion and as of yet have not received a reply. I know things can get hectic during the holiday season and was wondering if you have had a chance to respond as I have not yet received it. I am sure you are aware of the time limits to file a pre-trial motion to either compel, exclude, or dismiss. Because of this hectic time of year I was wondering if you may have instead considered "nol pros-ing" the ticket? If so, I have included a Notice Of Non-Prosecution. If this is agreeable to you please complete all three and return them to me in the envelope included. I will get them filed and return a clocked copy to you for your records.

Respectfully,



Gerald J. Nagy

GJN/mc
Enc.

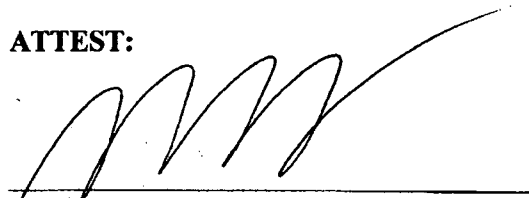
CERTIFICATE OF MAILING

I, Gerald J. Nagy, hereby attest and affirm that on this date, December 30, 2014, I served the within and foregoing Notice by depositing copy of the aforementioned document with the method and on the parties as indicated below:

Via postage prepaid United States Postal Service First Class, article addressed to:

Trooper Jonathan B. Oxandaboure
Troop 1, Badge 771
South Carolina State Highway Patrol
1626 Shop Road
Columbia, South Carolina 29201

ATTEST:



Gerald J. Nagy

COPY

STATE OF SOUTH CAROLINA	)	IN THE MAGISTRATES COURT
	)	
COUNTY OF RICHLAND	)	UNIFORM TRAFFIC TICKET #G-144808
	)	
State Of South Carolina	)	
	)	
Plaintiff	)	
	)	MOTION FOR RETRIAL
vs.	)	
	)	- MOTION IN FORM -
Gerald J. Nagy	)	
	)	
Defendant	)	

Come now the Defendant, Gerald J. Nagy, pro se, pursuant to South Carolina Code of Laws §22-3-1000, and respectfully submits the following:

1. On November 15, 2014, Defendant was issued a Uniform Traffic Ticket, numbered G-144808 by Trooper Jonathan B. Oxandaboure of the South Carolina State Highway Patrol.
2. On November 24, 2014, Defendant served Plaintiff with a MOTION FOR DISCOVERY.
3. On November 24, 2014, Defendant filed a MOTION FOR CONTINUANCE in order to allow Plaintiff sufficient time to produce discovery.
4. On December 30, 2014, Defendant sent Plaintiff a Notice that no discovery materials had been produced.
5. On January 12, 2015, Defendant filed a MOTION TO COMPEL, OR EXCLUDE, OR DISMISS IN THE ALTERNATIVE.
6. On or about January 02, 2015, Defendant received a Summary Court Summons informing him of the newly scheduled trial date.
7. On February 03, 2015, Defendant appeared in Richland County Magistrates Court (Central Court) as summoned.

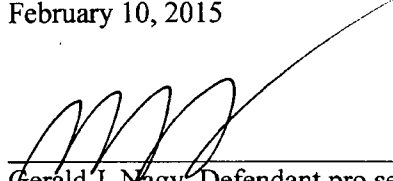
8. Prior to the commencement of court proceedings, Trooper Oxandaboure requested a conference with Defendant, at which time Trooper Oxandaboure indicated he would have the case continued. Appellant was aware that both parties are entitled to only one "default" continuance, Appellant had already been granted one, and that Respondent would need to make the request or it would probably not be granted.
9. On February 09, 2015, Defendant learned that he was Tried In Absentia in contrast to what Trooper Oxandaboure had indicated. Defendant's AFFIDAVIT OF DEFENDANT and supporting documentation referenced therein are attached. (Exhibit A)
10. On the same date of the filing of this MOTION FOR RETRIAL, Defendant is also filing a MOTION OF APPEAL FROM MAGISTRATES COURT with the Richland County Court of Common Pleas.
11. Defendant is pro se and as such is to be granted the widest possible latitude in his dealing before the Court. Notwithstanding, Defendant has tried his best to show respect to the Court in his conduct, filings, and spirit of cooperation. The Summary Court has been more than helpful, gracious, and cooperative in it's dealings with the Defendant. The State Of South Carolina allows licensed police officers and state troopers to act as prosecutors in certain matters before it's various Courts. While the Defendant is unable to determine if those officials are technically Officers Of The Court, they hold the rights, and by inference the responsibility, to act in a manner befitting. By his actions Trooper Oxandaboure has shown a disregard for both the South Carolina Code Of Laws and Rules Of Court, along with various Supreme Court and Federal Appellate Court rulings. In addition, he has been less than forthright in his conduct with a pro se Defendant.

WHEREFORE, the Defendant prays this Honorable Court will grant the following relief requested herein:

- A. An order granting a new trial.
- B. A pretrial hearing of Defendants MOTION TO COMPEL, OR EXCLUDE, OR DISMISS IN THE ALTERNATIVE.

Should the Court decide favorably to the requested relief and wish to schedule theses matter for anytime the week of February 16th in order to avoid having to respond to Defendants Appeal, Defendant will waive the minimum notification time if he is notified of the new trail date via US Mail along with a voice mail and/or email (preferably both) as indicated below the signature line.

Respectfully Submitted,
February 10, 2015



Gerald J. Nagy, Defendant pro se
300 Timber Ridge Drive
West Columbia, South Carolina 29169
(803) 791-3438
FromRCMC@MagyarMail.com
(The above email address will direct your email to a "General Delivery" mailbox at my domain)

COPY

EXHIBIT A

COPY

STATE OF SOUTH CAROLINA	)	IN THE MAGISTRATES COURT
	)	
COUNTY OF RICHLAND	)	UNIFORM TRAFFIC TICKET #G-144808
	)	
State Of South Carolina	)	
	)	
Plaintiff	)	
	)	
vs.	)	AFFIDAVIT OF DEFENDANT
	)	
Gerald J. Nagy	)	
	)	
Defendant	)	

Come now the Defendant, Gerald J. Nagy, pro se, who, being first duly sworn, deposes and says, to wit as follows:

My name is Gerald J. Nagy, I am over the age of eighteen (18), and a resident of the State of South Carolina. Contained herein are facts known to me.

EVENTS OF FEBRUARY 03, 2015:

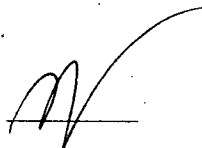
On February 03, 2015, a criminal trial in the above captioned matter was scheduled in Richland County Magistrates Court, commonly known as Central Court, located at 1400 Huger Street, Columbia, South Carolina 29201.

I arrived at approximately 08:30, entered the building and subsequently the courtroom. Within a few minutes of entering the courtroom, a State Trooper took a position at the front of the courtroom with a stack of citations in hand and began calling other defendants to the front of the courtroom in an effort to "work something out". By that, with the defendants consent, he was altering the criminal charge thus reducing the defendants fine in order to clear some of the matters from the trial docket. For every accused that agreed, the trooper told them to leave the court and pay their fine. Within a few minutes a second trooper entered the courtroom and began the same procedure in tandem.

While court was schedule to begin at 09:00, the prosecuting officer in my case, Trooper Jonathan B. Oxandaboure, did not appear until approximately 09:10 and began the same process as the other troopers. A few minutes later one of the various court employees announced that court was about to convene and Trooper Oxandaboure called the names of five or six defendants, my name included, and asked that we meet with him in the lobby.

Once both myself and Trooper Oxandaboure were in the lobby, I gave him my name. He proceeded to tell me that "...I've cut this as much as I can..." I told him I was not there to negotiate a lesser charge, but rather I informed him that I had not yet received any answer to my

Affiants Initials:



AFFIDAVIT OF DEFENDANT

Page 2

Discovery Motion. He initially was very indignant and informed me he "...sent a Rule 5 notice." I told him I had not received anything from him and asked if he had a copy present. He responded "No. It's back at the office." We had a brief discussion about Discovery and the fact that I had received nothing in reply. During part of that discussion he stated something to the effect that he didn't have to produce anything and everything I to which I was entitled was "...at Shop Road..." for me to examine.

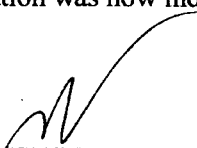
In an effort to be as accommodating as possible, I asked him if he would like to postpone the trial in order to allow time for me to examine whatever Discovery materials he might produce. He agreed that would be a good idea and suggested I contact him on "...Friday morning...", apparently referencing February 06, 2015. I told him I was contracted to work in Augusta, Georgia, Wednesday through Friday of the next two weeks, referencing February 04 - 07, 2015 and February 11 - 13, 2015, but I could meet with him anytime the week after that, referencing the week beginning February 16, 2015. He said that would work well. He gave me a contact phone number, "...737-8313..." and I told him I would phone him first thing that Monday AM, again referencing February 16, 2015. Note that neither of us referenced specific calendar dates, just weeks and days of week relative to the day we spoke.

The day prior to the trial date I had printed the results of an internet Public Index Search of my case from www5.rcgov.us and had noticed that the MOTION FOR CONTINUANCE I had filed on November 24, 2014 was listed under the Actions section, but a MOTION TO COMPEL, OR EXCLUDE, OR DISMISS IN THE ALTERNATIVE that I had filed on January 12, 2015 was not showing under the Actions section.

Before leaving the building I wanted to know when the hearing on my motion was to take place, and I reentered the court room. By that time court had convened and I was unable to approach any of the clerks or other court employees in the courtroom, so I proceeded to the cashier / clerks office where payments and filings occur. I spoke to the worker seated behind the counter along with another worker (standing) I had seen in the courtroom earlier that morning. I reviewed what had transpired between myself and Trooper Oxandaboure. I also inquired why my motion was not listed and the second (standing) worker replied, essentially, that often times they (the clerks office) do not enter them (motions) into the computer system and the Judge usually hears them just prior to trial. I also inquired if there was anything else I needed to do and she said, essentially, no and they would contact me once the trial had been rescheduled. I did not obtain any names of the individuals with whom I spoke. At that point I left the building.

EVENTS OF FEBRUARY 09, 2015:

I was updating my files and paperwork pertaining to the trial, and did another internet Public Index Search of my case from www5.rcgov.us to see if the trial date had been rescheduled. I was shocked to see that the information was now indicating a disposition of "TIA

Affiants Initials: 

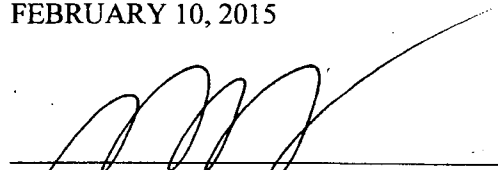
AFFIDAVIT OF DEFENDANT

Page 3

Guilty Bench Trial". I immediately phoned the Clerk Of Courts office, left a message, and received a return phone call. I asked a few questions about the information on the "web" and the lady indicated to me that it was correct. I gave her a synopsis of the events to date. She was surprised that a motion had not been recorded, but in regards to the continuance, she suggested I phone Trooper Oxandaboure and speak with him. We continued to converse about a few matters and she then volunteered to phone Trooper Oxandaboure as she thought she might be able to reach him faster. She phoned me back a few minutes later and told me that he said, essentially, I was the one who was supposed to have asked for the continuance. Although his response to her, as told to me, would be considered hearsay, it was abundantly clear to me that Trooper Oxandaboure had misrepresented his intentions to both me and subsequently the court, taking advantage of a pro se defendant. I told her I would be stop by the court to pay the fine later in the day. I prepared the appeal notice, served it, went to the clerks office, paid the fine, and clocked the notice. This affidavit is being prepared the night of February 09, 2015.

