

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

John D. McLeod, Administrative Law Judge

Appellate No.: 2017-000270

Shawn Bethea

Appellant

Vs.

South Carolina Law Enforcement Division

Respondent

RECORD ON APPEAL

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**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Shawn L. Bethea,)	Docket No. 16-ALJ-20-0287-CC
)	
Petitioner,)	
)	
vs.)	
)	FINAL ORDER AND DECISION
South Carolina Law Enforcement Division,)	
)	
Respondent.)	
)	

This matter is before the South Carolina Administrative Law Court (“ALC” or “Court”) pursuant to a request for a contested case hearing filed by Shawn L. Bethea (“Petitioner”) arising out of the South Carolina Law Enforcement Division’s (“SLED” or “Respondent”) denial of Petitioner’s application for a Concealed Weapons Permit (“CWP”).

The Court held a contested case hearing on November 9, 2016, at the ALC in Columbia, South Carolina. Based upon the evidence presented and testimony offered at the hearing, I find that Petitioner’s application for a CWP must be denied because of his prior conviction for Criminal Domestic Violence.

FINDINGS OF FACT

Having carefully considered all testimony and arguments presented at the hearing on this matter, and taking into account the credibility and accuracy of the evidence, I make the following findings of fact by a preponderance of the evidence:

Petitioner applied for a CWP from Respondent in 2016. As a result of the application, SLED performed a background check on Petitioner pursuant to S.C. Code Ann. § 23-31-215(B) (Supp. 2016). The background check showed that on May 17, 1993, Petitioner was sentenced by the Marion Municipal Court to either payment of a \$248.25 fine or service of thirty days in jail for violating S.C. Code Ann. § 16-25-20(1). Petitioner paid the fine. At the time of Petitioner’s conviction, S.C. Code Ann. § 16-25-20 stated, in part: “It is unlawful to: (1) cause physical harm or injury to a person’s own household member[.]” Because Petitioner has a conviction for a misdemeanor crime of domestic violence, SLED denied Petitioner’s application for a CWP by

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letter dated July 25, 2016.

Petitioner asserts that SLED must issue a CWP to all individuals who are not prohibited by South Carolina law from possessing a weapon, regardless of whether or not the individual is prohibited from possessing a firearm by federal law or by the law of any other state.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, I conclude the following as a matter of law:

S.C. Code Ann. § 23-21-215(D) (Supp. 2016) and S.C. Code Ann. § 1-23-600(B) (Supp. 2016) grant jurisdiction to this Court to hear this contested case.

Respondent is required to conduct local, state, and federal background checks of an applicant for a CWP upon submission of required information and proof of training. S.C. Code Ann. § 23-31-215(B). If an applicant's fingerprints and background checks are favorable, SLED must issue a permit to the applicant. *Id.* However, if SLED determines that an applicant's background is unfavorable, SLED may deny the permit and shall issue a written statement to the applicant specifying its reasons for denying the permit. *Id.*

Federal law states that "[i]t shall be unlawful for any person...who has been convicted in any court of a misdemeanor crime of domestic violence." 18 U.S.C. § 922(g)(9). In this case, Petitioner's criminal background record reflects that he was convicted in South Carolina of Criminal Domestic Violence. Based upon his record and applicable federal law, Petitioner's possession of a firearm would place him in direct violation of federal law. Therefore, Petitioner would not be a "favorable" person to receive a CWP.

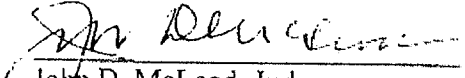
Petitioner attempts to challenge the constitutionality of his 1993 conviction. I find this unpersuasive. As an initial matter, there was no evidence or testimony presented that Petitioner has ever challenged the constitutional of his conviction on appeal, or through any legally cognizable procedure that is available to appeal the constitutionality of a criminal conviction or imposition of a sentence. Further, I find that this venue is not appropriate for such a constitutional challenge. See Great Games, Inc. v. S.C. Dep't of Revenue, 339 S.C. 79, 84-85, 529 S.E.2d 6, 9 (2000) ("ALJs have no authority to pass upon the constitutionality of a statute or regulation.") (citing Beaufort Cty. Bd. of Educ. v. Lighthouse Charter Sch. Comm., 335 S.C. 230, 516 S.E.2d 655 (1999); S.C. Tax Comm'n v. S.C. Tax Bd. of Review, 278 S.C. 556, 299 S.E.2d 489 (1983)). Lastly, Petitioner argues that his alleged entitlement to an expungement for his conviction invalidates the conviction from being a federal prohibition. This argument is without merit.

Expungements for misdemeanor convictions in South Carolina are discretionary and are not a matter of right. See S.C. Code Ann. § 22-5-910 (Supp. 2016).

ORDER

Based upon the above Findings of Fact and Conclusions of Law,
IT IS HEREBY ORDERED that South Carolina Law Enforcement Division's denial of Shawn L. Bethea's application for a concealed weapons permit is **AFFIRMED**.
AND IT IS SO ORDERED.

January 12, 2017
Columbia, S.C



John D. McLeod, Judge
S.C. Administrative Law Court

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT DIVISION
Docket No. 16-ALJ-20-0287-CC

Shawn L. Bethea,)
)
Petitioner,)
)
v.)
)
South Carolina Law Enforcement)
Division,)
)
Respondents.)
-----)

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ADMINISTRATIVE HEARING

Wednesday, November 9, 2016
10:00 a.m. - 11:50 a.m.

The hearing before the Honorable John D. McLeod was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 9th day of November, 2016 before Barbara S. Ham, Court Reporter and Notary Public in and for the State of South Carolina.



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Also Present:
Shawn L. Bethea
Lynn Rolin
Romeo Leycock

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EXHIBITS

Respondent's Exhibit Number One 4
 (SLED Disposition Sheet)
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 (Criminal History Report from South Carolina
 History Repository)

(All exhibits were retained by the Court)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the rules of the Administrative Law Court and the South Carolina Rules of Civil Procedure.



1 (Respondent's Exhibit Numbers One, Two and Three were
2 marked for identification purposes.)

3 **THE COURT:** Thank you, ladies and gentlemen. Be
4 seated please. My name is, John McLeod. My
5 law clerk is Anthony Golden. Ms. Barbara Ham
6 is our court reporter. Good to have you here
7 today. Mr. Whitsett and Mr. Brooker, it's good
8 to have y'all here today.

9 **MR. WHITSETT:** Pleasure to be here, Your Honor.

10 **MR. BROOKER:** Thank you, sir.

11 **THE COURT:** This is docket 16-ALJ-20-0287-CC. Shawn
12 L. Bethea vs. SLED, involving concealed weapons
13 permit. You want to make preliminary
14 statements?

15 **MR. WHITSETT:** Briefly, Your Honor.

16 **THE COURT:** You first.

17 (Opening Statement)

18 **MR. BROOKER:** Thank you, Your Honor. And obviously
19 it is that, this deals with Section 23-31-215
20 that deals with -- the issue is a concealed
21 weapons permit. And course in subsection eight
22 of the statute, it specifically provides what
23 the requirements are for obtaining a concealed
24 weapons permit. And of course, it specifically
25 says, it provides two requirements. And those



1 two requirements are -- is is that, that one,
2 that the person be of at least 21 years of age.
3 And two, the person is not disqualified from
4 possessing a weapon pursuant to South Carolina
5 law. And of course, it also mentions in
6 subsection (b) of that statute, where it says
7 the person must otherwise satisfy a -- a
8 background check under subsection (b). And of
9 course, in this particular situation, I think
10 what the dispute is, is that the statute
11 specifically says, that the person must not be
12 disqualified from possession of a weapon under
13 the South Carolina law. South Carolina law
14 basically says, should -- it is is that, a
15 person is prohibited from possessing a weapon
16 if that person has been convicted of a violent
17 crime as defined under South Carolina law,
18 which is subsection 16-160. In this particular
19 situation, what SLED is alleging is is that, I
20 think in the -- I think 1992 around that, and
21 that he was charged and convicted with a
22 misdemeanor criminal domestic violence. But --
23 if you look at 16-160, South Carolina does not
24 define a misdemeanor, criminal domestic
25 violence, as a violent crime. In order for it



1 to be a violent crime in South Carolina, is
2 that it has to be a domestic violence first
3 degree or either it has to be domestic violence
4 high and aggravated nature. But what he was
5 convicted of is not listed as a violent offense
6 in South Carolina. So the question then
7 becomes is -- is that, whether or not when the
8 statute says that he qualifies for a concealed
9 weapon if he's not disqualified under South
10 Carolina law. And of course it is is that, you
11 know, in 16-20, excuse me, in -- in to 23-31-
12 215, the concealed weapon statute, it not only
13 mentions -- mentions -- and South Carolina
14 mentions the fact that a person would only be
15 disqualified if they are disqualified by South
16 Carlina law. It's mentioned throughout that
17 particular session. Throughout that -- that
18 particular code. Like I said in subsection
19 (e), it says, if not prohibited by state law.
20 And of course, it is is that, it also
21 reiterates that exact same language, you know,
22 in subsection (f). It says, the permit
23 application form shall require the applicant to
24 certify that he is not a person prohibited
25 under state law from possessing a weapon. And



1 of course in subsection (j), it also mentions
2 the same thing. That a permit is -- that a
3 permit is filed with state wide unless we vote
4 because the person has become a person
5 prohibited under state law from possessing of
6 weapon, not federal law. Not federal law
7 whatsoever. And of course it is is that,
8 therefore, I think this entire case turns on
9 judicial or at least statutory instruction. Is
10 that when you have a situation wherein the
11 entire code is that the General Assembly has
12 specifically says, that he is disqualified if
13 disqualified by South Carolina law. South
14 Carolina law. South Carolina law. I don't
15 think the General Assembly is ignorant. I
16 think if they wanted to say that, if he's not
17 disqualified by South Carolina law or either
18 federal law, they would have specifically said
19 federal law. Now, but they mention South
20 Carolina law being the only disqualifying
21 factor, you know, in at least three sections of
22 that code with never mention federal law
23 whatsoever. And so, I don't think it's an
24 accident that federal law was excluded. I
25 think they intentionally left out federal law.



1 And of course, statutory instruction says that
2 is when you are -- that when you are construing
3 a statute, that -- that you are not to read
4 anything into the statute if the language is
5 plain and clear. And it is absolutely plain
6 and clear what the requirements is underneath
7 the statute. Now, I think at some point in
8 time SLED has read into the statute. Well, if
9 you are disqualified under federal law, then of
10 course it is, is that, you know, then of course
11 we're gonna say that you don't what to qualify
12 for. But that's not what the statute calls
13 for. And of course, in this particular
14 situation, he has not been disqualified by
15 federal law. He has actually applied for a
16 concealed weapons. And of course it is is
17 that, he has been allowed to purchase a
18 concealed weapon after a background check
19 conducted by the FBI, under NCIC. Then of
20 course before this hearing, I had him to go to
21 ATF and also go to the feds and to say, hey, I
22 applied for a weapon. I submitted the -- the
23 gun shop where I bought the weapon from, I'm
24 submitting an application. And then of course
25 is that you permitted me to buy a weapon. Are



1 you aware of this? And so far, the FBI and ATF
2 has not come back and said, and I think,
3 they've been notified, I think a couple of
4 weeks, have not come back and said, hey, we
5 made a mistake. The gun that we allowed you to
6 purchase, we want to take it back. And I think
7 that's the unusualness of this case. But I
8 think, construing the law as it's written, I
9 think the law as it is written and as it should
10 be interpreted and it's plain language, and
11 says that he is only disqualified if South
12 Carolina law prohibits him from applying for a
13 concealed weapon. Not the federal law. Thank
14 you, Your Honor.

15 **THE COURT:** All right. Mr. Whitsett.

16 **(Opening Statement)**

17 **MR. WHITSETT:** May it please the court. Pursuant to
18 23-31-215, South Carolina and the legislature
19 has specifically mandated a federal background
20 check. I'll read the -- the exact language of
21 the statute. Upon submission of the items
22 required in subsection (a), SLED must conduct
23 or facilitate a local state and federal
24 background -- fingerprint -- a local, state and
25 federal fingerprint review of the applicant.