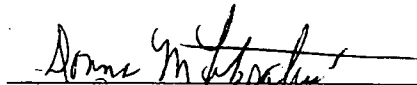
Further affiant sayeth naught!

Signed,
FEBRUARY 10, 2015



Gerald J. Nagy, Defendant pro se
300 Timber Ridge Drive
West Columbia, South Carolina 29169
(803) 791-3438

Personally appeared before me, sworn to, and subscribed, on February 10, 2015



Notary Public For South Carolina

My Commission Expires: 3 / 11 / 2015

STATE OF SOUTH CAROLINA

COUNTY OF Richland

THE STATE OF SOUTH CAROLINA

-VS-

Gerald T. Majix
DEFENDANT

IN THE MAGISTRATE'S COURT

RECIPROCAL RULE 5 FOR DISCOVERY
AND DISCLOSURE OF EVIDENCE

THE PROSECUTION HAS PROVIDED THE DEFENDANT THE BELOW LISTED INFORMATION AS REQUIRED UNDER RULE 5 OF THE SOUTH CAROLINA RULES OF CRIMINAL PROCEDURE (1990) AND ANY OTHER REQUEST SHOULD BE MADE IN WRITING TO THE PROSECUTION. THE DEFENDANT OR THRU HIS COUNSELOR AT LAW AGREE THAT THE PROSECUTION HAS MET THE REQUIREMENTS OF RULE 5 AND BRADY. THE PROSECUTION HEREBY RESPECTFULLY REQUESTS THE FOLLOWING INFORMATION:

ANY BOOKS, PAPERS, DOCUMENTS, PHOTOGRAPHS, TANGIBLE OBJECTS, OR COPIES OR PORTIONS THEREOF, WHICH ARE WITHIN THE POSSESSION, CUSTODY, OR CONTROL OF THE DEFENDANT IN WHICH DEFENDANT INTENDS TO INTRODUCE AS EVIDENCE IN CHIEF AT THE TRIAL.

ANY RESULTS OR REPORTS OF PHYSICAL OR MENTAL EXAMINATIONS AND SCIENTIFIC TESTS OR EXPERIMENTS THAT ARE IN CONNECTION WITH THE PARTICULAR CASE, OR COPIES THEREOF, WITHIN THE POSSESSION OR CONTROL OF THE DEFENDANT, WHICH THE DEFENDANT INTENDS TO INTRODUCE AS EVIDENCE IN CHIEF AT THE TRIAL OR WHICH WERE PREPARED BY A WITNESS WHOM THE DEFENDANT INTENDS TO CALL AT TRIAL WHEN THE RESULTS OR REPORTS RELATE TO HIS TESTIMONY.

THIS OFFENSE OCCURRED ON THE DATE AND TIME AS LISTED ON THE S.C. HIGHWAY PATROL TRAFFIC TICKET OR ARREST WARRANT IN RICHLAND COUNTY, STATE OF SOUTH CAROLINA. THE PROSECUTION WOULD REQUEST THE SPECIFIC PLACE OR PLACES AT WHICH THE DEFENDANT CLAIMS TO HAVE BEEN AT THE TIME OF THE OFFENSE AND NAMES AND ADDRESSES OF THE WITNESSES UPON HE INTENDS TO ESTABLISH SUCH ALIBI.

THE DEFENDANT SHALL, UNDER THE CONTINUING DUTY TO DISCLOSE, IMMEDIATELY NOTIFY THE PROSECUTION OF THE EXISTENCE OF ADDITIONAL EVIDENCE OR MATERIAL.

DISCOVERY CHECKLIST

☐ WARRANT	☐ ACCIDENT REPORT
☐ TRAFFIC TICKET	☐ DRUG ANALYSIS
☐ INCIDENT REPORT	☐ CHAIN OF CUSTODY FORM
☐ DRIVER'S LICENSE RECORD	☒ MISC. <u>SMD Certification</u>
☐ BREATH TESTING RESULTS	☐ PHOTOGRAPHS
☐ BLOOD/URINE RESULTS	☐ D.A. REFUSAL FORM
☒ DEFENDANT'S STATEMENT	☒ SEARCH WARRANT
☐ ADVICE OR RIGHTS FORM	☒ VIDEO
☐ WITNESS STATEMENT	
☐ WITNESS STATEMENT	

ITEMS CHECKED ABOVE WERE GIVEN TO ME ON 3-26-2012

RECEIVED BY _____

PREPARED BY: [Signature]

STATE OF SOUTH CAROLINA	)	IN THE MAGISTRATES COURT
	)	
COUNTY OF RICHLAND	)	UNIFORM TRAFFIC TICKET #G-144808
	)	
State Of South Carolina	)	
	)	
Plaintiff	)	
	)	
vs.	)	NOTICE TO COURT
	)	AND DEFENDANTS
	)	ANSWER TO DISCOVERY
Gerald J. Nagy	)	
	)	
Defendant	)	

Come now the Defendant, Gerald J. Nagy, pro se, and respectfully submits the following:

- On March 31, 2015, at 08:30, Defendant was scheduled to meet with Trooper Jonathan B. Oxandaboure at 1626 Shop Road, Columbia, South Carolina 29201, to receive discovery material. The trooper was not present. Rather, an envelope was left at the reception area window. Excluding the envelope, the materials conveyed were:

A. A RECIPROCAL RULE 5 FOR DISCOVERY AND DISCLOSURE OF EVIDENCE dated March 28, 2015.

B. A SC Criminal Justice Academy certification of Jonathan B Oxandaboure as a Speed Measuring Device Operator showing the effective dates of December 17, 2013 through December 31, 2016.

C. One (1) Sony brand DVD-R.

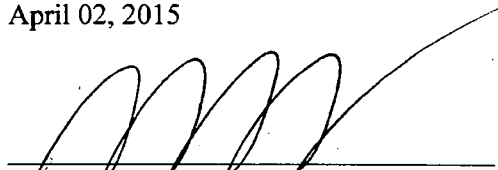
Scans of the printed materials provided, hash sums of all files on the "evidentiary" DVD, and hash sums of all files created by the Defendant from those materials, is attached as Exhibit A.

- While Plaintiffs RECIPROCAL RULE 5 FOR DISCOVERY AND DISCLOSURE OF EVIDENCE does not conform to a standard Discovery Motion format, it is in the interest of justice that it be accepted.

cooperation the Defendant fully answers as follows:

- A. **Paragraph 1, sentence 2.** The Defendant specifically does not agree with the wording "THE DEFENDANT OR THRU HIS COUNSELOR AT LAW AGREE THAT THE PROSECUTION HAS MET THE REQUIREMENTS OF RULE 5 AND BRADY."
- B. **Paragraph 2.** Defendant may introduce materials that have already been provided to Plaintiff by way of Notices and/or Motions. Defendant may introduce files produced from Discovery material provided by the Plaintiff.
- C. **Paragraph 3.** Defendant does not, at this time, intend to produce any materials described therein.
- D. **Paragraph 4.** Defendant specifically does not confess that any offense was committed.
- E. **Paragraph 5.** Defense understands the duty of disclosure to be a continuing one and in the event that any such materials covered by the Plaintiffs request come into existence or become available prior to trial, Defendant will immediately notify Plaintiff.
- F. Should the Plaintiff desire copies of any data files produced by Defendant and referenced herein, please contact the Defendant and he will arrange a time convenient for the Plaintiff to pick them up at the Defendants residence.

Respectfully Submitted,
April 02, 2015



Gerald J. Nagy, Defendant pro se
300 Timber Ridge Drive
West Columbia, South Carolina 29169
(803) 791-3438

COPY

EXHIBIT A

STATE OF SOUTH CAROLINA

COUNTY OF Richland

THE STATE OF SOUTH CAROLINA

-VS-

Gerald T. Majer
DEFENDANT

IN THE MAGISTRATE'S COURT

COPY

RECIPROCAL RULE 5 FOR DISCOVERY
AND DISCLOSURE OF EVIDENCE

THE PROSECUTION HAS PROVIDED THE DEFENDANT THE BELOW LISTED INFORMATION AS REQUIRED UNDER RULE 5 OF THE SOUTH CAROLINA RULES OF CRIMINAL PROCEDURE (1990) AND ANY OTHER REQUEST SHOULD BE MADE IN WRITING TO THE PROSECUTION. THE DEFENDANT OR THRU HIS COUNSELOR AT LAW AGREE THAT THE PROSECUTION HAS MET THE REQUIREMENTS OF RULE 5 AND BRADY. THE PROSECUTION HEREBY RESPECTFULLY REQUESTS THE FOLLOWING INFORMATION:

ANY BOOKS, PAPERS, DOCUMENTS, PHOTOGRAPHS, TANGIBLE OBJECTS, OR COPIES OR PORTIONS THEREOF, WHICH ARE WITHIN THE POSSESSION, CUSTODY, OR CONTROL OF THE DEFENDANT IN WHICH DEFENDANT INTENDS TO INTRODUCE AS EVIDENCE IN CHIEF AT THE TRIAL.

ANY RESULTS OR REPORTS OF PHYSICAL OR MENTAL EXAMINATIONS AND SCIENTIFIC TESTS OR EXPERIMENTS THAT ARE IN CONNECTION WITH THE PARTICULAR CASE, OR COPIES THEREOF, WITHIN THE POSSESSION OR CONTROL OF THE DEFENDANT, WHICH THE DEFENDANT INTENDS TO INTRODUCE AS EVIDENCE IN CHIEF AT THE TRIAL OR WHICH WERE PREPARED BY A WITNESS WHOM THE DEFENDANT INTENDS TO CALL AT TRIAL WHEN THE RESULTS OR REPORTS RELATE TO HIS TESTIMONY.

THIS OFFENSE OCCURRED ON THE DATE AND TIME AS LISTED ON THE S.C. HIGHWAY PATROL TRAFFIC TICKET OR ARREST WARRANT IN RICHLAND COUNTY, STATE OF SOUTH CAROLINA. THE PROSECUTION WOULD REQUEST THE SPECIFIC PLACE OR PLACES AT WHICH THE DEFENDANT CLAIMS TO HAVE BEEN AT THE TIME OF THE OFFENSE AND NAMES AND ADDRESSES OF THE WITNESSES UPON HE INTENDS TO ESTABLISH SUCH ALIBI.

THE DEFENDANT SHALL, UNDER THE CONTINUING DUTY TO DISCLOSE, IMMEDIATELY NOTIFY THE PROSECUTION OF THE EXISTENCE OF ADDITIONAL EVIDENCE OR MATERIAL.

DISCOVERY CHECKLIST

☐ WARRANT	☐ ACCIDENT REPORT
☐ TRAFFIC TICKET	☐ DRUG ANALYSIS
☐ INCIDENT REPORT	☐ CHAIN OF CUSTODY FORM
☐ DRIVER'S LICENSE RECORD	☒ MISC. <u>S&D Certification</u>
☐ BREATH TESTING RESULTS	☐ PHOTOGRAPHS
☐ BLOOD/URINE RESULTS	☐ D.A. REFUSAL FORM
☐ DEFENDANT'S STATEMENT	☒ SEARCH WARRANT
☐ ADVICE OR RIGHTS FORM	☐ VIDEO
☐ WITNESS STATEMENT	
☐ WITNESS STATEMENT	

ITEMS CHECKED ABOVE WERE GIVEN TO ME ON 3-28-2012

RECEIVED BY _____

PREPARED BY: [Signature]

SC Criminal Justice Academy

Hereby Certified

Jonathan B Oxandaboure

As a

Speed Measuring Device Operator

Issued Date: 12/17/2013

Expiration Date: 12/31/2016

The above named officer has been trained and certified having demonstrated the required proficiency following an approved course on operation, is hereby certified as a qualified SMD Operator.

The authority to operate SMD is a Three Year Certification.

Hubert F. Harrell

Hubert F. Harrell - Director, SCCJA

COPY

EVIDENTIARY MEDIA FROM STATE OF SOUTH CAROLINA

OPTICAL MEDIA NOT NAMED - NO VOLUME LABEL		
ALL FILES DATED 2015-03-29 3:45 PM (15:45) - TIME ZONE NOT ENCODED		
FOLDER	FILENAME.EXT	SHA-1
x:\ (Root)	none	n/a
x:\AUDIO-TS	none	n/a
x:\VIDEO-RM	STARTED.BUP	82848c189ab20035a195eb4c9bfa706ec68eab43
	STARTED.WGV	82848c189ab20035a195eb4c9bfa706ec68eab43
	WATCHGUARDMETA1.BUP	5a232526674a72c894023eaeac805f8de38d5b0c
	WATCHGUARDMETA1.XML	5a232526674a72c894023eaeac805f8de38d5b0c
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	RCRD_01.XML	d02b6be9412039e901c562792dafb69571016e19
x:\VIDEO-RMMETADATA	RCRD_01.MTD	adf53e226e860f273003554ada5564ae25901b6f
	RCRD_01.XML	d02b6be9412039e901c562792dafb69571016e19
x:\VIDEO-TS	VIDEO_TS.BUP	b3df61d7da1daa70664587b715a3bb7e041961e6
	VIDEO_TS.IFO	b3df61d7da1daa70664587b715a3bb7e041961e6
	VIDEO_TS.VOB	4b4b54155616352869f95a7ea3f67e41750ce2c5
	VTs_01_0.BUP	9b7f47389bc3f919815adb6779450c6dbb4f9ec7
	VTs_01_0.IFO	9b7f47389bc3f919815adb6779450c6dbb4f9ec7
	VTs_01_1.VOB	51563bb616f377c08b69d946afa36a150647befb

DEFENDANT FILES CREATED FROM STATE OF SOUTH CAROLINA DISCOVERY

DESCRIPTION	FILE TYPE	SHA-1
Scan: RECIPROCAL RULE 5 FOR DISCOVERY AND DISCLOSURE OF EVIDENCE	.PDF	d3769a8d3d6ebab3d97d24b4603ab7b0845e43f4
Scan: SCCJA SMDO Certification	.PDF	5ef5e34f2d4f401bd9b8c3d1485d9d44c261d8fd
Image file of: "Evidentiary" DVD	.ISO	6282a5f98fb0270d74dfb58b27152cd242e5602c
Image file of: "Evidentiary" DVD	.UIF	4084056ee1a51e4dfd7339cce0463dc31d562513

COPY

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

State Of South Carolina

Plaintiff

vs.

Gerald J. Nagy

Defendant

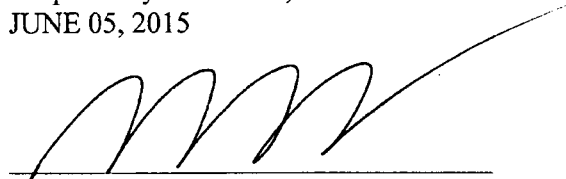
IN THE MAGISTRATES COURT

UNIFORM TRAFFIC TICKET #G-144808

NOTICE OF
INTENT TO APPEAL

Come now the Defendant, Gerald J. Nagy, pro se, and gives NOTICE that it is his intent, within Ten (10) days of the trial date of the above captioned matter, to file an appeal with the Richland County Court Of Common Pleas, Fifth Judicial Circuit.

Respectfully Submitted,
JUNE 05, 2015


Gerald J. Nagy, Defendant pro se
300 Timber Ridge Drive
West Columbia, South Carolina 29169
(803) 791-3438

15 JUN -5 PM 2:08
RICHLAND COUNTY
CENTRAL COURT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	RICHLAND COUNTY
	)	MAGISTRATES COURT
State Of South Carolina	)	UNIFORM TRAFFIC
	)	TICKET #G-144808
Respondent	)	
	)	MOTION OF APPEAL FROM
vs.	)	MAGISTRATES COURT
	)	
Gerald J. Nagy	)	
	)	
Appellant	)	

2015 CP400 3354

RICHLAND COUNTY
FILED
2015 JUN -5 PM 1:53
JEANETTE W. MORRIS
C.C.P. & C.S.

TO THE RESPONDENT NAMED ABOVE:

Come now the Appellant, Gerald J. Nagy, pro se, pursuant to Title 18 of the South Carolina Code of Laws, and respectfully submits the following:

1. On November 15, 2014, Appellant was issued a Uniform Traffic Ticket, numbered G-144808 by Trooper Jonathan B. Oxandaboure of the South Carolina State Highway Patrol.
2. On November 24, 2014, Appellant served Trooper Oxandaboure acting as Prosecution for the Respondent, with a MOTION FOR DISCOVERY, a copy of which is attached. (Exhibit A)
3. On January 12, 2015 Appellant filed a MOTION TO COMPEL, OR EXCLUDE, OR DISMISS IN THE ALTERNATIVE as Appellant had received no response to discovery.
4. On March 31, 2015, Appellant received a minimal response to discovery and filed a NOTICE with the Summary Court detailing the minimal response, which essentially consisted of only one item. A copy of that notice is attached. (Exhibit B)
5. On June 04, 2015, a motion hearing was held on the matter listed in #3 (above) before Magistrate Judge Barbara Jo Wofford-Kanwat in Richland County Magistrates Court (Central Court). She did not dismiss. Rather she ruled the Respondent had complied with

required discovery as she interpreted Rule 5 of the South Carolina Rules of Criminal Procedure (SCRCrimP).

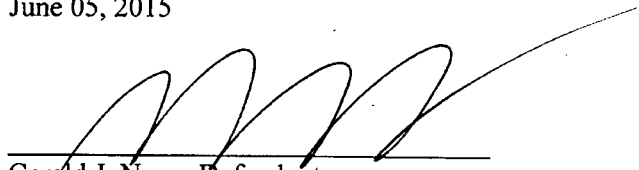
6. Also on June 04, 2015, immediately following the motion hearing listed in #5 (above), a bench trial was held before Magistrate Judge Barbara Jo Wofford-Kanwat. The Judge consistently overruled Appellants objections by allowing a witness to testify that was not disclosed prior to trial, and numerous items to be introduced as evidence that were not in compliance with rules and rulings concerning proper evidentiary procedure. These items had been specifically requested under discovery and had not been provided prior to trial. Further, the Judge overruled Appellants objection to the Judge questioning and eliciting direct testimony from a witness for the Respondant. The Appellant was found guilty.

7. On June 05, 2015, Appellant served both Trooper Jonathan B. Oxandaboure and the trial Magistrate Judge Barbara Jo Wofford-Kanwat a NOTICE OF INTENT TO APPEAL.

WHEREFORE, due to the allowance of testimony and evidence that did not comply with both Rule 5 of SCRCrimP and various United States Supreme Court decisions, the Appellant prays this Honorable Court will grant the following relief requested herein:

A. An order by this Court setting aside the Appellants conviction in the above captioned matter.

Respectfully Submitted,
June 05, 2015



Gerald J. Nagy, Defendant pro se
300 Timber Ridge Drive
West Columbia, South Carolina 29169
(803) 791-3438

COPY

EXHIBIT A

COPY

EXHIBIT B

IN THE RICHLAND COUNTY CENTRAL COURT
CENTRAL COURT

VS.

Ticket # G144808

CERTIFICATION OF RETURN

Done this 24th, day of August, 2015.

Rhonda McColman
Deputy Clerk

RICHLAND COUNTY
FILED
2015 AUG 25 PM 2:13
JEANETTE W. HOSKINSON
C.C.P. & G.S.

6/4/15 *
OK

The State of South Carolina



Dan Johnson
Solicitor

Paulette Edwards
Deputy Solicitor

SOLICITOR'S OFFICE
Fifth Judicial Circuit
1701 Main Street
Post Office Box 192
Columbia, South Carolina 29201

Phone: (803) 576-1800
Fax: (803) 576-1863

Daniel R. Goldberg
Deputy Solicitor

Brett Perry
Deputy Solicitor

FACSIMILE TRANSMITTAL SHEET

To: Michelle Winslow

From: Joe Berry

Fax: 803 576 2325

Pages: 5

Phone:

Date: July 30, 2015

Re:

CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments:

[Type comments]

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	RICHLAND COUNTY
	)	MAGISTRATES COURT
State Of South Carolina	)	UNIFORM TRAFFIC
	)	TICKET #G-144808
Respondent	)	
	)	MOTION OF APPEAL FROM
vs.	)	MAGISTRATES COURT
	)	
Gerald J. Nagy	)	
	)	
Appellant	)	

TO THE RESPONDENT NAMED ABOVE:

Come now the Appellant, Gerald J. Nagy, pro se, pursuant to Title 18 of the South Carolina Code of Laws, and respectfully submits the following:

1. On November 15, 2014, Appellant was issued a Uniform Traffic Ticket, numbered G-144808 by Trooper Jonathan B. Oxandaboure of the South Carolina State Highway Patrol.
2. On November 24, 2014, Appellant served Trooper Oxandaboure acting as Prosecution for the Respondent, with a MOTION FOR DISCOVERY, a copy of which is attached. (Exhibit A)
3. On January 12, 2015 Appellant filed a MOTION TO COMPEL, OR EXCLUDE, OR DISMISS IN THE ALTERNATIVE as Appellant had received no response to discovery.
4. On March 31, 2015, Appellant received a minimal response to discovery and filed a NOTICE with the Summary Court detailing the minimal response, which essentially consisted of only one item. A copy of that notice is attached. (Exhibit B)
5. On June 04, 2015, a motion hearing was held on the matter listed in #3 (above) before Magistrate Judge Barbara Jo Wofford-Kanwat in Richland County Magistrates Court (Central Court). She did not dismiss. Rather she ruled the Respondent had complied with

required discovery as she interpreted Rule 5 of the South Carolina Rules of Criminal Procedure (SCRCrimP).

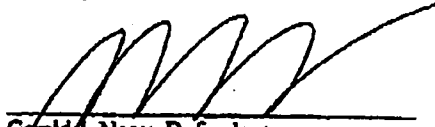
6. Also on June 04, 2015, immediately following the motion hearing listed in #5 (above), a bench trial was held before Magistrate Judge Barbara Jo Wofford-Kanwat. The Judge consistently overruled Appellants objections by allowing a witness to testify that was not disclosed prior to trial, and numerous items to be introduced as evidence that were not in compliance with rules and rulings concerning proper evidentiary procedure. These items had been specifically requested under discovery and had not been provided prior to trial. Further, the Judge overruled Appellants objection to the Judge questioning and eliciting direct testimony from a witness for the Respondant. The Appellant was found guilty.

7. On June 05, 2015, Appellant served both Trooper Jonathan B. Oxandaboure and the trial Magistrate Judge Barbara Jo Wofford-Kanwat a NOTICE OF INTENT TO APPEAL.