1 Specifically intended, specifically included
2 the federal language in the statute. So a
3 federal background check is mandated upon the
4 application under a CWP. And if you go to the
5 very last sentence of that section. If the
6 fingerprint review and background check are
7 favorable, SLED must issue the permit. Well
8 clearly if the federal fingerprint is not
9 favorable, SLED cannot issue the permit and
10 must not issue the permit.

11 **THE COURT:** The offense that he is accused of
12 committing back in the 1990s, is the same one
13 that resulted in the federal prohibition. So
14 that's something that would have been known
15 irrespective of the federal prohibition?

16 **MR. WHITSETT:** In terms of his allegation that he
17 has. We've got some testimony that I believe
18 will clear that issue up, entirely. And I
19 believe that issue and going to the FBI several
20 weeks ago, that there's a 18 to 24 month
21 backlog on the NICS application. So they are
22 years away from actually looking at this
23 transaction. And you'll here testimony ---

24 **THE COURT:** Well, that's fine ---

25 **MR. WHITSETT:** --- as to why ---



1 THE COURT: --- if you've got a testimony, but I
2 didn't want to let it pass by and forget about
3 that.

4 MR. WHITSETT: Certainly not. And we will deal with
5 that issue directly and we will deal with the
6 federal prohibition. And our understanding and
7 our conversations with the FBI NICS folks which
8 is the actual unit that does this. You'll hear
9 testimony specifically about this petitioner
10 and his federal prohibition, as understood by
11 the feds on that. I don't believe there's any
12 dispute in this case that we're really talking
13 about a 1993 criminal domestic violence
14 conviction. A conviction for this offense in
15 and of itself doesn't trigger the federal
16 prohibition. It depends entirely on the facts
17 and circumstances presented and when SLED,
18 working with the FBI, drilled down and got that
19 information on this specific offense. It
20 clearly met the federal definition of a
21 misdemeanor crime and domestic violence. Such
22 that the evidence and testimony in this case
23 will -- will indicate that this conviction has
24 landed this petitioner in the NICS index which
25 is the database for misdemeanor crime or



1 domestic offenses, separate and apart from a
2 criminal history NCIC search. This is a
3 separate database that is searched. It's a
4 separate database that is, that contains
5 federal prohibitions. You'll hear specific
6 testimony on that and -- and in relation to
7 this individual. I mean put simply, the
8 evidence and testimony will prove that there is
9 a federal prohibition that exists in this case.
10 And we'll prove that because there was not a
11 favorable federal background check, which is
12 required by the statute, SLED could not issue
13 a concealed weapons permit. And SLED takes the
14 position that it cannot take and cannot issue
15 a concealed weapons permit to an individual
16 who's federally prohibited from possessing a
17 firearm. You'll hear testimony on alternate
18 permit status and why the ATF has granted SLED
19 alternate permit status such that, if
20 individuals who are federally prohibited get
21 CWPs, we will lose that status. The South
22 Carolina concealed weapons permit will lose
23 it's status as a document for which you can use
24 to purchase a firearm. That status is granted
25 solely based on our conducting a federal



1 background check and solely based on our not
2 issuing concealed weapons permits to
3 individuals who are federally prohibited.
4 Again, South Carolina law requires a federal
5 background check and indicates that -- that
6 SLED cannot issue if it has an unfavorable
7 background check. So it's a mandated one and
8 any individual that is prohibited, as we
9 believe the evidence and testimony will show,
10 we cannot issue that -- a concealed weapons
11 permit. We will ask, Your Honor, to uphold the
12 denial in this case.

13 **THE COURT:** That maybe the chink in Mr. Brooker's
14 argument, but I'm not convinced at this point.
15 I'll be interested to hear your testimony.

16 **MR. WHITSETT:** Thank you, Your Honor.

17 **THE COURT:** Mr. Brooker.

18 **MR. BROOKER:** Thank you, Your Honor. We call Shawn
19 Bethea, Your Honor.

20 **THE COURT:** Come up and be sworn, please, sir.

21 **MADAM COURT REPORTER:** If you'll raise your right
22 hand. Do you solemnly swear the following
23 testimony to be the truth, the whole truth and
24 nothing but the truth?

25 **MR. BETHEA:** I do.



1 MADAM COURT REPORTER: And can you state your full
2 name for the record?

3 MR. BETHEA: Shawn Lee Bethea.

4 MADAM COURT REPORTER: Thank you.

5 THE COURT: You from Dillon or Manning.

6 MR. BETHEA: Dillon.

7 THE COURT: Dillon?

8 MR. BETHEA: Yes, sir.

9 THE COURT: Okay. I go back a long way in Dillon
10 County.

11 MR. BETHEA: Okay.

12 THE COURT: Green Creek community.

13 MR. BETHEA: Yes, sir, yes, sir.

14 THE COURT: Sit down, please.

15 SHAWN LEE BETHEA, having been duly sworn, deposes and
16 testifies as follows:

17 MR. BETHEA - EXAMINATION BY MR. BROOKER:

18 Q: Mr. Bethea, what's your occupation. Just very
19 briefly.

20 A: I'm a bail bondsmen, private investigator. I
21 own my own process serving company. And just
22 went in as a unarmed security officer. And I
23 also own my own drug lab. And I also own my
24 own background checks. We have our own
25 service. Basically, that's all I do.



1 Q: And how old are you?

2 A: 45.

3 Q: Now, I think what this entire case is about is
4 is a CDV conviction or at least a CDV charge
5 that occurred -- indulge me for just a second
6 and I find it here. It occurred back in, I
7 think it was 1990 -- I believe 1995, in the
8 city of Marion. Do you remember that CD- --
9 CDV charge?

10 A: Yes, sir.

11 Q: Okay. And of course is is that, was there a
12 disposition in that case against you?

13 A: Well, I went to the Fourth Circuit to talk to
14 Solicitor Rogers about that situation. And
15 Solicitor Rogers had sent me down to one of his
16 workers to do an application. I called him on
17 yesterday to ask him about what's going on. He
18 told me to go through this this morning, and
19 when I get out, to give him a phone call
20 because he is going to have his people to pull
21 and see -- do -- check the status on the
22 application from back then. Back in 2014, we
23 talked. And I was running for county council
24 then and he told me after it's over, come do an
25 application, and I did, but I never followed it



1 back up.

2 Q: Well, let me ask this question, at least about
3 the conviction, you were issued a citation.
4 You were issued a citation for CDV. Is that
5 correct?

6 A: Right.

7 Q: And was that from the city police department,
8 Marion's City Police Department?

9 A: It was Marion. Yeah, Marion City.

10 Q: Okay. Now, did you have any sort of court date
11 in connection with that case?

12 A: I just paid money.

13 Q: Okay. Did you go before the judge and -- and
14 talk with the judge and have the judge explain
15 to you what your constitutional rights, the
16 right to remain silence, right to have a jury
17 trial, right to challenge, that sort of stuff?

18 A: No, sir.

19 Q: Okay. And so what you're saying is is that,
20 they wrote an amount on the ticket and just
21 like a speeding ticket ---

22 A: Right.

23 Q: --- you went in and paid the fine?

24 A: Paid it out.

25 Q: Okay.



1 A: I paid it when I got out. I paid the whole
2 248.

3 Q: Okay. But never went before a judge
4 whatsoever?

5 A: Not in Manning.

6 Q: Okay, okay. And so that's the -- so that's the
7 conviction that we're talking about.

8 A: Right.

9 Q: Is that correct?

10 A: Yes, sir.

11 Q: All right. Now, I know that you indicated that
12 -- that -- that you've -- you've talked with at
13 least the Fourth Judicial Circuit Solicitors'
14 office in reference to an expungement.

15 A: Uh-huh (affirmative response).

16 Q: Did you ever apply for expungement?

17 A: He told me to do the application. I did. I
18 think back then, I -- he explained that it was
19 something about a disorderly and if that wasn't
20 five years apart. One can go, but one has got
21 to stay.

22 Q: Did apply expungement?

23 A: I did apply.

24 Q: Do you know what the -- and do you know what
25 happened with the expungement?



1 A: I don't have no clue.

2 Q: You never followed up on it?

3 A: Never followed it back up.

4 Q: Okay. Now, did you purchase a gun from
5 somebody?

6 A: Yes, sir.

7 Q: All right. What -- when did you purchase a gun
8 and who did you purchase the gun from?

9 A: Main Street shop, pawn shop down in Dillon.
10 Maybe -- going on about four or five months
11 now.

12 Q: Okay. Did you have the complete map --
13 complete an application or affidavit so that
14 you could have a criminal background check
15 performed on you by ---

16 A: Yeah.

17 Q: --- the FBI?

18 A: Yes, sir. You have to ---

19 Q: Did you ---

20 A: --- you have to do a background check. You
21 have to do application.

22 Q: Okay.

23 A: And it does have on there, have you ever been
24 convicted of a domestic violence?

25 Q: Did you do the application?



- 1 A: I did the application.
- 2 Q: Okay. And I think that my understanding is is
3 there's a three day waiting period?
- 4 A: Yes, sir. It -- well, I fell into, just like
5 ...
- 6 Q: Okay. So ---
- 7 A: And ---
- 8 Q: --- when you applied, it indicated that your --
9 that your status would be delayed so that you
10 could not immediately purchase the weapon?
- 11 A: Yes, sir.
- 12 Q: Okay. And so they flagged for review. Is that
13 correct?
- 14 A: Right. Yes, sir.
- 15 Q: Okay. And so when they flagged you for review
16 on the first day you went and applied, you
17 couldn't get the gun. How -- how much time
18 later did you go back to check and see whether
19 not when they flagged you for review, you know,
20 whether or not they had ---
- 21 A: I waited five ---
- 22 Q: --- issued it?
- 23 A: I waited five days. I went back on the fifth
24 day.
- 25 Q: When you went back on the fifth day. To your



1 understanding is is that, were you denied or
2 given a denial on that flag got a hit from the
3 ATF when you applied?

4 A: No, sir. When I walked in, he said, you good.
5 And he sold me the gun.

6 Q: All right. And what gun did you purchase?

7 A: A 40 caliber. A 40 caliber.

8 Q: Okay. Now, when this entire issue came up with
9 respect to -- when you applied for a concealed
10 weapons permit, when was that?

11 A: When I did -- say that again now?

12 Q: When did you apply for a concealed weapons
13 permit with -- with SLED?

14 A: I can't remember, but it was probably going on
15 about three months ago, maybe. About three
16 because I know when I called in to check, they
17 told me I had 70 days in. Lieutenant Horton
18 from SLED said I had 70 days in. And then he
19 told me that I'll have it that Monday.

20 **MR. WHITSETT:** I'm objecting. Hearsay.

21 **THE COURT:** Sustained.

22 Q: Okay. I'm sorry. Don't tell me what he said.
23 But you applied for a concealed weapon?

24 A: Yes, sir.

25 Q: And you were eventually denied?



1 A: Yes, sir.

2 Q: And that's the reason why we're here today?

3 A: Yes, sir.

4 Q: Okay. Now, at some point in time after you
5 were denied the concealed weapons permit, did
6 you go back or contact the ATF?

7 A: Yes, I just went back on it last week.

8 **MR. WHITSETT:** I'm going to go ahead and object to
9 any hearsay that may be coming if he's
10 intending on testifying what he heard back from
11 any agency that's not here and then we can't
12 cross examine them.

13 **THE COURT:** Yeah. Sustained.

14 Q: Don't tell me what you -- what you heard, just
15 answer my question yes or no. Did you go
16 contact ATF?

17 A: Yes.

18 Q: Did you contacted -- and when you contact ATF,
19 don't tell me about any conversation. You tell
20 me what you told them.

21 A: That how can they clear me and the state saying
22 that I have record -- I have a record.

23 Q: Okay. Did you also contacted the FBI?

24 A: Yes, I did.

25 Q: Don't tell what anybody -- about anybody from



1 the FBI said, but what did you tell them?

2 A: That I purchased a gun and that I don't
3 understand how you guys ain't handling me in
4 this little state is. I mean I -- I don't
5 understand it. Y'all override state, so why
6 y'all ain't knocking on my door.