WHEREFORE, due to the allowance of testimony and evidence that did not comply with both Rule 5 of SCRCrimP and various United States Supreme Court decisions, the Appellant prays this Honorable Court will grant the following relief requested herein:

A. An order by this Court setting aside the Appellants conviction in the above captioned matter.

Respectfully Submitted,
June 05, 2015



Gerald J. Nagy, Defendant pro se
300 Timber Ridge Drive
West Columbia, South Carolina 29169
(803) 791-3438

CERTIFICATE OF SERVICE

I, Gerald J. Nagy, hereby attest and affirm that on this date, June 05, 2015, I served the within and foregoing MOTION OF APPEAL FROM MAGISTRATES COURT by depositing copy of the aforementioned document with the method and on the parties as indicated below:

Via postage prepaid United States Postal Service First Class Certified Mail, with Domestic Return Receipt Requested, article addressed to:

Judge Barbara Jo Wofford-Kanwat
1400 Huger Street
Columbia, South Carolina 29201

Trooper Jonathan B. Oxandaboure
Troop 1, Badge 771
South Carolina State Highway Patrol
1626 Shop Road
Columbia, South Carolina 29201

ATTEST:



Gerald J. Nagy

2015 JUN -5 PM 1:53
CCL 486

[illegible]

STATE OF SOUTH CAROLINA

COUNTY OF Richland

State of South Carolina

Plaintiff(s)

R. S. P. 1014

vs.

Gerald S. Nagy

Defendant(s)

(Please Print)

Submitted By: Gerald S. Nagy

Address: 500 E. 1st St. Suite 101

Richland SC 29101

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2015-CP 400-3384

Pro Se

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

NOTE: The coversheet 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 filed out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Pleadings and Complaint.

DOCKETING INFORMATION (Check all that apply)

- ☐ 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
Construction (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-1014
☐ Notice/ File Med Mal (230)
☐ Other (299)

- ☐ Torts - Personal Injury
Assault/Battery/Defamation (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)

- ☐ Juvenile Petitions
PCR (500)
Mandamus (520)
Habeas Corpus (530)
☐ Other (599)

- ☐ Administrative Law/Relief
Reinstate Drv. License (600)
Judicial Review (610)
Relief (620)
Permanent Injunction (630)
Perpetuance-Petition (640)
Perpetuance-Consent Order (650)
☐ Other (699)

- ☐ Judgments/Settlements
Death Settlement (700)
Foreign Judgment (710)
Magistrate's Judgment (720)
Minor Settlement (730)
Transcripts of Judgments (740)
Lis Pendens (750)
Transfer of Structured Settlement
Payment Rights Application (760)
Confirmation of Judgment (770)
☐ Petition for Workers
Compensation Settlement
Approved (780)

- ☐ Appeals
Arbitration (800)
Magistrate-Civil (910)
Magistrate-Criminal (920)
Municipal (930)
Probate Court (940)
SCDOT (950)
Worker's Comp (960)
Zoning Board (970)
Public Service Commission (980)
☐ Employment Security Commission (991)

Special/Complex /Other

- ☐ Environmental (600)
Automobile Arb. (610)
Medical (620)
☐ Other (699)
☐ Sexual Predator (510)

- ☐ Pharmaceuticals (630)
Unfair Trade Practices (640)
Foreign Subpoenas (650)
Motion to Quash Subpoena
in Out-of-County Action (660)

☐ Other (799)

☐ Other (999)

Submitting Party Signature: [Signature]

Date: 06-05-2015

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

SCCA / 234 (06/2013)

Page 1 of 2

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

STATE OF SOUTH CAROLINA

VS.

GERALD J. NAGY

) IN THE RICHLAND COUNTY CENTRAL COURT
) CENTRAL COURT
)

) Case # 2015CP4003354

) Ticket # G144808

) CERTIFICATION OF TRANSCRIPT
)

I, Rhonda McColman, Deputy Clerk of Court to Wanda Kelly, Richland County Magisterial Court Administration, have prepared the foregoing and do hereby certify that this is the true and accurate transcript in the case of State vs. Gerald J. Nagy.

Done this 24th August, 2015.



Rhonda McColman
Deputy Clerk

RICHLAND COUNTY
FILED
2015 AUG 25 PM 2:12
JEANETTE W. HOSKINS
C.D.R. & C.C.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

)
) G144808
) CIVIL CASE NUMBER

) IN THE MAGISTRATE'S COURT

) CERTIFICATE OF TRANSMITTAL

PLAINTIFF(S)

Vs

Gerald J Nagy
300 Timber Ridge Dr
West Columbia, SC 29169-5414

DEFENDANT(S)

The original complaint and all associated paper work in reference to the above listed civil case is being transmitted for disposition to the court listed below:

Date of Transmittal: August 24, 2015

Transmitted to: Clerk of Court

Transmitted by: Richland County Central Court

Civil Case No.: G144808

Comments: Appeal-Traffic Case #2015CP4003354

Received and verified by

Judy K. Davis on *Aug. 25, 2015*
Civil Records Supervisor

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

STATE OF SOUTH CAROLINA

vs.

Gerald J. Nagy

) IN THE RICHLAND COUNTY CENTRAL COURT
) CASE # 2015CP4003354
)
)
)
)
)

RICHLAND COUNTY
FILED
2015 AUG 25 PM 2:13
JEANETTE W. HERRICK
C.C.P. & U.S.

The case of State vs. Gerald J. Nagy was called for a Traffic Bench Trial on June 4, 2015. Presiding was the Honorable Barbara Wofford-Kanwat. Representing the State was South Carolina State Trooper, Jonathan Oxandaboure and the Defendant, acting in a Pro Se capacity, was Gerald J. Nagy. The following is a verbatim transcript of the aforementioned case.

CLERK: Calling The State vs. Gerald Nagy ticket number G144808.

GERALD NAGY: Your Honor, I may have to sit down, um my heart condition (inaudible)

JUDGE WOFFFOD-KANWAT: Ok. Alright, so this is speeding reduces to 69 in a 60, it looks like, I remember you had some sort of pre-trial motions..

GERALD NAGY: Yes ma'am,

JUDGE WOFFFOD-KANWAT: And then,

GERALD NAGY: I had a pre-trial motion that has yet to be heard,

JUDGE WOFFFOD-KANWAT: Go ahead,

GERALD NAGY: OK, um, I don't know if you have a copy of it, I have one that I can hand up to you, if you would like to review it.

JUDGE WOFFFOD-KANWAT: I don't.

GERALD NAGY: Ok. Would you like the bailiff to hand it up or ...

JUDGE WOFFFOD-KANWAT: That will be fine.

DEPUTY: I'm not the bailiff...

GERALD NAGY: Oh, I'm sorry, my apology sir.

JUDGE WOFFORD-KANWAT: Yeah, we don't have bailiffs down here.

GERALD NAGY: Ok. (inaudible)

JUDGE WOFFORD-KANWAT: In Magistrate Court. Alright, go ahead.

GERALD NAGY: Um, basically Your Honor, I um, properly clocked and served the Motion for disclosure of evidence um, and I have a copy of that available or I think I handed up the Motion to Compel, the motion we're hearing, correct? Enclosed in that is a copy of the original Motion for Disclosure Evidence um, I heard no response from the officer uh, I have sent him a follow up letter as a reminder uh, I heard nothing back and on January 12th I filed the Motion to Compel, Exclude or Dismiss in the Alternative um, based on um, other factors that you are aware of, the last time we were here with the Ismell Order um, we essentially

JUDGE WOFFORD-KANWAT: Well the Ismell Order would have been because the case had been ...

tried in the absence and I would have reopened it. Right?

GERALD NAGY: Yes Ma'am... but we also discussed....

JUDGE WOFFORD-KANWAT: Or somebody reopened.

GERALD NAGY: And we also discussed the uh, problem because a lot of the hinged around my not having received anything under the um, uh Brady Motion. To that end, um,

JUDGE WOFFORD-KANWAT: What are you specifically looking for? The records on speeding...

GERALD NAGY: Uh, I was specifically looking for everything that the State of South Carolina allows me to request in addition to other things Ma'am um, not the least which is um, well I have them outlined, and I'd rather, I can read them if need be, but for instance, in the report it's statements it's written anything um, books, papers, documents tangible objects, photographs, etc., names and addresses of witnesses uh, any witnesses that he intends to call uh, as the prosecution, their name, date of employment, any special training that they have had, etc. um...

JUDGE WOFFORD-KANWAT: So you are making a Motion to Dismiss for Failure to Comply with your um, discovery.

GERALD NAGY: That is (inaudible) of what I would like to do, yes Ma'am..

JUDGE WOFFORD-KANWAT: Your discovery request?

GERALD NAGY: Yes.

JUDGE WOFFORD-KANWAT: Ok. In response what evidence do you have, like tangible evidence that you can submit for the uh,

TROOPER OXANDABOURE: I've already given it to him. I gave him the video, I gave him the citation copy, I gave him a copy of my incident (inaudible) measurement device (inaudible)

GERALD NAGY: Um, Your Honor....

JUDGE WOFFORD-KANWAT: Um, I'm sorry, no, no, no, no Mr. Nagy, I'm going to hear you one at a time and you're not going to interrupt please.

TROOPER OXANDABOURE: You scheduled, you had us set a date to set...

JUDGE WOFFORD-KANWAT: That's right, yes I did two weeks or something like that.

TROOPER OXANDABOURE: I wasn't able to get there, so I left it with my supervisor, they advised me he had picked them up, on that day, um the video, the certification of SMD, speed measurement device, and a copy of the citation was issued, there's no other witnesses, other than me, he's got my information already, at that point in time, he was given everything he, the law required me to give him.

JUDGE WOFFORD-KANWAT: So that's all the evidence you have in this case?

TROOPER OXANDABOURE: Yes Ma'am, there's nothing else to be brought forward.

JUDGE WOFFORD-KANWAT: And in response to that, did you get those three things?

GERALD NAGY: Uh, Your Honor, what I have received from um, the officer that was left, I have the originals here, um, I also filed the further response to their's..

JUDGE WOFFORD-KANWAT: Just answer my question, did you get those three documents?

GERALD NAGY: No Ma'am I did not, what I received from him was a reciprocal rule for discovery which, um, is a receipt and even with that I checked (inaudible) of and the only thing is his SMD certification which I do agree I received....

JUDGE WOFFORD-KANWAT: Ok, so he, you gave him the citation, the SMD...

GERALD NAGY: I did not receive a copy of the citation, Ma'am..

JUDGE WOFFORD-KANWAT: Ok, alright, we'll address that in a moment, OK, so Mr. excuse me, Trooper Oxandaboure, there's three things, the SMD, which you agreed you received, correct?

GERALD NAGY: Yes, Ma'am,

JUDGE WOFFORD-KANWAT: Correct, you stated you did not receive a copy of the citation but

you received a copy of the citation initially stopped. Cause that's how you were aware of this, correct?

GERALD NAGY: Yes, Ma'am.

JUDGE WOFFORD-KANWAT: Ok, and then the next thing is, you're holding the video, is that the video he submitted too?

GERALD NAGY: Yes, Ma'am but on this video, and the reason I brought the original, if you would like to view it, the only thing that is on this, the video begins with me um, about three quarters of the way around the exit ramp from the interstate and that's it. There's no incident, no recording of anything else.

JUDGE WOFFORD-KANWAT: Ok. In response to that, I would assume that, that's at the time that you began.....