7 Q: Okay. Now, just a simple yes or no. Has --
8 has ATF or either the FBI retrieved the gun
9 that you were allowed to purchase after you
10 notify -- after notifying them about this
11 particular incident?

12 A: The ATF guy told me ---

13 Q: No, no. I said, don't tell me.

14 A: Okay.

15 Q: Just answer my question ---

16 A: Okay.

17 Q: --- yes or no.

18 A: Okay.

19 Q: Have they went back and retrieved ---

20 A: No, sir.

21 Q: --- that weapon and taken that weapon away from
22 you?

23 A: No, sir. No, sir.

24 Q: Do you still have that weapon?

25 A: Yes, I do.



1 Q: Okay.

2 A: And they aware of it.

3 Q: Okay. All right. If you can indulge me for
4 just a second, Your Honor ---

5 **THE COURT:** Yes, sir.

6 Q: --- for any further questions. I don't have
7 any further questions, Your Honor.

8 **THE COURT:** I have one. Are you a licensed private
9 investigator?

10 **MR. BETHEA:** Yes, sir. I supposed to renew, but I
11 didn't renew because this background check
12 going on. And I didn't want them handling me
13 where it -- saying falsifying my paper so I was
14 gonna renew it after I get out of this.

15 **THE COURT:** So you are not currently licensed?

16 **MR. BETHEA:** No. I'm not currently licensed.

17 **THE COURT:** Okay.

18 **MR. BETHEA:** But I'm currently license as a bail
19 bondsmen.

20 **THE COURT:** I understand.

21 **MR. BETHEA - EXAMINATION BY MR. WHITSETT:**

22 Q: Good morning, Mr. Bethea. I'm going to show
23 you a document. I believe your attorney has
24 seen this. Have you ever seen any document
25 like this? Have you ever seen this document or



1 a version of this document?

2 A: I picked it up yesterday from Marion County.

3 Q: And this is a disposition sheet on the criminal
4 domestic violence?

5 A: Yes, sir.

6 Q: And it does indicate that there is a conviction
7 for criminal domestic violence?

8 A: Yeah back in '93 ---

9 Q: 1993.

10 A: Yeah.

11 Q: And actually, it indicates a conviction for 16-
12 25-20, subsection one. Is that correct? The
13 one in parenthesis?

14 A: Say it again, now.

15 Q: I'm sorry. Your Honor, may approach?

16 **THE COURT:** Yes, sir.

17 Q: It indicates a conviction for statute 16-25-20,
18 paragraph one. Is that correct?

19 A: I'm not aware of that statute.

20 Q: Okay. But you -- the paper does have one in
21 the parenthesis. We don't dispute that?

22 A: I'm not aware of that, that statute. I don't
23 know what that mean.

24 Q: Okay. I understand that. Does the paper have
25 a one on it in parenthesis?



1 A: Does it? Oh, yes, it does.

2 Q: Okay. The paper itself. All right. Your
3 Honor, we would moved to admit this -- what's
4 been pre-marked as, I guess, Respondent's
5 Three.

6 **THE COURT:** Any objection Mr. Brooker?

7 **MR. BROOKER:** No objection, Your Honor.

8 **THE COURT:** Respondent's Three, admitted into
9 evidence without objection.

10 Q: Mr. Bethea, have you ever seen the incident
11 report corresponding to this incident?

12 A: Got it yesterday.

13 Q: So I'm going to show you a document that's been
14 marked, Exhibit Five. Is that -- you can take
15 a minute to review it. Is that a fair and
16 accurate representation of the incident report
17 from this incident?

18 A: Yes. Yeah, this happened when we was living in
19 -- this happened, oh -- this was before I even
20 -- me and her even bought our house. So, yeah,
21 that -- that happened. That incident did
22 happened at the apartment. But that was way
23 before we bought our home.

24 Q: And this is at ---

25 A: Yep.



1 Q: The document I handed you is an incident report

2 ---

3 A: Incident report, right.

4 Q: --- and this is the same document that you had
5 received as an incident report?

6 A: That's a incident report, yes.

7 Q: And you don't dispute that this incident
8 happened or and ---

9 A: That happened -- or -- in Marion County in
10 magistrate's court.

11 Q: Okay. And it does indicate that a physical
12 altercation occurred between you and I believe
13 it was your spouse at the time. Is that
14 correct?

15 A: It was my ex-wife, yeah.

16 Q: Okay. At time she was -- you were living
17 together?

18 A: Yeah. We was living together.

19 Q: You were cohabitating?

20 A: Right.

21 Q: Okay. And the incident report itself
22 indicates, and I'll give it to you. I'm not
23 trying trick you. It indicates, your statement
24 that you pushed down your wife on the bed and
25 started fighting, correct?



1 A: Where you see that at?

2 Q: I'm sorry. Read the third sentence down. Is
3 says, subject stated ...

4 A: No. I didn't started fighting her. No. Huh-
5 uh. No. I just pushed her down.

6 Q: Okay.

7 A: That was it.

8 Q: All right.

9 A: I wasn't fighting her.

10 Q: You admit that you put hands on her and pushed
11 her?

12 A: Pushed her down on the bed. Pushed her on the
13 bed because she was drunk.

14 Q: Okay. You used -- you pushed her?

15 A: Well, if want to say. I just pushed her on the
16 bed. She was drunk.

17 Q: Okay. But you don't deny that you put your
18 hands on her and pushed her?

19 A: I put her -- pushed her on the bed. She was
20 drunk.

21 Q: Okay. Your Honor, I would move to admit what's
22 been marked as Respondent's Five.

23 **THE COURT:** Any of objection?

24 **MR. BROOKER:** No objection, Your Honor.

25 **THE COURT:** Respondent's Five admitted into evidence



1 without objection.

2 Q: And I believe you testified earlier you -- you
3 did not contest this charge. You -- you paid
4 the fine on this offense.

5 A: And we move -- and we moved on with our lives.

6 Q: I understand. And you indicated in response to
7 some questions, you did not go before a judge
8 at that time, correct?

9 A: It was a fine.

10 Q: You knew ---

11 A: Like -- like you say a fine, a ticket.

12 Q: As you sit here today, you knew that you could
13 have gone to court and challenged this didn't
14 you?

15 A: Me and her talked, so, you know. She married
16 now, so that's my past and it's -- it doesn't
17 --that's behind me now so.

18 Q: Sure. I ---

19 A: I don't too much care about it. It was a fine.

20 Q: I understand.

21 A: And we moved on with our lives after that and
22 bought a house.

23 Q: You could have challenged this arrest in court,
24 correct?

25 A: Didn't know the law at the time.



1 Q: So you don't understand that ---

2 A: Didn't understand the law at the time, sir.

3 Q: Okay. As you sit here today, your testimony is
4 that you were required to pay this fine. Is
5 that correct?

6 A: By the -- by the law, I had to pay. It was due
7 in 30 days. You see it, 248 or 30. I didn't
8 want to do 30 so I paid it.

9 Q: And I wanna move into this delayed status. So
10 you -- when you went to purchase the gun, you
11 were not able to purchase the gun on the day
12 you went into the store, correct?

13 A: How do you figure I wasn't?

14 Q: I'm asking you. Where you allowed to leave ---

15 A: I was allowed ---

16 Q: --- the store that day?

17 A: I ---

18 Q: --- to take -- with a firearm?

19 A: When I bought the gun?

20 Q: When you went in to make the purchase. You've
21 already testified ---

22 A: No. I was not allow ---

23 Q: --- that you were under delayed status.

24 A: I was not allowed to leave with no gun.

25 Q: Okay.



- 1 A: You have to do background check ---
- 2 Q: Correct.
- 3 A: --- first. You have to pay for the gun first.
- 4 If the background check come back, you are not
- 5 clear, they will take \$50.00 of your money and
- 6 give you the balance. If it was anything, he
- 7 did clearly state to me that if you lying, that
- 8 the ATF will be knocking on your door.
- 9 Q: Certainly. But you -- just to answer my
- 10 question. You were not allowed to leave with
- 11 a firearm on the day you went into the store to
- 12 make the purchase?
- 13 A: No.
- 14 Q: You admit and you -- I believe you even call
- 15 it, you were in delayed status, correct?
- 16 A: Yeah, he said -- he said there's been a delay.
- 17 Q: Okay. And as we sit here today, you have not
- 18 been granted an expungement for this offense,
- 19 correct?
- 20 A: Applied for one, but never followed it up.
- 21 Q: Never had any paperwork indicating ---
- 22 A: Never. Exactly.
- 23 Q: --- that you received an expungement?
- 24 A: Never followed it up. Never received no
- 25 paperwork.



1 Q: As we sit here today, you have no information
2 or testimony to give the judge to say, this is
3 not still currently on your record?

4 A: Will, yes I do, through the NCIS. That's from
5 the feds and it states on their contract when
6 you fill it out, do you have it? And I also
7 have a copy from Dillon County that I don't
8 have nothing there. And really, Marion County
9 saying I don't have nothing but, you guys say
10 I got something.

11 Q: Okay. Have you ---

12 A: And the ATF said they ain't got nothing. My
13 system say it ain't got nothing. But why are
14 y'all so different from all of us?

15 Q: I understand. We'll present evidence on your
16 criminal record if you haven't seen it. I
17 believe that's all the questions I've got for
18 this witness.

19 **THE COURT:** Redirect.

20 **MR. BROOKER:** Very briefly, Your Honor.

21 **MR. BETHEA - RE-EXAMINATION BY MR. BROOKER:**

22 Q: I think what's been identified as Exhibit
23 Number One, I think for SLED, is the
24 disposition sheet. It's right there. Can I
25 just briefly ---



1 THE COURT: Yes, sir.

2 Q: Thank you, Your Honor. You can take a look at
3 the deposition sheet. And of course, I think
4 nearly to the bottom of it, and I think the
5 third line to the bottom, it says, disposition,
6 and it said forfeiture.

7 A: Uh-huh (affirmative response).

8 Q: Is that correct?

9 A: Yes, sir.

10 Q: Okay. And just for clarification as -- is
11 that, you never went before a judge or stood
12 before a judge?

13 A: No, sir.

14 Q: Never were advised that you have right to a
15 jury trial?

16 A: No, sir.

17 Q: And never advised you have right to counsel
18 under *Shelton vs. Alabama*?

19 A: No, sir.

20 Q: Okay. You simply paid -- you simply paid a
21 bond to get out?

22 A: Yeah. Two hundred and -- paid that to get out.

23 Q: And you forfeited that bond?

24 A: Right.

25 Q: Is what this deposition says?



1 A: Right.

2 Q: Okay. Was there any sort of trial. Do you
3 know whether or not the court had a trial in
4 your absence and there was findings of facts
5 made at that trial?

6 A: No, sir.

7 Q: Okay.

8 A: Don't have no knowledge of that.

9 Q: So your understanding is is that ---

10 A: I paid ---

11 Q: --- just forfeited the fine.

12 A: Yeah. That's was it.

13 Q: Okay. Did -- was your wife ever called up and,
14 like I said, this was a -- I may already know
15 the answer to this but I need to be certain ...
16 Did the court ever send a subpoena or called
17 your wife up to give a testimony before the
18 judge to -- to make a findings of fact with
19 respect to what the allegations were?

20 A: Not from my knowledge. She -- she -- we moved
21 on. I mean, it wasn't no don't go around her,
22 none of that. It wasn't no, you know, judge
23 gave nothing.

24 Q: No -- no trial ---

25 A: No trial. Right.



1 Q: --- that you are aware of? She was never
2 called to testify about the finding of facts?

3 A: No, sir.

4 Q: Okay. And so, what you are saying is is that
5 what's been the allegations are identify in I
6 think Exhibit Number Two, which is the incident
7 report that was entered in the record, is that
8 the judge made no finding of fact with respect
9 to, you know, whether or not you had committed,
10 you know, a physical act of violence or
11 anything like that?

12 A: You asking me did I commit a physical act of
13 violence?

14 Q: No. I'm asking you, there was no trial ---

15 A: No. No trial.

16 Q: --- with a judge just a finding?

17 A: Oh, no.

18 Q: Okay. I don't think I have anything further,
19 Your Honor. Thank you, Your Honor.

20 **MR. BETHEA - RE-EXAMINATION BY MR. WHITSETT:**

21 Q: Very briefly. And today, you admitted that you
22 did put your hands and pushed her, correct?

23 A: She was drunk. I pushed her on the ---

24 **THE COURT:** Excuse me. That's already clear for the
25 record. You may sit down.



1 MR. BETHEA: Thank you, Your Honor.

2 THE COURT: Thank you, sir. Next witness, Mr.
3 Brooker.

4 MR. BROOKER: We have no further witness to call,
5 Your Honor.

6 MR. WHITSETT: I beg indulgence -- the court's
7 indulgence for just one second, if it's okay.

8 THE COURT: Take your time.

9 MR. WHITSETT: I would like to call, Lynn Rolin, to
10 the stand.

11 THE COURT: Come and be sworn, please, ma'am.

12 MADAM COURT REPORTER: Do you solemnly swear the
13 following testimony to be the truth, the whole
14 truth and nothing but the truth, so help you
15 God?

16 MS. ROLIN: I do.

17 MS. ROLIN: And can you please state your full name
18 for the record?

19 MS. ROLIN: Lynn Rolin.

20 MS. ROLIN: All right. Thank you.

21 LYNN ROLIN, having been duly sworn, deposes and
22 testifies as follows:

23 MS. ROLIN - EXAMINATION BY MR. BROOKER:

24 Q: Ms. Rolin, can you tell the court what's your
25 current job at SLED?



1 A: I'm a program coordinator with the information
2 technology office at SLED.

3 Q: What was your previous position at SLED?

4 A: Previously, I was a program coordinator within
5 the regulatory services unit. Overseeing the
6 day-to-day operation of the concealed weapon
7 permit program.

8 Q: You were a supervisor over the concealed
9 weapons program?

10 A: Correct.

11 Q: All right. And just explain to the judge what
12 SLED does upon receipt of a concealed weapons
13 permit application.

14 A: Once we received an application, we enter the
15 application into our system which initiates
16 background checks. Automatically initiates
17 background checks and we receive the
18 information back, both from the state and the
19 FBI and NICS index. And that ---

20 **THE COURT:** Question. NICS is an acronym?

21 A: Yes, sir, it is. I'm sorry. It's the Federal
22 Bureau of Investigation, National Instant
23 Criminal Background Check System. That's what
24 NICS ---

25 **THE COURT:** NICS.



1 A: NICS is what -- what it is.

2 **THE COURT:** NICS. Note that please.

3 Q: And just for clearly for the record, what is
4 the FBI NICS division?

5 A: That is the section at the FBI that conducts
6 the name based background checks for firearm
7 purchases for the nation.

8 Q: So just for the purposes of the today, if an
9 individual goes to a gun store and submits an
10 application, this is the FBI group that would
11 run the background check?

12 A: Correct.

13 Q: All right. Can you explain to the judge what
14 the delayed status means?

15 A: Yes. When an individual goes to purchase a
16 firearm, there are three statuses that can be
17 automatically given. The individual fills out
18 the ATF form 4473, then the gun dealer will
19 initiate whether it be by phone or via the
20 internet, a background check, utilizing the
21 information that the applicant has provided.
22 The NICS team will put that information into
23 their databases and conduct a background check.
24 The information will return back both with
25 criminal history and with information within



1 the NICS index. An individual is, like I
2 stated earlier, there are three statuses.
3 Automatic of proceed, a delay or an automatic
4 denial. A delay transaction is something that
5 -- something has come back on the background
6 check that is potentially prohibiting. An
7 investigation -- further investigation is
8 needed. After three days of transaction being
9 in the state of delay, the firearms dealer, if
10 they have not gotten a proceed or deny from the
11 FBI, the transaction stays in a state of delay
12 and after three days, the three business days,
13 the firearm can be lawfully trans- --
14 transferred to the applicant.

15 Q: Now ---

16 **THE COURT:** Even though there's a delay status?

17 A: Yes, sir.

18 Q: Does that in any way indicate a clean record?

19 A: No, sir.

20 Q: All right. Does that in any way indicate that
21 the search by the FBI is ongoing or not
22 ongoing. Do they end after three days?

23 A: It remains. The transaction would remain in a
24 state of delay. And they do have agents that
25 are working that delay status que for a period



1 of time, but they are continually going, you
2 know, with so many background checks that they
3 are doing that delay status que continues to
4 grow. If they don't receive the information
5 that they've put out to local jurisdictions or
6 ports, it just remains in a status of delay,
7 indefinitely.

8 Q: Is that something that --

9 **THE COURT:** Excuse me a minute.

10 A: Yes, sir.

11 **THE COURT:** You used a word that is so seldom used.
12 I want to make sure the court reporter ... Do
13 you know what que is?

14 A: Oh, I'm sorry.

15 **THE COURT:** Q-U-E.

16 **MADAM COURT REPORTER:** Yes, sir.

17 **THE COURT:** Okay.

18 A: I'm sorry.

19 **THE COURT:** No, no. That's -- that's fine.

20 A: Okay.

21 **THE COURT:** You just don't hear it very often.

22 Q: All right. And I think we've touched on this.
23 What -- explain to the court what the NICS
24 index is?

25 A: It is a division of the FBI. And again, it



1 stands for the National Instant Criminal
2 Background System. And they process all
3 background checks relating to firearms
4 purchases.

5 Q: Okay. That is the NICS division. What is the
6 NICS index?

7 A: Oh, I'm sorry. The NICS index is a name based
8 database that is held by the FBI. And it is an
9 area where information is retained that is not
10 -- that is not held anywhere else. For example
11 on a criminal history the main things that are
12 in the NICS index are misdemeanor crimes of
13 domestic violence, mental health information,
14 fugitives from justices, so forth. There are
15 prohibiting categories that ---

16 Q: So it ---

17 A: --- lay within that ...

18 Q: If there is a federal prohibitor that's not
19 specifically related to a -- a criminal history
20 like a felony or something like that. This is
21 the database where this those -- that
22 information is housed?

23 A: That's correct.

24 Q: If an individual is in the NICS index, can they
25 lawfully purchase or possess a firearm?



- 1 A: No.
- 2 Q: Okay. Have you had the occasion to research
3 whether this petitioner is in NICS index?
- 4 A: Yes.
- 5 Q: And you have personal knowledge of that?
- 6 A: Yes.
- 7 Q: What is his status in the NICS index?
- 8 A: He is currently in the NICS index as a
9 prohibited individual under the misdemeanor
10 crime and domestic violence.
- 11 Q: All right. And -- and you got personal
12 knowledge of that?
- 13 A: Yes, sir.
- 14 Q: Okay. Was this entry recent?
- 15 A: Yes. It was -- it was recent.
- 16 Q: So, if this individual went to a gun shop four
17 to five, six months ago, this entry would have
18 appeared after that?
- 19 A: Yes.
- 20 Q: Okay. What -- tell the court, I mean, the
21 status of the que. I mean, is it a 30 day
22 turnaround time for challenges or appeals?
23 What's the turnaround time?
- 24 A: No. It has varied over the last several years.
- 25 Q: Okay.



1 A: My last indication and -- and discussion with
2 -- with NICS is that it's up to 18 to 24 months
3 at this point.

4 Q: Okay. So, based on your knowledge and your
5 testimony is, the FBI is running about 18
6 months, 24 months behind?

7 A: Correct.

8 Q: So, we're looking at some time next year before
9 they even get into following up on this
10 specific transaction?

11 A: Correct.

12 Q: Okay. I'm going to show you what's been pre-
13 marked as Exhibit Seven and ask if you actually
14 ... Do you recognize this and did it relate to
15 your testimony here today?

16 A: Yes, I do.

17 Q: And actually one more question before we get
18 into that. Can a private citizen search the
19 NICS index?

20 A: No.

21 Q: Okay. Can -- so there would be no way, even if
22 an individual had a background service, they
23 did could not individually check this?

24 A: No, sir.

25 Q: All right. But you're here stating under oath



1 that this individual, the petitioner, is in the
2 index?

3 A: Yes.

4 Q: All right. Back to the document that I handed
5 you. What is that document?

6 A: This is a criminal history report from the
7 South Carolina History Repository.

8 Q: When was it run?

9 A: This was run yesterday.

10 Q: Who ran it?

11 A: November the 8th.

12 Q: Who ran it?

13 A: Celeste Profit.

14 Q: Okay. Did you request that?

15 A: Yes, I did.

16 Q: All right. What does it indicate in terms of
17 this petitioner's conviction history?

18 A: It indicates a conviction in 1992 for
19 disorderly conduct. And it indicates a
20 conviction in 1993 for criminal domestic
21 violence.

22 Q: All right. And we've already admitted it on
23 the record. Did the 1993 criminal domestic
24 violence, that's -- that still appears on his
25 records as we sit here, at least as of



1 yesterday?

2 A: Yes.

3 Q: Okay. Your Honor, I would move to admit this
4 into the record. There -- it does have some
5 personal identifying information that I would
6 ask to be redacted from the public record and
7 I'm happy to do that. It's got date of birth
8 and social.

9 **THE COURT:** All right. Any objection, Mr. Brooker?

10 **MR. BROOKER:** No objection, Your Honor.

11 **THE COURT:** All right. In the presence of Mr.
12 Brooker, redact ---

13 **MR. BROOKER:** Redact.

14 **THE COURT:** --- the necessary matters before it gets
15 to me. We've got a sharpie here.

16 **MR. WHITSETT:** We were going through my -- my copy
17 before we get to the original so that we can
18 sort of agree on them and then I can go and
19 redact.

20 **MR. BROOKER:** Okay.

21 **MR. WHITSETT:** I apologize for not having done this.
22 Begging the court's indulgence for a second.

23 **MS. ROLIN:** There's additional identifying
24 information on there. The social security
25 number as well. It's at the bottom.



1 MR. WHITSETT: Thank you.

2 THE COURT: The exhibit number, please.

3 MR. WHITSETT: This will be number three, Your
4 Honor. Number seven is on it. It's pre-marked
5 number seven.

6 THE COURT: I thought we already have a number
7 three.

8 MR. WHITSETT: Yes, but we have -- I had pre-marked
9 some of them and they have gotten out of order
10 because I had pre-marked additional ---

11 THE COURT: Let's get it straight then. Give it to
12 the court reporter and get a different number.

13 MR. WHITSETT: One, two and three. I think that's
14 how we were referring to them.

15 MR. BROOKER: That's correct. One, two and three.

16 THE COURT: We've got three and five, if I remember
17 right.

18 MR. WHITSETT: It does, Your Honor. Do we want to -
19 - I mean, we can put them as one, two and
20 three. I don't mind changing the numbers on
21 them for the purposes ---

22 THE COURT: The court reporter will do it. Let's
23 get it straight.

24 MR. WHITSETT: Let's mark them one, two and three.

25 THE COURT: Let me have them a minute, please. All



1 right. We have remarked the deposition sheet
2 dated 9/28/2016, as Exhibit One. The incident
3 report of the Marion Police Department as
4 Exhibit Two. And the printout just referred to
5 by Ms. Rolin is Exhibit Three. You need this
6 to testify from?

7 **MS. ROLIN:** I don't know. It didn't have anything
8 else on it. I don't ...

9 **MR. WHITSETT:** No.

10 **MS. ROLIN:** Thank you.

11 **Q:** All right. Ms. Rolin, can you explain to the
12 judge what alternate permit means?

13 **A:** The FBI has given South Carolina a status of an
14 alternate permit state which means they have
15 reviewed our law regarding the concealed weapon
16 permit and our processes and have determined
17 that we do sufficient background check on the
18 purchases of -- on permits and subsequently,
19 you can use that permit as no further NICS
20 background check to be done because South
21 Carolina concealed weapon permit section has
22 done the same check that the FBI would do. We
23 search all the same databases and apply all the
24 federal prohibiting offenses.

25 **Q:** What happens to South Carolina status as this



1 alternate permit state if SLED were to grant
2 concealed weapons permits to individuals who
3 were federally prohibited?

4 A: If we no longer follow the federal guidelines
5 provided by the ATF, our alternate permit
6 status would be discontinued.