TROOPER OXANDABOURE: That's the time the lights started (inaudible)

JUDGE WOFFORD-KANWAT: 'Cause it's my understanding the blue lights are what activate the video, correct? Unless you have a body cam; I don't... does any of the troopers have body cam yet?

TROOPER OXANDABOURE: (inaudible) Trooper Bigg does.

JUDGE WOFFORD-KANWAT: Trooper Bigg does? Ok.

TOOPER OXANDABOURE: And even that, it doesn't record 24 hours a day.

JUDGE WOFFORD-KANWAT: It records when activated.

TROOPER OXANDABOURE: Activated. And it's only activated when the public.....

JUDGE WOFFORD-KANWAT: When there's an incident.

TROOPER OXANABOURE: Yes Ma'am.

JUDGE WOFFORD-KANWAT: Ok, so, go ahead.

GERALD NAGY: Ok.

JUDGE WOFFORD-KANWAT: What else do you want then?

GERALD NAGY: Uh, further Ma'am, he has not given me the name, address of any witnesses and that is really pretty standard stuff, including if he intends testify, he is the prosecution, but if he doesn't give me a name and address of people who he intends to call, I have no ability to oppose or should I choose to in advance. Um, the case that I would argue to back that up Ma'am is US v. Yagers which is very, very explicate in the event that the prosecution (inaudible) failure to fully comply with discovery is seldom if ever excusable. Uh, and that's the Supreme Court's decision Ma'am, and he basically has done nothing but give me a copy of his SMD certification and a video obviously when he turned the blue light on when he said.

JUDGE WOFFORD-KANWAT: Ok, thank you.

GERALD NAGY: And for lack of that Ma'am, I would ask for a dismissal.

JUDGE WOFFORD-KANWAT: Ok. Well it's my understanding with regards to Rule 5, the point is to make sure everyone knows what the other party has, or not everything, but everything that's required by law, and my understanding is, is the only thing Trooper Oxananboure has is his own personal observations, the video, his um, SMD Certification, and then I don't really believe the citation is something that uh, is something you got initially, so I don't really know if that's an evidentiary document, per se, uh so Trooper Oxanaboure correct that's the only

evidence that you have, you have no other witnesses you are planning to call, correct?

TROOPER OXANANBOURE: No Ma'am, he's got all my contact information already.

JUDGE WOFFORD-KANWAT: So, uh, you, yourself alone were the only one who was planning to call, uh...

TROOPER OXANANBOURE: I was planning to call... just me.

JUDGE WOFFORD-KANWAT: Excuse me, excuse me yes sir, thank you for correcting me, you were planning to call. So it's my understanding then that you have received all the evidence, keep in mind this is Magistrate Traffic Court, so this is obviously a lot different than General Sessions um, case, so to me it seems as though he has complied in the sense that he's given you all the evidence that he had, he can't give you witnesses that he doesn't have.

GERALD NAGY: Yes Ma'am, but he didn't respond about anything else saying that he has any, anything else, he, you know I asked for make, model numbers, serial (inaudible) I asked at the scene whether he clocked me and that is on the video, as to whether or not, you know, he clocked me on radar or clocked me with the automobile, he said both, ok, I asked for some information about the radar uh, this morning uh, he told me prior to court, no, this was just, he clocked me with his car, and there's been no certification of the accuracies of the speedometer anything that he used to legally determine, from the lawful speed limit at the location where he claims that this incident occurred..

JUDGE WOFFORD-KANWAT: Uh, I'm sorry, what was that second one?

GERALD NAGY: The, um, bear with me just a moment please, um, I'm also on some diuretic

JUDGE WOFFORD-KANWAT: You can take a seat if you need to.

GERALD NAGY: Um, I'm ok for a moment Ma'am. But, um,

JUDGE WOFFORD-KANWAT: Can I see that, uh, SMD thing, paperwork please?

GERALD NAGY: Yes Ma'am, ok, and this is my original um, hand up,

JUDGE WOFFORD-KANWAT: Thanks. Ok.

GERALD NAGY: Um, anyhow, I had asked him for information about the automobile as radar, has uh the speedometer certified, any of that, none of this has been submitted, Your Honor. Basically I have been in magistrate's court and Municipal Court for criminal cases before and um, I mean even the presentation of the ticket, you may choose to allow that, that's normally you know, put on a response. And, I really didn't get a response, he's just "come on by and look at this stuff", and you know, pick it up if you want, there was no other response, he addressed none of the other points, he didn't say "Gosh I don't think I'll leave discoverable evidence" he mentioned, he just basically ignored it. And, so here's a couple pieces of paper, so let's go to court. And I don't, you know, understand, realize, this is not some you know, murder trial or something and um, you know, General Sessions but it is a criminal case, and I believe that you know, it should be handled at least that way where he does comply with the laws that, and, and the rules and regulations that are set up and if he chooses not to answer something he should say, "Hey I don't have this, I don't think it applies" whatever reason, he's done none of that Your Honor.

JUDGE WOFFORD-KANWAT: Alright in response with regards to the speedometer stuff.

TROOPER OXANDABOURE: (inaudible) excuse me, the speedometer was calibrated when the car brought up,

JUDGE WOFFORD-KANWAT: Do ya'll use any documentation, do ya'll , I'm not familiar with your process so I don't know, how, besides you going under oath testifying, that...

TROOPER OXANDABOURE: We'll take, we take, this calibrating, a couple of us will go out with our speedometer, um, (inaudible) calibrated, we'll shoot each other's car to make sure they're not up and down, there's no other case law that says you have to do any type, other than that, um, the radars are kept calibrated, I, I advised him of everything that I have to..

JUDGE WOFFORD-KANWAT: Well, um, I think that probably, so it's my understanding there's no certain documentation that you're given, or that you receive that you can use for your speedometer, besides me taking your testimony under oath. Is that my understanding? I mean, because I'm not familiar with...

TROOPER OXANDABOURE: (inaudible) certificate

JUDGE WOFFORD-KANWAT: There's no, like breathalyzer has a test that runs out, you know, saying that it's working and there's nothing like that..

TROOPER OXANDABOURE: No Ma'am.

JUDGE WOFFORD-KANWAT: That ya'll have. Ok, ok and so anything else, I mean I understand I think you're overall concern is he hasn't responded to basically.

GERALD NAGY: Not only has he not responded, but when he says for instance like, we take out the automobile and we check it against (inaudible) well that...

JUDGE WOFFORD-KANWAT: Ok, I sorry, I'm not addressing that at this moment, I'm addressing the overall concern, your overall concern is that overall he has not been responsive and then so we..

GERALD NAGY: Absolutely, yeah..

JUDGE WOFFORD-KANWAT: Oh, then we addressed that by scheduling that date for him submit what he was planning to submit for today's court date, for your court date, your court date uh for you to be heard. And it's my understanding Trooper Oxandaboure it would be his testimony, is would be that SMD and then it would be the video that would be evidence that he submit, and that is all the evidence that you would submit. Is that correct?

TROOPER OXANDABOURE: Yes Ma'am.

JUDGE WOFFORD-KANWAT: It is my understanding then from the State that you do not have any sort of documentation, documentable, if, I don't know if that's a word, any documents that um, indicate whether or not the speedometer was accurate or tuned or calibrated at the time, the only evidence that you have will be your testimony under oath.

TROOPER OXANDABOURE: Yes Ma'am, that's all case law says it has to be.

JUDGE WOFFORD-KANWAT: Ok, well I'm not interested in that point..

TROOPER OXANDABOURE: There's no paperwork that shows that it is....

JUDGE WOFFORD-KANWAT: No, I'm interested in whether or not there's any documents that you receive like there is a breathalyzer test. 'Cause I'm not familiar with it, I'm not trained in that.....

TROOPER OXANDABOURE: The breathalyzer is actually taken uh, by uh, just like us, we take care of our vehicles uh, SMD's. The breathalyzer is set up by SLED so, yes they do stuff on that, there's no certification in his paperwork...

JUDGE WOFFORD-KANWAT: Right, there's that printout that comes out that says yes, whether

it's working or not, that they have to randomly run periodically. But you don't get anything like that for your (inaudible)

TROOPER OXANDABOURE: No, no way,

JUDGE WOFFORD-KANWAT: It's your responsibility.

TROOPER OXANDABOURE: Yes Ma'am.

JUDGE WOFFORD-KANWAT: Ok. Alright so then, anything else.

GERALD NAGY: Yes Your Honor, if that had been the case, I mean because he doesn't think their responsible doesn't mean that they are not responsible, and they don't have to respond to discovery.

JUDGE WOFFORD-KANWAT: Ok, that's not... that's why we are here today.

GERALD NAGY: (inaudible) that's my basis for the argument, there is no uh, uh, if you can give me just a moment, if you know, if there was nothing he should have said it, but there are so many other things in here that I have asked for that, there has been no response to what so ever and um..

JUDGE WOFFORD-KANWAT: Well I don't necessarily think the Rule 5 requires you to get everything that you ask for, I think the Rule 5.....

GERALD NAGY: (inaudible)

JUDGE WOFFORD-KANWAT: I think the Rule 5 requires you get to get what is legally required to give you. And so um.....

GERALD NAGY: Yes Ma'am and, and....

JUDGE WOFFORD-KANWAT: And so I think that at looking at that information and uh, from

what's been presented to me, it seems to me as he has given you the information, you mean can't get every possible document...

GERALD NAGY: I understand that Your Honor, but if

JUDGE WOFFORD-KANWAT: You only need to get what is relevant, let's actually get the exact law uh, language, so we have that on the record.

GERALD NAGY: If you don't mind Your Honor, I'll sit for a while.

JUDGE WOFFORD-KANWAT: Alright. Yes, relevant is the (inaudible) any relevant written or recorded statements or copies, the existence or due diligence. The substance of any oral statement which he intends to offer, prior record of the defendant if requested, documents and tangible objects upon the request of the defendant in inspecting copied books, papers, documents, photographs, tangible objects, building or places, or copies of portions thereof within their custody, that are intended to be used, in results of reports of examination and test upon the request of physical and mental examinations, scientific tests. And so it is my understanding there is no outstanding tests or anything that you have not provided documentation for, is that correct?

TROOPER OXANDABOURE: (Inaudible)

JUDGE WOFFORD-KANWAT: Ok. Alright so then based on that information with regards to the motion to dismiss which regards to the Rule 5, for the Brady violation and hearing from both of the parties I'm denying that motion. I don't believe that at this point that would be the appropriate remedy, so with that being said, Mr. Nagy, are you prepared to move forward today or do you request a jury trial or.....

GERALD NAGY: There, there is a third facet to that, Your Honor, that I would, I would uh also request that in the event that we're not dismissing and we've done the compel thing I think that anything that's not been provided by Trooper Oxandaboure be excluded from evidence in trial.

JUDGE WOFFORD-KANWAT: Ok, well I think that would be uh, is it your intention to move forward today in a bench trial?

GERALD NAGY: Oh, yes Ma'am I don't have issues with that, but I would ask that anything that he not specifically present, that was specifically asked for be excluded from evidence.

JUDGE WOFFORD-KANWAT: Ok. Well at this point I believe that uh, that motion um, would be appropriate, given the concerns, but I don't have any indicator that he is presenting any evidence that he's not disclosed to you, so if that does arise during the trial you can object at that time. Ok?

GERALD NAGY: So as I can understand Ma'am, you will allow him to testify uh, even though he is not on the witness list, the ticket goes into evidence and uh, his certification. Is that correct?