7 Q: Okay. To your knowledge, has SLED always run
8 and conducted federal background checks on
9 CWPS?

10 A: Yes, sir.

11 Q: Has SLED routinely denied individuals who are
12 federally prohibited?

13 A: Yes, sir.

14 Q: Let's talk just a minute, I know there has not
15 been specific testimony, well there's been some
16 specific testimony about expungement
17 applications. Will you tell the court where
18 South Carolina stands in -- in terms of an
19 expungement and where we stand here on that
20 issue.

21 A: South Carolina expungements are not recognized
22 by the FBI as complete destruction of an
23 individual's criminal history, therefore they
24 don't recognize it. The only -- only thing
25 that the FBI would recognize federally would be



1 a pardon. They -- they no longer recognize our
2 expungement law because the -- the information
3 is sealed it's sealed it's not completely
4 destroyed.

5 Q: So, in 2014 when the South Carolina expungement
6 laws changed and records went from being
7 destroyed to being sealed and maintained under
8 sealed, that's when the FBI changed their
9 position on expungements?

10 A: Correct.

11 Q: And that happened in 2014?

12 A: 2014. Yes, sir.

13 Q: Okay. So, would an expungement relieve the
14 federal firearms prohibition in this case?

15 A: No.

16 Q: Would it remove the petitioner from the NICS
17 index?

18 A: No.

19 Q: Are you aware of any prior attempt by this
20 petitioner from acquiring a CWP in South
21 Carolina?

22 A: Yes.

23 Q: Tell the court your understanding of that.

24 A: There was an application received by our
25 department in 2009 for a concealed weapon



1 permit which was subsequently denied.

2 Q: To your knowledge, was that ever appealed or
3 challenged in any way?

4 A: No.

5 Q: As you sit here today, has anything changed in
6 terms of this individual's status from 2009?

7 A: No.

8 Q: If anything, he has been entered into the NICS
9 index?

10 A: Yes.

11 Q: Tell the court your -- what's your position in
12 -- in terms of NICS?

13 A: I was appointment four years ago to a
14 subcommittee for the NICS index by the FBI.
15 That subcommittee makes recommendations to the
16 advisory policy board which creates policy then
17 it is presented to the FBI director and the
18 attorney general for inclusion and changes in
19 -- in law.

20 Q: Do you have frequent communications with the
21 FBI NICS division?

22 A: I do.

23 Q: Have you had the occasion to discuss this
24 petitioner with them?

25 A: I have.



1 MR. BROOKER: If -- just objection with respect to
2 the hearsay.

3 Q: Not -- not going into what you were told, did
4 you -- did you receive documents from them
5 regarding this case?

6 A: I did.

7 Q: What were those?

8 A: I received the -- a copy of the incident report
9 and a copy of the disposition sheet from them.

10 Q: All right. Did the FBI make this entry into
11 NICS?

12 A: Actually, South Carolina made the entry into --
13 into NICS based on the information that we
14 received.

15 Q: Was this communicating and coordinated with the
16 FBI?

17 A: Yes.

18 Q: Okay. Let me ask you this. There's been some
19 testimony indicating that federal agencies
20 haven't come in and seized a firearm. Do you
21 have any testimony into the number of potential
22 individuals in this state that may be in that
23 position?

24 A: No. I do not.

25 Q: Okay. Would it be fair to say there's probably



1 a large number of individuals in the state that
2 have weapons that the feds aren't coming after?

3 A: Yes.

4 Q: To finalize, is it your testimony today that
5 this petitioner is federally prohibited from
6 possessing a firearm?

7 A: Yes.

8 Q: And he is in the NICS index?

9 A: Yes.

10 Q: And if he went to purchase a gun today, what
11 would be the result?

12 A: He would be automatically denied.

13 Q: Thank you. No further questions, Your Honor.

14 **THE COURT:** Cross examination, Mr. Brooker.

15 **MS. ROLIN - CROSS-EXAMINATION BY MR. BROOKER:**

16 Q: Yes, Your Honor. Ms. Rolin, let me ask you at
17 least a couple of questions in reference to I
18 think what you just testified to about the
19 NICS.

20 A: Uh-huh (affirmative response).

21 Q: When was his application submitted to -- for
22 concealed weapons permit? I'm talking about
23 the one that's the subject of this particular
24 hearing.

25 A: It was the spring of this year. Without



1 looking at it, I don't know the exact date.
2 I remember the signed -- he signed it on March
3 the 17th of this year, I believe, but I'm not
4 sure when it was actually submitted to us for
5 entry.

6 Q: Okay, okay. And then of course, it is -- and
7 if my understanding is correctly is that an
8 application was denied. I'm sorry, was denied,
9 I think, maybe some time in July, if I'm not
10 mistaken?

11 A: I believe so.

12 Q: Was denied some time in July. At that
13 particular period of time, was he in the in
14 NICS index?

15 A: No, sir. He was not.

16 Q: Okay. And so, when he would apply -- when he
17 went to apply for gun and I think he said he
18 applied for a gun about, you know, maybe four
19 months ago. And of course there's a -- there
20 was a flag. He was flagged. He was not
21 allowed to take the gun home at that particular
22 period of time. And of course, came back in
23 five days. And so, he would not have been in
24 the NICS program at that period of time if he
25 -- if when he applied for the gun three or four



1 months ago?

2 A: I'm not sure what the exact date on the entry
3 was. I believe it was some time in July that
4 he was entered, but I -- I'm not sure.

5 Q: Okay. And he was entered -- and you said he
6 was entered by SLED after -- after SLED had
7 denied his application?

8 A: Yes, sir.

9 Q: Okay. Now, did -- in denying his application
10 was that -- did y'all run a criminal background
11 check on him? Is that correct?

12 A: Yes, sir.

13 Q: Okay. And then of course there's -- is that --
14 tell me about the criminal background check
15 that you ran on him when his application
16 denied.

17 A: We ran a criminal background check which
18 returned a disorderly conduct conviction and a
19 criminal domestic violence conviction on the
20 criminal history ---

21 Q: And was that ---

22 A: --- which triggered denial.

23 Q: I'm sorry. Was that the NICS background check?
24 Is that the one that you normally run when
25 you're -- when you are reviewing an



1 application?

2 A: We run a NICS, a NICS check. We also run a,
3 what they call a Triple I and a NCIC check.
4 And those are the criminal history background
5 check systems that the nation uses.

6 Q: Okay. When you run the NCIS, when you review
7 his application, did the -- did the -- the
8 criminal domestic violence show up on the NICS,
9 not the NICS, just the NICS?

10 A: Well, there's -- there's a difference. The
11 NICS is NICS.

12 Q: Uh-huh.

13 A: And that's what -- that's the name base
14 database utilized for firearm purchases. And
15 also checked for permit issuance. It was not
16 on that. It was on the NCIC Triple I, South
17 Carolina criminal history information that came
18 back.

19 Q: Okay, okay, okay. So it was on the South
20 Carolina database?

21 A: Yes, sir.

22 Q: Okay, okay.

23 A: Uh-huh (affirmative response).

24 Q: But it was not on a federal database?

25 A: Two different databases.



- 1 Q: Yeah, I understand.
- 2 A: Okay.
- 3 Q: Yeah, I know and that's why I'm asking you is
4 that, was it on the South Carolina database?
- 5 A: It's on the South Carolina criminal history ---
- 6 Q: Uh-huh.
- 7 A: --- which also is housed at the FBI.
- 8 Q: Uh-huh.
- 9 A: Okay. And that's based on fingerprints and
10 arrest information. The other is also a FBI
11 database, the NICS index, which is the name
12 base. But it did come back on the South
13 Carolina Triple I, FBI federal background, yes,
14 sir.
- 15 Q: Okay, okay. But not the -- but the NICS?
- 16 A: Correct.
- 17 Q: Not the NICS. So database -- South Carolina's
18 database which is maintained by the FBI?
- 19 A: Yeah.
- 20 Q: Okay, okay. And of course, that database only
21 has South Carolina convictions. Is that
22 correct?
- 23 A: The -- no, it would have -- it would have
24 convictions coming from other states if there
25 -- if the FBI had it, it would return other



1 convictions to us as well.

2 Q: Okay.

3 A: In addition to South Carolina.

4 Q: Okay. The one on South Carolina database
5 maintained by the FBI?

6 A: I think you need to clarify for me if you don't
7 mind.

8 Q: Well, let's move on.

9 A: Okay, okay.

10 Q: Let's move on. I don't want to get bogged down
11 in the weeds.

12 A: Okay.

13 Q: Okay. And so -- and so, and let me ask you a
14 question is is that, for someone who has a
15 misdemeanor criminal domestic violence charge,
16 would that criminal domestic violence charge
17 automatically -- automatically disqualify them?
18 Simply, if you had a misdemeanor criminal
19 domestic charge, or would it be based upon the
20 facts or what puts you in the NICS?

21 A: The information that puts you into the NICS
22 index is the confirmation of the relationship
23 between the subject and the victim. The
24 conviction showing the use of physical force as
25 evidenced in an incident report or a convicting



1 document. The convicting document that we
2 received from Marion County had the subsection
3 of one which indicated physical force. That
4 information is enough to deny a person a
5 concealed weapon permit and also deny the
6 purchase of a fireman and enter them into the
7 NICS index.

8 Q: Okay. So, it's simply based in this particular
9 situation, simply based upon what he was
10 charged with and of course, what he ultimately
11 was convicted with. And that would happened
12 even though there's no findings of facts like
13 in this particular situation where -- where
14 obviously, I think procedures are a little bit
15 different now, where someone is just given a
16 ticket, and then of course, the person doesn't
17 show up for court and just pay the fine or
18 either forfeit -- or either forfeit the bond
19 money, but there's no findings of fact, that's
20 made by the court with respect to, you know,
21 whether not any physical violence actually
22 occurred.

23 A: We base that solely on the convicting document
24 that we received from the court that indicated
25 the subsection of one which indicated physical



1 force and it showed a conviction. It was sent
2 to -- sent to the criminal history repository
3 as a conviction.

4 Q: And just one more question about that, under
5 subsection one, you are guilty underneath
6 subsection one if -- if it says that if the,
7 you know, defendant, caused physical harm or
8 injury.

9 A: Uh-huh (affirmative response).

10 Q: Okay. And so, and that's what I want to make
11 a distinction is. And underneath subsection
12 one, and subsection one says that you have to
13 cause physical harm or injury. And so, in a
14 particular situation where there's no findings
15 with respect to whether or not physical harm or
16 injury was caused. What you're saying is --
17 that it is is that they simply look at, you
18 know, the subsection that's on the page. And
19 of course, don't inquire into the specific
20 facts of the case to find out whether or not
21 what the findings were. They just simply look
22 at the subsection that's -- that's identified,
23 you know, for example, if it has, you know --
24 you know, 16 -- 16-25-20 subsection one, but
25 don't look into the finding of facts to see



1 whether or not there was any finding of
2 physical injury or harm. Is that correct?

3 A: The only document that we received from the
4 court was that convicting document. That
5 disposition sheet that indicated the subsection
6 of one which indicated to us that he was
7 convicted of the subsection causing physical
8 harm which would prohibit him from possession
9 of a firearm or a concealed weapon permit.

10 Q: And one more thing, one more question and I'm
11 going to move on with this is is that, does the
12 FBI make a distinction between a situation
13 where someone is actually, and I don't want
14 parse languages here, is not actually convicted
15 in the normal sense where, you know, someone
16 comes and pleads guilty or either someone is
17 found guilty but in a situation where the --
18 where the court had issue may just allow the
19 person to be able to pay a fine without going
20 through, I guess, the correct way of
21 identifying is, without correctly going
22 through, you know, the normal constitutional
23 procedure of advising that person of his right
24 to a jury trial, his right to counsel,
25 etcetera, etcetera. So do they take that into



1 consideration if an individual is convicted,
2 but of course, there's constitutional
3 procedure, but the conviction was not pursuant
4 to constitutional procedure?

5 A: They go by the court documentation that is
6 available and presented. And in this case it
7 was the convicting document, the disposition
8 sheet that showed -- that showed the subsection
9 of one. If there are no, you know, transcripts
10 or anything like that's available and that's
11 the only thing, that's what they go by.

12 Q: Okay, okay. All right. And I'm almost
13 finished, Your Honor.

14 **THE COURT:** Okay.