JUDGE WOFFORD-KANWAT: Um, well as the officer who wrote the ticket he would have the authority to testify in my opinion. Yes sir. So with regards to this charge it's my understanding this a speeding, 80 in a 60 written reduced to a 69 in a 60, how do you wish to plea.

GERALD NAGY: Not guilty, Your Honor.

JUDGE WOFFORD-KANWAT: Ok.

CLERK: All parties testifying please raise your right hand. Do you swear or affirm to tell the whole truth and nothing but?

GERALD NAGY: I do.

TROOPER OXANDABOURE: I do.

JUDGE WOFFORD-KANWAT: Ok, so again this is our bench trial so he's going to present his testimony, then you can ask questions and then again you can make your appropriate objections as you believe appropriate, ok? Go ahead Trooper.

TROOPER OXANDABOURE: Thank you Your Honor. On 11-15-2014 at approximately 10:20, in the morning I was getting on I-26 west bound from the Lake Murray Blvd., at which point and time as I'm entering on the ramp I'm observing traffic, I observed a silver color Jeep 4X4 traveling west bound along with me and as I observed I noticed he passes me, I look down and I'm running about 55 miles an hour, I increase the speed up I

GERALD OXANDABOURE: I would object to that testimony Your Honor based on his speedometer reading, if uh, if he is entering that in evidence.

JUDGE WOFFORD-KANWAT: Ok, in response..

TROOPER OXANDABOURE: (inaudible)

JUDGE WOFFORD-KANWAT: No response? Ok, over ruled, go ahead.

TROOPER OXANDABOURE: Ok, alright, as I increased, I was attempting to get a pace on him and he's in number one lane, he passes me, I increased the speed over 70 miles an hour and I'm still, he's still leading me a little bit, at which point in time I lock on 80, I observed him at 80 miles an hour paced him at 80 miles an hour, I'm not gaining and not losing him, the distance is equal to every time I look at it, um, at which point in time I reduced my speed to initiate my radar to be able to get a reading on him because the radar doesn't work at the same speed.

GERALD NAGY: Objection Your Honor. Uh, he has not mentioned anything about radar up to this point and I would like all of that excluded from testimony.

JUDGE WOFFORD-KANWAT: Any response?

TROOPER OXANDABOURE: I advised him I got him on radar in the car.

GERALD NAGY: Your Honor, I was asked for specifically under the discovery agreement, or the discovery request, I received nothing about the radar, make, model, serial number, certification service records, anything and he didn't even mention that he didn't use it or anything.

JUDGE WOFFORD-KANWAT: Can you point exactly to that in your motion for disclosure? The make, model, serial number.

GERALD NAGY: Yes Ma'am, uh, motion, item number 8, manufacture name, model, serial number, service record, owner's manual, operator's manual, etc. certification of traced NISD standard, chain of custody, making sure that he had that unit (inaudible) um, so I think that pretty much covered everything about the radar.

JUDGE WOFFORD-KANWAT: And how is that relevant.

GERALD NAGY: Well, he was just testifying that he allegedly confirmed my speed, he used the term, lock on 80, and I was just making a note that um, I'm not sure what lock on 80 is but um, if it's dealing with radar um, anything dealing with radar should be excluded from evidence, Your Honor.

JUDGE WOFFORD-KANWAT: Ok. Do you have anything you want to add?

TROOPER OXANDABOURE: No. When we talked the first time, I told him I got him on my radar, (inaudible) according to the Golden Eagle II at that time. Um,

GERALD NAGY: Your Honor..

TROOPER OXANDABOURE: (Inaudible)

JUDGE WOFFORD-KANWAT: Mr. Nagy...

TROOPER OXANDABOURE: Um, I believe in Rule 5 it says stuff that's in my position uh, paperwork, the manuals and stuff, we don't have that manual and stuff, that's all

JUDGE WOFFORD-KANWAT: You don't have access to that?

TROOPER OXANDABOURE: That's CJA. The manuals for that are at our headquarters or at our shop, I'm sorry.

JUDGE WOFFORD-KANWAT: Ok.

TROOPER OXANDABOURE: Um...

JUDGE WOFFORD-KANWAT: I'm looking at Rule 5 when it's information subject to disclosure um, to me I think you're arguing that documents intangible objects are (inaudible) reports, examinations or tests would be my um, impression from your argument, Mr. Nagy and I think in my reading of the statute and applying it to your Rule 5 request I don't believe that this um, one of those things that should be excluded, so I'm going to deny the motion to suppress the information in my reading of Rule 5. Go ahead.

TROOPER OXANDABOURE: Ok. Like I uh.. I don't remember exactly what... Ok, like I said, I did reduced my speed to get in lock with, uh, lock on his vehicle um, when I got to the speed of 80 miles an hour which went back to confirming what I had gotten as I was pacing his vehicle was at 80 miles an hour, I locked in the speed, there's a lock button on the remote control, lock it in. Um, at which point in time he changed over to get off onto Broad River Road to go back up

toward North (inaudible) the dry cleaning. I initiated um, a traffic stop on him at that point in time and we pulled into the dry cleaning um, once we got into the dry cleaning, I identified myself, advised him as to why I was stopping him um, he said he was going to pick up some dry cleaning. I don't recall him stating what his speed was.

JUDGE WOFFORD-KANWAT: And what's your training? What's your training for speeding?

GERALD NAGY: Objection Your Honor.

TROOPER OXANDABOURE: Uh...

JUDGE WOFFORD-KANWAT: Based on what grounds?

GERALD NAGY: I, he hasn't offered anything on that, and I don't think there's any ambiguity in what he is testified to so far.

JUDGE WOFFORD-KANWAT: So you're objecting to me asking that question? Is that my understanding?

GERALD NAGY: Yes Ma'am, and even him presenting that because again I did ask for any type training etc., other than his radar uh, training that he received in the academy um, there wouldn't be anything, I don't think, that should be included in evidence. I believe I have um, under number 6, of my motion, certifications, ongoing requirements related skills, talents, whatever um, I, I don't believe that should be included as evidence, in the trial, Your Honor, unless he brings it up at which time I will be able to cross examine him on that.

JUDGE WOFFORD-KANWAT: Ok, well I appreciate that objection um, magistrate rules allow for the judge in Pro Se cases, so in cases where there is not an attorney to ask questions when they are relevant. So I asked that question, I believe that was an issue, that document submitted to

you um, through Rule 5 Brady and so I asked that question and I'm overruling your objection.

Go ahead.

TROOPER OXANDABOURE: Your Honor, is was certified through the Criminal Justice Academy back in 2007..

JUDGE WOFFORD-KANWAT: Do you have documentation to that?

TROOPER OXANDABOURE: That's the one I initially gave him (inaudible)

JUDGE WOFFORD-KANWAT: Do you have a copy yourself?

TROOPER OXANDABOURE: It's all internet, and I didn't make a copy, no Ma'am.

JUDGE WOFFORD-KANWAT: Ok.

TROOPER OXANDABOURE: Nothing further.

JUDGE WOFFORD-KANWAT: Ok. Alright. Do you have any further questions for him Mr. Nagy?

GERALD NAGY: Um, since the um, no Your Honor, I think I'll let it stand.

JUDGE WOFFORD-KANWAT: Ok, is there anything that you'd like to say?

GERALD NAGY: No Ma'am, I do not wish to testify, and I also did not submit myself on the witness list as someone who would be testifying.

JUDGE WOFFORD-KANWAT: Ok. Then you have the right not to testify as a right to testify so it's your choice if you choose not to testify that's ok, that's your right. Ok, then nothing further from either party?

TROOPER OXANDANBOURE: No Ma'am.

GERALD NAGY: No Ma'am.

JUDGE WOFFORD-KANWAT: Well based on the information, I do find you guilty of speeding.

The speed is written at 69 in a 60 with regards to this charge, I'm sure you're aware, Mr. Nagy, you have the right to appeal my decision, and if you wish to that will be \$81.50. If you wish to appeal the decision which you obviously know you have the right to do, the law clerk can explain that process to you. Ok.

GERALD NAGY: Yes Ma'am. And I already posted the bond prior, at the uh, when I found out the initially there was a TIA.

JUDGE WOFFORD-KANWAT: Ok, so you already paid it?

GERALD NAGY: Yes Ma'am.

JUDGE WOFFORD-KANWAT: So then you won't be responsible for that \$81.50. Alright, thank you Mr. Nagy. Thank you Trooper Oxandaboure.

GERALD NAGY: Thank you Your Honor, have a nice day.

TROOPER OXANDABOURE: Thank you Ma'am.

1 STATE OF SOUTH CAROLINA) IN COMMON PLEAS
2 COUNTY OF RICHLAND) COURT
3)
4 STATE OF SOUTH CAROLINA,)
5) TRANSCRIPT
6 -V-) OF
7) RECORD
8 GERALD S. NAGY,) 2015-CP-40-03354
9 DEFENDANT.)

10

11

NOVEMBER 6, 2015

12

RICHLAND, SOUTH CAROLINA

13

14 B-E-F-O-R-E:

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HONORABLE CASEY L. MANNING, JUDGE;

16

17

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

18

FOR THE PLAINTIFF:

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MR. BERRY, ESQ.

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21

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FOR THE DEFENDANT:

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5	CERTIFICATE OF REPORTER:	22
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1 (The following proceedings were held on
2 November 6, 2015.)
3 THE DEFENDANT: Good morning, Your Honor.
4 THE COURT: Good morning.
5 THE DEFENDANT: I am pleased you pronounced my
6 last name correctly. That is very unusual.
7 THE COURT: Well, believe it or not, one of my
8 son's very best friends, his name is John Nagy.
9 THE DEFENDANT: Really?
10 THE COURT: I don't think y'all are any relation,
11 but --
12 THE DEFENDANT: We probably are. There's very few
13 of us in the United States.
14 THE COURT: Well, maybe so. I don't know where
15 his folks might be from.
16 THE DEFENDANT: If you don't mind, I may have to
17 sit down. I have a little bit of a heart condition.
18 THE COURT: No problem. I will not take it as you
19 being rude.
20 THE DEFENDANT: I prefer the lecturn, but it's
21 over there and I'm over here and there's a microphone.
22 THE COURT: That's not a problem, feel free to sit
23 down.
24 I understand this is an appeal from a speeding
25 ticket and that you are arguing -- I don't know that this is

1 your complete argument, but just to show that I have read
2 the file, that you had argued about the Rule 5 discovery.
3 And you may have other arguments, but this is your appeal,
4 so I'll hear from you.

5 THE DEFENDANT: Okay. If it please the Court,
6 Your Honor. There's some things, obviously, I would like to
7 get in the record. I understand, Your Honor, that this is a
8 criminal case and I also realize this is not a, I believe
9 you call it a trial novo --

10 THE COURT: Correct.

11 THE DEFENDANT: -- so, I'm not going to discuss the
12 specifics --

13 THE COURT: Right, the facts.

14 THE DEFENDANT: Put the trial on trial, if I have
15 this correct.

16 THE COURT: That's right.

17 THE DEFENDANT: Realizing, also, this is just a
18 misdemeanor, Your Honor, there are some God-given rights for
19 me to face my accuser, which has been delineated, obviously,
20 in the Constitution. Further, Your Honor, that was
21 codified, I think, in Brady vs. U.S. in 1970. And it gives
22 a defendant the right in criminal cases to examine evidence
23 or any others before him, Your Honor, witnesses, potential
24 jury presented by the prosecution at trial in order that I
25 have an opportunity to -- with their testimony as needed.