15 Q: Now, I said and I think you testified that --
16 that South Carolina is the one that entering --
17 entered him into NICS?

18 A: Yes, sir.

19 Q: Okay. What's the procedure for doing that?
20 And then who over -- who over at the FBI, I
21 guess, reviews that?

22 A: South Carolina has the ability to enter
23 information and records into the NCIC and into
24 the NICS index because we hold the documents in
25 our possession that validate that entry.



1 Q: And I guess what ---

2 A: South Carolina does that.

3 Q: --- what makes a determination is that when you
4 -- when South Carolina -- when the states
5 says, I want to enter him into the federal NICS
6 database. Does it have to be submitted to the
7 FBI and the FBI then reviews it and makes a
8 determination as to whether or not it should be
9 there or simply you are just -- and simply SLED
10 is able to on it's own determination make a
11 determination that belongs there and simply
12 entered?

13 A: Yes, sir.

14 Q: Okay. So SLED made a determination on it's
15 own initiative that hey, this belongs into to
16 -- to NICS. And we're gonna entered it into
17 NICS. And that there is -- there's no
18 oversight or at least that there was no
19 reviewing committee by the FBI that takes a
20 look at it to make a determination as to
21 whether or not it actually should be there. Is
22 that correct?

23 A: That's correct.

24 Q: Okay. And so, y'all made the determination it
25 belongs there?



1 A: Uh-huh (affirmative response). Yes, sir.

2 Q: And because y'all make the determination that
3 it belongs here is that the FBI, excuse me,
4 because SLED made the determination to put it
5 into NICS. Then would you agree with me that
6 SLED then has an obligation to at least
7 investigate the case to make a determination as
8 to whether or not the case -- he is one of --
9 of physical harm and injury and go beyond just
10 simply, what's the -- what's the -- the statute
11 listed on -- on a disposition page. You have
12 an obligation to investigate to make sure that
13 it doesn't belong there?

14 A: There was no further information available.
15 Therefore, we couldn't make that -- couldn't go
16 any further other than a convicting document
17 that we received.

18 Q: And what I mean by that is is that -- and what
19 I mean by -- by that is is that, do you talk --
20 did you talk to Mr. Bethea and says, we just
21 have a document that says that you forfeited --
22 that you forfeited a fine. That you forfeit a
23 fine and looks as if you never went to court.
24 I never read your -- you had never been
25 notified of a right to jury trial that day.



1 Did y'all do that? Did y'all interview him to
2 find out what was the process that led to him
3 receiving that conviction to make a
4 determination as to whether or not that process
5 comports constitutionally or you just simply
6 enter it in based upon the documents?

7 A: No. We did interview.

8 Q: Do you have the ability to be able to do that?

9 A: Not to my knowledge. We've never done that
10 before.

11 Q: I know you may never ever done that before.

12 A: No. I mean we ---

13 Q: I'm asking you does SLED have the ability to be
14 able to -- because, you know who he is. He's
15 the applicant. Do you have the ability to be
16 able to call him up and say -- and said, you
17 know, we're reviewing your application. We
18 have something on your application that may or
19 may not belong into NICS. We're trying to make
20 a determination as to whether or not it does.
21 Can we sit down and talk about how this
22 disposition occurred, yada, yada, yada. Do you
23 have the -- so the reviewing agency, the
24 person, the agent who's reviewing the
25 application, does he have the ability to be



1 able to do that?

2 A: Yes.

3 Q: Okay. And do you know whether or not he did
4 that in his particular situation?

5 A: No. I do not.

6 Q: Okay. If you can indulge me for just a second,
7 Your Honor. I think I'm about finished. No
8 further questions, Your Honor.

9 **THE COURT:** Redirect.

10 **MS. ROLIN - RE-EXAMINATION BY MR. WHITSETT:**

11 Q: Hopefully, briefly, Your Honor. I just have
12 some questions about interviewing ability.
13 Does the FBI or anyone conduct interviews in
14 these types of situations?

15 A: No.

16 Q: Would you ever go on someone's word in these
17 types of situations?

18 A: No.

19 Q: If someone just wrote in on a piece of paper
20 and said this is what happened, you couldn't
21 accept that?

22 A: No.

23 Q: You would go on the certified court documents
24 in the case?

25 A: Yes.



1 Q: Is that what the FBI uses?

2 A: Yes.

3 Q: Does the FBI conduct interviews?

4 A: Not to my knowledge.

5 Q: Okay. Was -- was this entered into the NICS
6 index in a vacuum without FBI knowledge or
7 understanding?

8 A: No.

9 Q: You had communications with the FBI about this
10 specific petitioner before it went in?

11 A: Yes.

12 Q: This was not a -- a SLED decision in a vacuum
13 outside of the FBI?

14 **MR. BROOKER:** Objection, Your Honor. If she's
15 testifying with respect to the FBI's approval
16 of not having -- I think there's no one here to
17 testify with respect to whether or not the FBI
18 approved of that.

19 **THE COURT:** Sustained.

20 Q: Was this entered by SLED because SLED had these
21 records?

22 A: Yes.

23 Q: Did the analysis of that -- did the application
24 process or the entry was this individual
25 entered solely because of this application?



1 Was the entry in NICS solely to deny this
2 application?

3 A: Yes.

4 Q: Did -- so the entry was -- the entry was based
5 on the records, correct?

6 A: The entry was based on the record. The
7 information that we obtained. The denial was
8 previously made just based on the criminal
9 domestic violence conviction. The entry into
10 the NICS index was made once the documentation
11 was received and reviewed and deemed to be ---

12 Q: --- those are separate issues?

13 A: Yes.

14 Q: Okay. Your Honor, no further questions.

15 **THE COURT:** Anything further?

16 **MR. WHITSETT:** No further questions, Your Honor.

17 **THE COURT:** You may step down, Ms. Rolin.

18 **MS. ROLIN:** Thank you.

19 **THE COURT:** Thank you. Let's take about a five
20 minute recess. Recess about five minutes.

21 (Off the Record)

22 **THE COURT:** Next witness, please, sir. Mr. Whitsett.

23 **MR. WHITSETT:** Your Honor, the Respondent will rest
24 at this time.

25 **THE COURT:** Anything in reply, Mr. Brooker?



1 MR. BROOKER: Nothing in reply, Your Honor.

2 THE COURT: All right. Closing arguments then?

3 (Closing Arguments)

4 MR. BROOKER: Just very briefly, Your Honor. Your
5 Honor, and primarily, Your Honor, is is that,
6 I want to take this time and read some
7 inclusion arguments to address. At least -- at
8 least an interpretation of the statute that I
9 think that was -- I think was in open
10 arguments. And that was -- is is that,
11 obviously a concealed weapons permit basically
12 provides up to those -- those three
13 requirements. One is is that you be 21 years
14 of age. Two is is that, you don't have a
15 conviction that prohibits you under the South
16 Carolina law from possessing a gun.

17 THE COURT: And under South Carolina law is hub of
18 your issue, right?

19 MR. BROOKER: I'm sorry, sir.

20 THE COURT: In other words, under South Carolina
21 law, embraces your main contention does it not?

22 MR. BROOKER: That's -- that's correct, Your Honor.
23 And the statutes says, specifically says it and
24 says it in there in three different sections.
25 Is that as long as you are not prohibited under



1 South Carolina law. Now, under subsection (b),
2 which is what SLED is arguing is, is that
3 subsection (b) says that you have to
4 successfully -- you have to do a background
5 check. And of course, pending a successful
6 background check. And but of course is is
7 that, one of the things -- I should have
8 mentioned during opening arguments, that I
9 think that addresses what he's alleging is and
10 that SLED is alleging that where it says in
11 subsection (b), that you have to do a federal
12 and state background check. Is that the fact
13 that in subsection (b), SLED -- the statute
14 says that you have to do a federal and state
15 background check. It's not adding into the
16 federal law. The statute makes clear is is
17 that you can only be prohibited if you are --
18 if you are prohibited by -- by South Carolina
19 law from possessing a weapon. Is that the
20 reason why the General Assembly requires a
21 federal and state background check, a national
22 background check, it says not only a South
23 Carolina background check, but a federal
24 background check, either a background in any
25 other state says, the purposes of that is to



1 try to determine whether or not you have any
2 convictions out there that would violate you
3 under South Carolina's law. That would be a
4 violent crime under South Carolina's law that
5 would prohibit you from owning a gun. It's not
6 an attempt by the General Assembly to bring in
7 the federal statute, you know, that -- that
8 says that certain people are, you know,
9 prohibited from, I think a section that -- it
10 doesn't bring in section I think, 18-922(g),
11 that SLED is purporting. And like I said,
12 there's -- I think if the General Assembly
13 wanted that in there, they -- these were smart
14 people. Smarter than I am. There are three
15 opportunities for them to mention it. Three
16 opportunities to say that the federal -- that
17 if you do not satisfy the federal requirements,
18 you don't get in. But in specifically,
19 subsection (a), it says, that you are only
20 prohibited if you -- if you are prohibited from
21 obtaining a weapon under South Carolina law.
22 And under, you know, subsection (f), they say
23 the same thing. That you can only be denied if
24 you were prohibited from obtaining a weapon
25 under South Carolina law. Under subsection



1 (j), they say the same thing. That you are
2 only excluded if you are excluded from
3 obtaining a weapon under South Carolina law.
4 Never mention any federal law. Never mention
5 of 18 U.S.C. 922 (g) that's been discussed. And
6 of course, even in subsection (b), you know,
7 where it says is is that, you know, SLED has to
8 do a federal background check. Still it never
9 mentions 18 -- 18 U.S.C. 922(g). It simply
10 says that -- that a national background check
11 has to be done. And I think it's saying that
12 a national background check has to done for the
13 purposes of determining whether or you have a,
14 you know, a sentence in Hawaii or sentence in
15 California or a sentence in any other state
16 that under South Carolina law is a violent
17 crime which would disqualify you. But nothing
18 inside that statute brings in -- brings in the
19 federal law. And of course, it is absolutely
20 clear. The interpretation of it, is absolutely
21 clear. It's written in plain English. And the
22 fact that they brought it in, and of course, I
23 know that they are saying is that this is the
24 way we have always done it. You know, and of
25 course, it is that the United States Supreme



1 Court, you know, has says that, you know, that
2 people in misdemeanor cases, I think underneath
3 *Shelton vs. Alabama*, that -- that if you're
4 charged with a misdemeanor offense in city
5 court or magistrate court, that you are
6 entitled to a free public defender, you know,
7 if it carries jail time. But still in the
8 state of South Carolina, is that, if you're
9 charged with a misdemeanor offense in state or
10 in city court or either magistrate's court,
11 you're still not provided a public defender.
12 Okay. And the reason why I say that is, simply
13 because that's -- it's the practice. It
14 doesn't mean that that's the law. And I think
15 they have been getting it wrong. I think
16 they've read something into the statute that is
17 -- that was never put there and I'll define
18 anyone to say -- I'll define anyone to find any
19 language that says the federal law that
20 prohibits -- and prohibits one -- someone from
21 possessing a handgun, it's the requirement.
22 It's just not there. They're trying to coop.
23 It simply says -- simply because subsection (b)
24 says, you have to do a national background
25 check. But that national background check is



1 for the purposes of trying to determine whether
2 or not you have a charge out there regardless
3 of where -- and the only way that you can
4 figure that is by doing a national background
5 check. Trying to figure out whether not you
6 have a charge out there regardless of where it
7 comes from, that disqualifies you under South
8 Carolina law like the statute says. Under
9 South Carolina law. Not under federal law.
10 But its just been read in there. That's the
11 way they've done it. That's the way they've
12 always done it. And of course is that -- but
13 it doesn't mean that that's the way it supposed
14 to be. The statute is clear. I mean, when I
15 read the statue, I -- I, you know, I just
16 didn't see it. I didn't see how they could
17 coop that into federal requirement into the
18 statute. And specifically when the General
19 Assembly was clear. And of course is, if the
20 General Assembly wants to change it, it
21 certainly can. But I don't think this no
22 accident. They meant -- they specifically
23 said, the South Carolina law is the only
24 disqualifying law. The only law that would
25 disqualify you, is if you are disqualified



1 under South Carolina law from possessing a
2 weapon. Now, she also mentioned is is that --
3 that also SLED mentioned is that well, we have
4 an agreement with the -- with the federal
5 government where, you know, we are allowed to
6 -- and the federal government allows us to --
7 to someone who has a concealed weapons permit
8 -- permit in South Carolina, is allowed to buy
9 a gun without the necessity of them doing a
10 background check because they have done that
11 underneath South Carolina law. The General
12 Assembly doesn't provide for that. There's
13 nothing it the -- in South Carolina law or
14 either regulations -- regulations, you know,
15 that provides for this, you know, relationship,
16 you know, this arrangement that has developed
17 between SLED and the FBI. This was done as a
18 matter of convenience. And so, they are
19 basically saying is that we've worked out an
20 agreement with SLED well, with the FBI and the
21 FBI says that if we do thorough background
22 check, you know, and we use their standards and
23 use their laws, then your citizens, the
24 citizens of South Carolina then can purchase a
25 gun without being subjected to another



1 background check by us. You know, so that's
2 the way that -- that was a means by which SLED
3 has been using to subvert the law. The law
4 basically says that South Carolina -- it says
5 that the federal law is not applicable.