1 In 1976, Your Honor, there was a case called U.S.
2 v. Agurs. The supreme court of the United States ruled that
3 the conduct you should expect by the prosecution whenever
4 presented with a motion for discovery. I have a copy of
5 that, Your Honor.

6 THE COURT: I have your motion for discovery. And
7 what are your specific arguments? You're arguing that the
8 trooper wasn't listed as a witness?

9 THE DEFENDANT: Yes, Your Honor. I was going to
10 actually go down through the transcript of the trial. There
11 were so many issues and errors in this trial. But if you
12 don't need a copy of it, I can continue without it, Your
13 Honor.

14 THE COURT: I have both your motion and the
15 transcript from the trial in here.

16 THE DEFENDANT: Okay.

17 THE COURT: And I have read it prior to coming in
18 here. I read it yesterday, so it's pretty fresh in my mind.

19 THE DEFENDANT: Okay. Well, specifically, in
20 Agurs, the supreme court stated when the prosecutor receives
21 a specific and relevant request, the failure to render a
22 response is seldom looked over and forgivable. They expand
23 on that. The prosecutor needs to approach the Court if
24 there's something that they don't feel is admissible or
25 discoverable, none of which happened, Your Honor.

1 THE COURT: Well, in the beginning of the trial,
2 you listed certain things that you had wanted and it seemed
3 as though the magistrate went through each of those things
4 to make sure you had gotten per the trooper to the extent
5 that they existed.

6 THE DEFENDANT: Yes, Your Honor, but -- yes and
7 no. He failed to answer anything. And in fact, if you look
8 at -- obviously, we're looking at Exhibit A in the appeal
9 that you thankfully have read, I appreciate that.
10 Specifically, I also had later filed a motion to compel,
11 exclude or dismiss any evidence which was what the pretrial
12 hearing was dealing with. I have a copy of that if you do
13 not have one. I don't believe that the magistrate court has
14 sent that.

15 THE COURT: I do not have that.

16 THE DEFENDANT: Okay. Permission to hand one up?

17 THE COURT: You may. If you'll just hand it to
18 the bailiff or you can walk it up, either way.

19 THE DEFENDANT: Thanks.

20 THE COURT: Thank you.

21 THE DEFENDANT: Your Honor, that pretty much
22 delineates the things that I was looking for. And in --
23 just continuing on as to a little more history on this, we
24 did originally have a trial date set. I appeared. The
25 trooper had mentioned that he would go ahead and ask for a

1 continuance since he had not complied with discovery,
2 proceeded to walk in the court and not mention anything
3 about it to the Judge. And I had trial in absentia. She
4 further issued me an order, so we did have the retrial --

5 THE COURT: Right, she did give you another
6 chance.

7 THE DEFENDANT: Yes, based on his conduct.

8 So anyhow, on April 2nd -- I'm sorry, March 31st,
9 I finally got an answer to my discovery. This was after the
10 first trial, prior to the second trial. On April 2nd, I
11 filed a notice to the court, which basically outlined
12 everything that he gave me, which was essentially nothing.

13 Now, that is in Exhibit B, I believe, in my appeal
14 to you. But in that Exhibit B, it references an Exhibit A,
15 which is a --

16 And do you after copy of that, sir?

17 MR. BERRY: I do.

18 THE DEFENDANT: Okay. All right.

19 Their reciprocal Rule 5 of discovery disclosure of
20 evidence and they just clearly stated on there the only
21 thing that they gave up was the SMP certification, which is
22 speed measuring device, which means he received some type of
23 training, and video.

24 And further on --

25 THE COURT: But what else do you think there was

1 -- was there something else that was used during trial --

2 THE DEFENDANT: Oh, yes, ma'am.

3 THE COURT: Okay, tell me that. That's what I
4 want to hear.

5 THE DEFENDANT: Okay. The Judge allowed him to
6 reference having clocked me with the car.

7 THE COURT: Right.

8 THE DEFENDANT: I specifically asked under
9 discovery was there -- you know, anything about the car,
10 okay, the speedometer certified, et cetera. Any kind of
11 electrical, electronic, electromechanical measuring device
12 that he used in order to attempt to establish my speed.
13 None of this was disclosed.

14 Further, I asked specifically about radar. I have
15 a very heavy electronics background. I have a very heavy IT
16 background. So technical things is my forte, this is things
17 I understand. None of which was given.

18 Further, she allowed this information in at trial.
19 Well, he has had some training on speed measuring devices,
20 obviously. There was nothing about an instruction manual.
21 Oftentimes, radar units have very specific items that need
22 to be done, such as calibration at the beginning of the day,
23 which is supposed to be logged, and a check after he uses
24 the radar unit, which is also supposed to be entered in his
25 log to verify the operation. I'm not arguing the capability

1 of the radar unit. Radar has been ruled by the state to be
2 accurate when used according to manufacturer's instructions.
3 And I have no idea whether he did or not, Your Honor. And
4 so --

5 And I asked for a witness list. He was not on it.
6 Even though he's the officer that issued the citation -- you
7 know, because somebody issues a summons doesn't necessarily
8 mean they're going to testify at trial. I further asked for
9 any paperwork that was going to be submitted. He said
10 nothing, so my assumption is he's not using any type of
11 document or present the ticket. And so she allowed this in
12 at trial.

13 And the upshot of this whole thing -- I mean, I
14 can delve into more detail, Your Honor, but every time I --
15 during both the hearing and the trial, when I attempted to
16 bring this information up, she immediately switched gears,
17 focused on Rule 5 to the exclusion of everything else,
18 including any minor little supreme court decision that says
19 you've got to answer discovery.

20 So my argument on this, Your Honor, is that this
21 was -- and immediately when we started the hearing, she told
22 me essentially don't interrupt my conversations. No problem
23 with that, but every time that I attempted to bring
24 something forward and present some type of argument
25 pertaining to, you know, my objection to her allowing

1 certain items into discovery, she immediately cut me off.
2 And at the very tail end of the hearing, I was the one that
3 had to clarify -- and I think that was on -- oh, hang on a
4 second. I believe that's towards about page -- on Page 13
5 of the transcript, I clarified to make sure what we doing
6 going forward into the trial. This is on 13, it's the third
7 time that they have me referenced. Unfortunately, there's
8 no line numbers on this transcript.

9 THE COURT: That's all right.

10 THE DEFENDANT: But I had asked her, I said, So
11 you allow him to testify even though he's not on the witness
12 list, the ticket goes into evidence and his certification;
13 is that correct? And she didn't really answer me in a
14 positive, but she said well, essentially, you know, yes, but
15 if don't like it, you can object. So during the trial,
16 every time he brought something in that was none of those
17 items, I objected. In one instance, in fact --

18 THE COURT: Again, what did he bring in?

19 THE DEFENDANT: He brought in information about
20 the automobile, information about radar.

21 THE COURT: He orally testified about that,
22 though?

23 THE DEFENDANT: Yes, ma'am, but I had requested
24 this information in order to potentially impeach the
25 testimony. The radar is accurate if he's using it according

1 to manufacturer's instructions and if it's properly
2 serviced. I admit that.

3 THE COURT: But essentially, his testimony was
4 he's driving along and you flew past him and he followed you
5 and using his speedometer --

6 THE DEFENDANT: Using his speedometer first.

7 THE COURT: Yeah --

8 THE DEFENDANT: And then secondly, his radar.

9 THE COURT: And he believed you were going -- he
10 testified you were going 80 in a 60 and, ultimately, wrote
11 you a ticket for 69 in a 60?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Okay.

14 THE DEFENDANT: And I also -- other things I asked
15 him about, such as how did you determine the legal speed
16 limit? Forget what's posted because the state law addresses
17 that, too. The posting is important, but that's not really
18 how the law is determined. And so none of that was brought
19 up. He didn't bring it up at trial, but I did have a
20 question about that.

21 So these are things that I feel are within my
22 right to ask. If he didn't want to answer it, all he would
23 have had to say doesn't lead to discoverable evidence. I
24 believe that's the same in criminal. I've been involved in
25 a lot of civil litigation, a few criminal litigations. I've

1 never provided expert testimony, but I do a lot of computer
2 forensics. And so, you know, I've seen the operation of
3 trials and these are pretty standard procedures.

4 And I realize this is magistrate where not
5 everything is quite the same on the civil side, you know, we
6 don't have discovery and such as that, but on the criminal
7 side, I should have the right to examine his information.
8 If he doesn't want to give it up, all he's got to do is just
9 say I don't want to give it up or go to the Judge and say I
10 don't think this is right, this should not be used. And he
11 did none of those things, Your Honor. And every time I
12 tried to say look, he shouldn't allow this in. If he didn't
13 want it in, if he didn't have anything, he should have said
14 he didn't have anything and the Judge continually overruled
15 me.

16 In fact, my objection about the radar, he didn't
17 even respond to my objection. She -- he didn't respond to
18 the magistrate's questions and she just overruled me anyhow
19 without any type of argument for him -- or from him.

20 And so my basis for this appeal, essentially, Your
21 Honor, is that virtually none of the rules that are supposed
22 to be in place in order to give a defendant in a criminal
23 case some type of opportunity to mount a proper defense were
24 essentially completely ignored. She focused on a few
25 factors.

1 Further, if you notice in the trial, she was
2 soliciting direct testimony from the witness. I
3 specifically objected to that. I didn't object based on the
4 wording in the magistrate's handbook, and I do have the
5 specific citation. I just said there was nothing ambiguous
6 in what he said and she said, oh, so you're questioning --
7 you're objecting to my questioning the witness. Well -- and
8 she proceeds to come back and say it was based on, you know,
9 you're a pro se litigant. Well, she's allowed to question a
10 pro se litigant, but not to say -- and she's essentially
11 helping them build a case, which is again in violation of
12 the guidelines that have been set forth by the supreme court
13 of South Carolina for behavior by a magistrate from the
14 bench.

15 And so based on all of this, Your Honor, I don't
16 believe it was a fair trial. Obviously, you can sustain --
17 you know, you can sustain her judgment, which I don't
18 believe would be correct. You could remand it back, but if
19 she follows the rules, then nothing's going to go into
20 evidence so it's going to be an acquittal. You could, I
21 suppose, change the conviction, but I have no idea to what
22 because this is pretty much minimal unless it's like texting
23 or something while driving. And the fourth thing,
24 obviously, that I would request that it would be dismissed
25 based on, you know, her operation and her conduct in the

1 courtroom. And while I have an infinite amount of respect
2 for the office of the magistrate and the courts, I feel as
3 though it was not conducted properly is the best way that I
4 phrase it, Your Honor.

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

6 Mr. Berry, are you handling this one this morning?

7 MR. BERRY: Yes, Your Honor, Joe Berry for the
8 State. Briefly, just start with certainly, there was -- I
9 can say with certainty there was no Rule 5 or Brady
10 violations in the first place. And that even if there were,
11 they were not -- a fair trial still took place.

12 First and foremost, if there's no reasonable
13 probability that had the information sought been disclosed
14 that the result of the Defendant's trial would have
15 different, then there's no need for determination of whether
16 or not the evidence not disclosed was immaterial under State
17 V. Proctor, 358 S.C. 417 2004.

18 The evidence the appellant seeks was simply not
19 material, Your Honor. As seen through his list here, he was
20 seeking things such as all speeding tickets issued by that
21 officer and other officers within a five-mile radius of the
22 incident in question. This stuff is far too vague, far too
23 broad beyond the scope of standard discovery request.