6 **THE COURT:** Well, how is that material to the issue
7 before me?

8 **MR. BROOKER:** Well, the reason why I raise it is
9 that, they are listing that as a reason why.
10 A reason in support of their argument to the
11 court, and as to why -- why the court should
12 accept their interpretation of the statute.
13 You know, that the statute requires, you know,
14 that -- that they use the federal standards for
15 determining who should not possess a firearm
16 and determining whether not Mr. Bethea should
17 be allowed to get a concealed weapon permit.
18 And what I'm simply saying to court is is that,
19 what she was discussing is that that's not
20 provided for by the General Assembly. That's
21 an arrangement -- an arrangement that's been
22 created between SLED and the FBI, but it's not
23 an arrangement that is provided for by law. Is
24 -- and that's also another way in which -- in
25 which, you know, the federal standard has been



1 co-oped, you know, into the -- in the South
2 Carolina statute. And of course, when General
3 Assembly hasn't written it in there. It's not
4 in there and you can't find ways to coop in
5 there. -- If the statute is ambiguous, then of
6 course, it's left for interpretation, but this
7 statute is not ambiguous. The General Assembly
8 says three times in here that as long as you're
9 not disqualified from possessing a weapon under
10 South Carolina law. It says it underneath
11 subsection (a), underneath subsection (f), and
12 I think also underneath subsection (g). It's
13 not an accident. It's not an accident. And of
14 course it is that the fact is that the FBI also
15 never put Mr. Bethea, you know, into NICS. And
16 I think is is that on this -- on this, I think
17 it was -- it was Riley? Lynn Riley ...

18 **THE COURT:** Rolin.

19 **MR. BROOKER:** Rolin. I -- I apologize, you know. I
20 just dismembered your name. She testified to
21 the fact that this was at, this was actually
22 put into to -- to NICS by South Carolina. You
23 know that the feds -- that the feds knew of
24 this particular conviction. That when you ran
25 -- ran a regular NICS check under South



1 Carolina law, it showed it up, you know. But
2 the FBI didn't put it in NICS. Is that it
3 never put it in NICS. And of course, this
4 conviction was in '93. And of course is is
5 that, it was only put in NICS, and I think she
6 testified correctly when she -- when she was
7 asked the question the first time, it was only
8 put in NICS this year by SLED after SLED denied
9 his application. And I think it is that, it
10 was asked well, you know, did you -- well why
11 did put it or did you put it in NICS solely for
12 the purposes of denying his application. And
13 of course, as an offense she testify to yes.
14 It is is that, they put it in there. This is
15 not something that was reviewed by SLED. And
16 of course, the only other thing I'm going to
17 say, Your Honor, is is that, and ---

18 **THE COURT:** Excuse me. You said not reviewed by
19 SLED. You mean not reviewed by the FBI?

20 **MR. BROOKER:** I apologize, Your Honor, the FBI. I
21 think it not reviewed by the FBI. And of
22 course, the FBI -- I asked her, you know, if
23 this was a situation where you send this to a
24 FBI committee, where the FBI looks at it and
25 makes a determination as to whether or not it



1 enters into NICS or can South Carolina simply
2 enter it in unilaterally. And she said, South
3 Carolina or any state has to go to be able to
4 enter into NICS unilaterally based upon their
5 assessment. -- Based upon their belief that it
6 should have been. You know, after, you know,
7 what over 20 years. It occurred in '93 and
8 it's 2016 and it's entered into NICS after over
9 20 years. And I'll say this, Your Honor, and
10 I'll sit down and shut up, but there was two
11 more things I'd like you to consider when
12 you're making a determination. And that is is
13 that, under -- and of course is that this may
14 be something that he may have to go and take
15 care of later on. And I'll advise him of that.
16 But underneath *Sheldon vs. Alabama, Sheldon vs.*
17 *Alabama*, it says that at anytime that an
18 individual, even if they are in city court or
19 magistrate's court, any time if an individual
20 is charged with crime in which any jail time is
21 even remotely potentially applicable, that that
22 person -- that there are certain constitutional
23 rights that person have. And those
24 constitutional rights has to be afforded that
25 person. That means is that they have to be



1 notified of the right of counsel and also to
2 notify the right that if they cannot afford
3 counsel, counsel is required to be provided to
4 them by the state of South Carolina. And of
5 course, he testified in this particular
6 situation. None of those procedural or none of
7 those constitutional protections were afforded
8 him. That this was a situation where he
9 charged. He put up \$245.00 as a bond.

10 **THE COURT:** 248.

11 **MR. BROOKER:** 248. I apologize, Your Honor. And
12 then of course, the bond was never forfeited
13 without a jury hearing. Without the judge
14 notifying him of his constitutional rights.
15 His right to a jury trial. His right to have
16 an attorney, if you can't afford one, one would
17 be appointed. His right to remain silent,
18 etcetera, etcetera. It is completely void of
19 all those constitutional protections. Now he
20 can probably and seek to or to go back and have
21 this reviewed and see if he can get that
22 conviction removed. But, Your Honor, has the
23 power that in your discretion, that that
24 conviction may not have been a constitutionally
25 -- constitutionally -- constitutional



1 conviction. Is that, Your Honor, has the --
2 has the authority and the sole authority to go
3 ahead and make that determination and grant his
4 concealed weapons permit. I've looked at
5 previous administrative rulings, you know,
6 where previous courts have done that. For
7 example, you know, in -- and I think, Dowdy
8 versus the -- versus the -- I think South
9 Carolina Law Enforcement -- South Carolina Law
10 Enforcement Division or SLED. I think the
11 docket number on that is 08-ALJ-20-0317-CC. In
12 that particular situation, in that particular
13 case. And so, Your Honor, has the power to be
14 able to look at that and determine whether or
15 not, you know, in -- in your discretion as to
16 whether or not you believe that this conviction
17 should fairly prohibit him from obtaining a
18 concealed weapons permit. And of course, if,
19 Your Honor, makes that determination, Your
20 Honor, can grant him or whoever at SLED he
21 should have that permit. I think that is
22 another reason why that conviction should not
23 prohibit him from obtaining and of course, I
24 think, Your Honor, -- so we ask, Your Honor,
25 you know, to take a look at that. And then of



1 course, I think also in the case that I cited
2 to you, Your Honor, and I think in -- in the
3 *Dowdy* case, the administrative law judge case
4 in 2008, in that particular case, if my memory
5 serves me correctly, that individual, in 1985
6 was charged with assault and battery of a high
7 and aggravated nature. And of course, I
8 believe, and read the case, Your Honor, so
9 because I don't want to misquote the case, you
10 know, in hast. But I believe in that
11 particular case is that the court granted that
12 individual the right to receive a concealed
13 weapons permit based upon the age, you know, of
14 the -- of the conviction. That it had been so
15 long. And I think the court reached the
16 conclusion that -- I think the court did grant
17 *Dowdy's* application even though he had the
18 assault and battery of a high and aggravated
19 nature. I think that was on his criminal
20 record. And so, I think based upon all these
21 reasons, Your Honor, is is that and based upon
22 the fact that SLED -- that the FBI has allowed
23 him to get a -- obtain a concealed weapons
24 permit. They did flag him. They did review
25 it. And -- and I know there's testimony



1 basically saying well, you know, when you're
2 flagged then of course is is that, they can
3 look at it and maybe they haven't reached a
4 conclusion and maybe he should just stay on the
5 delay status. But of course, that testimony is
6 basically pure guessing. They could've reached
7 the conclusion. They could have reached the
8 conclusion that he would -- he was not
9 disqualified as a result of that because he was
10 not under NICS and allow him to get that
11 concealed weapons permit. And in addition to
12 that, he went and he testified that he brought
13 it to their attention. He went to SLED and
14 also to the FBI. And says, hey, you allowed me
15 to get this gun and I have this conviction.
16 And they still have not removed it from him and
17 that's been roughly four months. And so, we
18 respectfully request, Your Honor, to take all
19 of this into consideration and grant him the
20 right to have that concealed weapons permit.
21 Thank you, Your Honor.

22 **THE COURT:** Mr. Whitsett.

23 (Closing Statement)

24 **MR. WHITSETT:** Thank you, Your Honor. May it please
25 court. I respectfully, disagree wholeheartedly



1 with opposing counsel's analysis of the law.
2 His attempt to suggest that the only reason
3 that the law requires a federal background
4 check is to somehow analyze out-of-states to
5 see if they equal violent, just doesn't make
6 sense. That's not all a conceivable rationale.
7 The legislature understood and knew fully that
8 they put in the requirement for a federal,
9 state and local background check. Even if it
10 showed an out of state conviction in Hawaii,
11 you couldn't extrapolate that to a South
12 Carolina violent offense, which is a defined
13 statute, you know, distinction. And so the
14 reason that language exists, clearly and
15 unequivocally, is so that a federal background
16 would be done. And then when you look at the
17 last sentence that SLED will not and must not
18 issue or must issue, if there is a clean
19 background check. It's unequivocal that the
20 legislature intended a federal background check
21 and intended that prohibitions be up under
22 there. Otherwise, there would simply be no
23 reason for a federal background check. His
24 attempt to try and say, well that means for out
25 of state. That's just a red herring, that's



1 just misdirection. It's in there specifically
2 so that a federal background check and
3 specifically, so that there will be no
4 concealed weapons permits issued to individuals
5 who have failed the federal background check.
6 The language in the statute is clear. SLED
7 must conduct a federal background check and
8 SLED must issue only if there is a clean
9 background. There was not a clean background
10 in this instance. There is a federally
11 prohibiting criminal domestic violence offense
12 and I believe that the evidence and testimony
13 in this case has established that. I believe
14 the evidence and testimony established that the
15 household member status -- established the
16 subsection one that we're talking about which
17 is use of physical force. That there's even
18 testimony about the nature of that specific
19 force. So, I believe the evidence and
20 testimony in this case have clearly
21 demonstrated that this criminal domestic
22 violence offense does meet the prohibition and
23 as such, this petitioner's background check be
24 mandated. The required federal background
25 check is -- has not been satisfied. Has not



1 been met. The evidence and testimony in this
2 case was also very clear. The fact that there
3 was a delayed status. The fact that the law
4 allows gun shop owners to give a firearm while
5 it's in delayed status, is not evidence or
6 proof that there is no federal prohibition.
7 It's simply the way the law exists. And now
8 there's arguments all over the place whether
9 that's a good thing, whether that's a bad
10 thing. We're not here to debate or to address
11 that. We're here presenting evidence and
12 testimony. We're here and I believe we -- we
13 presented evidence and testimony that this
14 individual was convicted of a 1993 criminal
15 domestic violence. A situation that involved
16 the use force on a household member. The
17 disposition sheet that's admitted into the
18 record, that was admitted without objection,
19 clearly indicates the subsection of the statute
20 that applied at the time. It was paragraph
21 one. I'll just read it. It was unlawful to
22 cause physical harm or injury to his or her
23 family or household member. That's the
24 provision at issue. That was the conviction in
25 this case. That is what both all of the