24 I can go one by one if would you like and answer
25 your questions, Your Honor. But, for example, witness lists

1 are not required. He had the ticket. He knew who the
2 officer was testifying. Again, there was no surprise.
3 There was no unfair trial and so on and so forth.

4 Additionally, Your Honor, again, just to restate,
5 the evidence is material only if there's a reasonable
6 probability that had the evidence been disclosed to the
7 defense that the result of the proceeding would have been
8 different. And we have no demonstration whatsoever from the
9 appellant that the information he sought would have had any
10 impact whatsoever on the weight of the evidence that was,
11 indeed, introduced, so --

12 THE COURT: All right.

13 MR. BERRY: -- for those reasons, we ask you to
14 dismiss the appellant's claim.

15 THE COURT: All right.

16 Sir, any reply?

17 THE DEFENDANT: Yes, ma'am, I do. Obviously, we
18 have no idea what the outcome would have been had he
19 proffered up the information requested in discovery. If he
20 had offered the instruction manual for the radar unit, then
21 that may well have been very telling as to whether or not he
22 operated it properly on that given day. And without that
23 information, we have no idea what the outcome would have
24 been. He could have just gotten up in the morning, been
25 late on getting his coffee, sitting in his car, driving down

1 the road, headed to the coffee shop and decided well, I
2 think I'll use this radar unit even though I haven't
3 calibrated it.

4 THE COURT: But the radar unit -- to the extent he
5 mentioned it, that was secondary?

6 THE DEFENDANT: No, that was actually primary
7 because he said that -- when I objected to the introduction
8 of the noncalibration of the speedometer, we have no
9 information on that, oh, well, we use the radar units to
10 test the speed of the car, which, you know, we're -- we have
11 this circular logic. Well, the radar unit's accurate, the
12 car must be accurate because we used the radar unit. But
13 without something that said was it operating properly, is it
14 even required to keep logs, we have no idea what the outcome
15 of the trial was. Because in the event that, in fact, there
16 is certain requirements by the manufacturer's to do A and B
17 and C and he did all or none of them. If he did all of
18 them, that's fine. If he did -- missed any of those, then
19 the results potentially are not correct.

20 THE COURT: So are you arguing that you think this
21 trooper had something in his file about whether his
22 speedometer worked or not?

23 THE DEFENDANT: In fact, he mentioned in the
24 transcript -- because she focused on the speedometer. There
25 was discussion about other things, but she immediately

1 flipped to discussion about the speedometer and I'm like
2 well, you know --

3 THE COURT: I don't think she flipped the
4 discussion to the speedometer. He explained how this all
5 went down. And according to him, you sped past him and he
6 was going something like 60 miles an hour and then he
7 followed you and he was going 70 miles an hour, you were
8 still getting further away from him. And it was only until
9 he went 80 miles an hour that he was able to keep speed with
10 you.

11 THE DEFENDANT: Yes, Your Honor --

12 THE COURT: So his testimony focused on his
13 speedometer.

14 THE DEFENDANT: Well, initially, the request -- on
15 Page 8, the Judge -- after I outlined all the things I was
16 looking for, just a quick reiteration of some of the things,
17 she says well, let's talk about the speedometer.
18 Specifically, she says all right in regards to the
19 speedometer. So there is this discussion between the
20 officer and the Judge, at which point, they're saying
21 essentially, well, you know, there is no certification for
22 the speedometer. Well, if that's the case, then we're
23 working against an objective standard here, miles per hour,
24 feet per second, meters per minute, whatever we choose to
25 use, which is an objective standard. And there is no

1 certification saying the speedometer is right.

2 If my speedometer was reading 10 under and his was
3 reading 10 over, then, you know, both of us are doing 70
4 here. And so without some type of certification -- so his
5 argument was well, we use the radar to detect the speed of
6 the cars. Okay, I will -- I would agree to that and I would
7 not argue that point, but where's some type of certification
8 that the radar is being used properly.

9 And without having been given even an opportunity
10 to examine it -- and he, in fact, did mention later on at
11 the end of the testimony something about, I believe, CMJ,
12 I'm trying to find it right now, which means yeah, they've
13 got the book, but it's back at the shop and so, you know,
14 gosh, I didn't want to walk over and pick them up and let
15 him examine them. So the information existed, he just chose
16 not to give it up.

17 And so without that information, there's no way
18 that I can determine whether or not he was properly using it
19 that day, whether their usage of that certified or to, at
20 least, get a good close edification as to whether or not
21 they were -- that their speedometers are reading correctly.
22 So the argument that there would be no change in the outcome
23 I think is probably incorrect because we don't know. I
24 mean, there was no opportunity to impeach and it's just like
25 we don't care.

1 Further, the argument about my being overly broad
2 and reaching, well, if the officer would have felt that,
3 then I would have been -- you know, I may well have
4 argued -- and I can tell you specifically what I've argued.
5 I have witnessed personally numerous times where you have
6 what the State of South Carolina calls wolf pack hunting by
7 the highway patrol, where they have an individual on a
8 bridge shooting people with radar, then another officer
9 gives chase, they write the ticket. Well, to me, that's
10 hearsay evidence because the individual writing the ticket
11 isn't the individual that clocked it. So my question is was
12 this what he used?

13 The officer's testimony on numerous times, even in
14 the transcript, based exactly on the paperwork that I've
15 given you, the factual paperwork, his testimony is to me
16 somewhat questionable, especially in light of all the issues
17 that led up to the initial issue order. And further, him
18 sitting there saying oh, well, I gave him this and this and
19 this. Well, no, you didn't. I mean, I've got a copy of
20 exactly what you gave me here and that's not lining up with
21 your testimony.

22 And so I have to admit, Your Honor, although he
23 wasn't under oath until the trial and even then, the things
24 that he said were not correct in the pretrial motion, he's
25 allowed to prosecute. He's acting, I think, as an officer

1 of the court if he's not actually an officer of the court.
2 I think truth should probably not be an option here. And so
3 I have a lot of reasons to question the accuracy of the
4 testimony offered by the officer.

5 So without some of this information -- you know,
6 the stuff that I can prove we know he's wrong on. So I'm
7 just saying was, in fact, this radar unit used in accordance
8 with the manufacturer's instructions? If not, it shouldn't
9 have been allowed in evidence. And if he didn't want to
10 give it up, he should have said sorry, no discoverable
11 evidence or the Court to have said no discoverable evidence.
12 And I don't believe it should be incumbent on the magistrate
13 to try to twist this around in order to help this guy out
14 because he wasn't doing his job. If he wishes to prosecute
15 and have that right, then he should at least act --

16 I'm a pro se litigant and I've realized that even
17 with that, the courts are supposed to provide me a little
18 extra latitude, but I try not to ask for that. I try to do
19 as much paperwork as I possibly can. I try to submit
20 everything in a timely fashion. I try to do my job and I'm
21 just a pro se litigant. What I've arguably put is far
22 better than the officer's is. Let's just go to court and
23 get a fair trial and, you know, balance it that way. And
24 it's like, you know, evidence, forget about it, you know,
25 we're going to find you guilty. And that's pretty much how

1 I felt about this whole thing.

2 And so -- and the conduct of the magistrate, I
3 don't believe, was correct, especially in some of the
4 directions -- she went through talking about wearing body
5 cameras. What difference does this make? And when I tried
6 to reply to her arguments or to her statements and questions
7 of the officer, she essentially cut me off, we're not
8 talking about that. Well, you guys were just talking about
9 it, I want to talk about it. No, we're not going to talk
10 about it. I don't really feel that this was particularly a
11 fair trial. And I believe she allowed information into
12 evidence that should have not been allowed, Your Honor.

13 THE COURT: Okay. All right. As you've stated
14 from the beginning, Mr. Nagy, this is an appeal from a
15 criminal matter and so my job is not to retry the case, but
16 to look for any errors of law. At this bench trial, you
17 were found guilty of going 69 in a 60. Without any evidence
18 here, I find that the -- there was no Rule 5 or Brady
19 violation and that the magistrate did not make an error of
20 law and she was the one to determine the officer's
21 credibility. It appears she found him credible and so the
22 order of the magistrate is affirmed.

23 THE DEFENDANT: Thank you, Your Honor.

24 MR. BERRY: Thank you, Your Honor.

25

1 COUNTY OF RICHLAND)

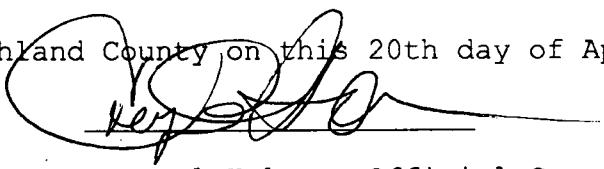
2 CERTIFICATE OF REPORTER

3 I, Crystal Holmes, hereby certify that I reported
4 the preceding case entitled State of SC V. Gerald Nagy Case
5 No. 2015-CP-40-03354, at the Richland County Courthouse,
6 November 6, 2015.

7 I FURTHER CERTIFY that the foregoing pages 1
8 through 22 constitute a true, accurate and full transcript
9 of said hearing.

10 I FURTHER CERTIFY that I am not employed by any of
11 the parties hereto and I have no financial interest in the
12 outcome of said case.

13 IN WITNESS WHEREOF, I have heretofore set my hand
14 and seal at Richland County on this 20th day of April, 2016.

15 
16 Crystal Holmes, Official Court Reporter

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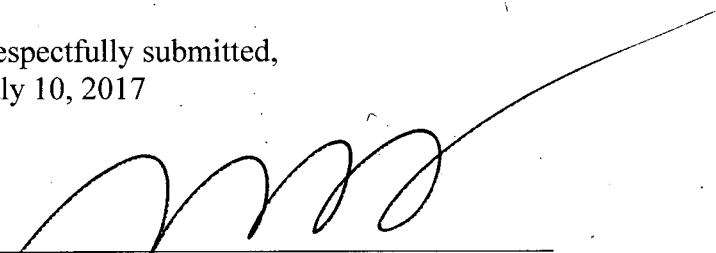
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CERTIFICATE OF APPELLANT:

I certify that this record contains no matter which is irrelevant to this appeal.

Respectfully submitted,
July 10, 2017



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JUL 10 2017

SC Court of Appeals

CERTIFICATE OF SERVICE

I, Gerald J. Nagy, hereby attest and affirm that on this date, July 10, 2017, I served the within and foregoing RECORD ON APPEAL, by having deposited a copy of the aforementioned document with the method and on the parties as indicated below:

Via postage prepaid United States Postal Service First Class Mail, article addressed to:

William Schumacher, IV
Assistant South Carolina Attorney General
P.O. Box 11549
Columbia, South Carolina 29211

Via hand delivery, 15 copies:

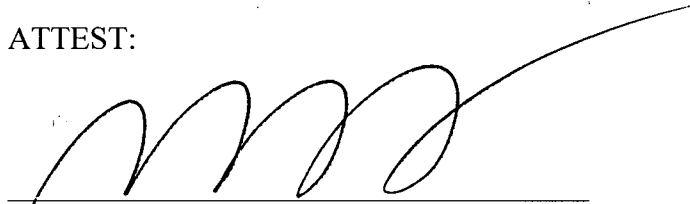
Jenny Abbott Kitchings
Clerk Of Court
South Carolina Court Of Appeals
1220 Senate Street
Columbia, South Carolina 29201

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JUL 10 2017

SC Court of Appeals

ATTEST:



Gerald J. Nagy