1 records indicate on this case and that's what
2 SLED based it's decision in this case on. I
3 disagree on the reading of *Dowdy vs. SLED*. If
4 you read the very next sentence after the
5 reference to some of the age, it was -- the
6 next sentence says, and these were not
7 prohibiting convictions. So *Dowdy* is not --
8 does not stand for the proposition that you can
9 use the age and you can just not worry about
10 the prohibitions and you cannot worry about
11 disqualifiers. *Dowdy* doesn't stand for that.
12 And, you know, this court have the ability to
13 review SLED's decision to make the
14 determination on this case. But I don't
15 believe *Dowdy* in any way, shape or form
16 addresses the fact or authorizes any court to
17 go and say well, there is a federal
18 prohibition, but that just doesn't matter and
19 we are going to move forward. I don't think
20 *Dowdy* stands for that proposition and I submit
21 to you that that is not the law in the state.
22 The legislature just could not have been more
23 clear. If you -- a requirement to have a
24 federal background check would be rendered
25 moot. Would be rendered superfluous. Would be



1 rendered unnecessary if it didn't come with the
2 corresponding in a favorable issue language.
3 We cannot read statutes to have moot and
4 superfluous language. They have to mean
5 something. And the legislature clearly
6 intended by requiring a federal background
7 check on all. The only reason it could be run,
8 would be to show these possible federal
9 prohibitions. There's no other conceivable
10 reason to run it. There is no other need to
11 run it. This -- this out of state argument is
12 just not, I mean it has no bearing whatsoever.
13 You run a federal background check to see if
14 the federal prohibitions apply. In this
15 instance, we have a prohibiting offense. We
16 have an entry into the NICS index. I think
17 opposing counsel keeps trying to say well, this
18 was just SLED independently. I think the
19 record is clearly establishes was the reason
20 that SLED entered this was because SLED has the
21 records. That's the genesis of it. That's not
22 a -- an acknowledgment that the FBI doesn't
23 agree. It's not an acknowledgment that the FBI
24 doesn't. It's -- the entry into NICS, depends
25 entirely on who has the records. In this



1 instance, SLED had the records. So SLED was
2 the appropriate agency to do it. If the
3 records were maintain by someone else, they
4 would do it. That's what the evidence and
5 testimony in this case has clearly established.

6 So, I think that's a -- somewhat of
7 misdirection on that. The evidence was clear.
8 The testimony was clear. I think we have a
9 unfavorable federal background check. And at
10 such, we have denial and we would ask, Your
11 Honor, to uphold that denial. Thank you.

12 **THE COURT:** Briefly in reply as to any matters
13 brought out on his argument.

14 **MR. BROOKER:** And I'll be extremely brief, Your
15 Honor. Is is that, I'll would just simply add,
16 Your Honor, is is that -- that the federal
17 standard -- if the federal standard wants to
18 stand and the of course the General Assembly
19 would of said within the -- that within the
20 four corners of legislation, it is not
21 contained within four corners of legislation.
22 But of course, it is contained clearly and that
23 the state standards -- that is is that, as long
24 as you're not denied from having a gun by state
25 law, and that you qualify. But it doesn't say



1 that if you're denied from having a gun by
2 federal law, that you're disqualified. If
3 that's what the standard is, then -- then the
4 General Assembly would have put it in there.
5 Those people up there are, you know, quite
6 bright, intelligent people. They know the law.
7 You know, they're lawyers and judges. And of
8 course, they didn't just say it once. They
9 reenforced it three times as the state
10 standard. The state standard as to whether or
11 not you're prohibited by state law and not
12 federal law. And so, I would just simply just
13 ask, Your Honor, is that you'll read the
14 statute and then follow the plain language of
15 the statute. And -- and of course, don't
16 accepts SLED's argument that -- that the
17 federal law, U.S.C., 18 U.S.C 922(g) should be
18 read into the statute, where there's absolutely
19 no reference to it whatsoever. Thank you, Your
20 Honor.

21 **THE COURT:** Thank you. Well, your arguments were
22 extremely good. I'm going to ask that each of
23 you prepare a brief in the form of a proposed
24 order. How much time do you want? We've got
25 a holiday coming up, Thanksgiving. If you need



1 to after the first of the year will be fine
2 with me, but you may want to push it up in the
3 interest of the your client.

4 **MR. BROOKER:** And the only reason why, Your Honor, I
5 was considering as delaying a little bit is is
6 that, I have couple of trials that are coming
7 up.

8 **THE COURT:** I can appreciate that. Where do you
9 want it?

10 **MR. WHITSETT:** If ---

11 **MR. BROKER:** If we could have 30 days, that would be
12 great, Your Honor. It would be more than
13 enough time to be able to devote the amount of
14 time to the brief that I think it deserves.

15 **THE COURT:** All right. Thirty days. That falls on
16 weekend and then the following Monday after the
17 30 days.

18 **MR. BROOKER:** Okay.

19 **THE COURT:** You can be seated.

20 **MR. BROOKER:** Thank you, Your Honor.

21 **MR. WHITSETT:** Thank you, Your Honor.

22 **THE COURT:** I have a couple of comments, I think.
23 Questions, really, Mr. Brooker.

24 **MR. BROOKER:** Yes, sir.

25 **THE COURT:** Am I correct in understanding you to say



1 that -- that the check of the FBI records, if
2 it revealed a crime in a distance state, it was
3 a disqualifying crime in South Carolina, that
4 it would be disqualifying to obtain a concealed
5 weapons permit?

6 **MR. BROOKER:** Yes, Your Honor. And I think that's
7 the purpose of asking of for the federal
8 backgrounds. So, if someone is in Kansas and
9 they have been convicted of two counts of
10 attempted murder in Kansas, and I think the
11 South Carolina General Assembly would say then
12 -- and of course, that that would be
13 disqualifying under South Carolina law. That
14 the South Carolina law has a standard.

15 **THE COURT:** Well, here -- here's where I'm getting
16 it.

17 **MR. BROOKER:** Sure.

18 **THE COURT:** Is to give you an opportunity to address
19 it in your brief.

20 **MR. BROOKER:** Yes, sir.

21 **THE COURT:** It seems to me if South Carolina would
22 look at the FBI records and find a
23 disqualifying offense from Kansas based on
24 Kansas law that looking at the federal law
25 would be roughly analogies. It's not the same.



1 It's not another state. But it's looking at
2 another jurisdiction. And I -- I fail to see
3 how there's much difference there. I don't
4 want you to argue it now ---

5 **MR. BROOKER:** Sure.

6 **THE COURT:** --- but that's for you to address in
7 your brief.

8 **MR. BROOKER:** Yeah.

9 **THE COURT:** The other thing that I noted was that in
10 respect of trying to make much of the
11 forfeiture of bonds as opposed to going forward
12 with the trial and with an attorney. It seems
13 to me, although, I guess, it would be a remote
14 possibility but a true offender could forfeit
15 bond and thereby escape the sanction of denial
16 of a permit. You see what I'm saying. Am I
17 clear?

18 **MR. BROOKER:** I see exactly what you're saying, Your
19 Honor.

20 **THE COURT:** And -- and those -- those are things
21 that I've got to get around. I had no comment
22 on yours, Mr. Whitsett. But I did want to give
23 him the advantage of knowing what I perceived
24 of that.

25 **MR. BROOKER:** Thank you, Your Honor. I will address



1 those two issues.

2 MR. WHITSETT: I think we both appreciate that, Your
3 Honor.

4 THE COURT: And -- and please. Address your issues
5 separately. Don't jumble them. Give them a
6 heading in your brief ---

7 MR. BROOKER: Yes, sir.

8 THE COURT: --- so I'll know what you're know what
9 you're talking about.

10 MR. BROOKER: Yes, sir. I will keep them separate.
11 Thank you, Your Honor.

12 MR. WHITSETT: Thank you, sir.

13 THE COURT: Well we are adjourned.

14 (There being no further questions, the deposition
15 concluded at 11:50 a.m.)
16
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25



CERTIFICATE

This is to certify that the within hearing consisting of ninety-two (92) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on March 6, 2017.

Barbara S. Ham

Barbara S. Ham
Court Reporter

Notary Public for South Carolina
My Commission Expires: April 13, 2026



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000097

SOUTH CAROLINA LAW ENFORCEMENT DIVISION



NIKKI R. HALEY
Governor

MARK A. KEEL
Chief

CONCEALED WEAPONS PERMIT DENIAL NOTICE

Date: 07/01/2016 Name: Shawn L. Bethea RCWP#: 128252

This will acknowledge receipt of your Concealed Weapons Permit (CWP) application and to notify you of the denial of your application.

Pursuant to § 23-31-215(B) of the South Carolina Code of Laws, the S.C. Law Enforcement Division (SLED) is required to conduct a local, state, and federal background review on each person who applies for a Concealed Weapons Permit (CWP).

SLED consistently denies applicants who have been charged and/or convicted of felonies, prohibiting misdemeanors, crimes involving elements of criminal domestic violence, or who receive an unfavorable recommendation from the sheriff of the county where the applicant resides or owns real property.

More specifically, your application was denied for the following reason(s):

Our records indicate that you were convicted on or about May 17, 1993 for "Criminal Domestic Violence". Pursuant to U.S.C. 922(g)(9) this conviction prohibits you from the purchase, possession, or transfer of a firearm and ammunition. As such, pursuant to SC Code of laws 23-31-215(B) your concealed weapon permit application is denied.

You must seek a Pardon from the SC Department of Probation, Parole and Pardon Services for this conviction to become eligible for a concealed weapon permit.

If you wish to appeal this denial please provide **certified court documents** or other requested certified documents pertaining to the reason(s) for the denial listed above. Appeals may be filed up to 30 days from the date listed on this notice and must be mailed to: SLED CWP Denial Appeals, PO Box 21398, Columbia, SC 29221. You may also fax required documents to SLED at (803) 896-7048 (you must attach a copy of this notice with the fax). If you have any questions about the appeal process, please contact SLED Regulatory Services at (803) 896-7015.



An Accredited Law Enforcement Agency

P.O. Box 21398 / Columbia, South Carolina 29221-1398 / (803) 737-9000 / Fax (803) 896-7588

000008

AGENCY I.D.
SC0340100

CITY OF MARION POLICE DEPARTMENT
INCIDENT REPORT

CASE NUMBER

93 - 0906

NCIC

INQ. ENTD.

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM	
1.		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO			<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Orgn. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.	
2.		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO				
3.		<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO				
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)				ZIP CODE	WEAPON TYPE		
1006-E MASON CT							
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK		
05/16/1993	0400		06/16/1993	0400	DISP. DATE	DISP. TIME	
						DEPART. TIME	
						0420	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX
		#1	#2	#3	J	S	O
					U		
ADDRESS		CITY			STATE	ZIP CODE	LOCATION NO.
VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX
BETHEA, SHARON		#1	#2	#3	S	O	U
					B	F	
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.			
		BLK	BRN				
ADDRESS		CITY			STATE	ZIP CODE	LOCATION NO.
1006-E MASON CT.							
VISIBLE INJURY (VICT. 1) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO EXPLAIN --							
VICTIM (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK. DRUGS: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK.							
<input type="checkbox"/> TWO-MAN VEH. <input type="checkbox"/> ONE-MAN VEH. <input type="checkbox"/> DETECTIVE/SPL.ABMT. <input type="checkbox"/> OTHER <input type="checkbox"/> ALONE <input type="checkbox"/> ASSISTED J - This Jurisdiction S - State O - Out of State U - Unknown							
SUBJECT NAME (LAST, FIRST, MIDDLE)		RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT
BETHEA, SHAWN		B	M	22	N		
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
ADDRESS		CITY			STATE	ZIP CODE	LOCATION NO.
1006-E MASON CT							
SUBJECT (NO. 1) USING: ALCOHOL: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK.		ARRESTED NEAR OFFENSE SCENE <input type="checkbox"/> YES <input type="checkbox"/> NO		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST	
DRUGS: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNK. TYPE:		TOTAL # ARRESTED 0		06/16/1993		0400	

Offenses:

This officer, Lt. Johnson and PFC Turner responded to above incident located in reference to a call from the complvict. stating she and the above subject, her husband, were involved in a domestic dispute. Upon our arrival, complvict. had a busted lip and a swollen nose and subject shirt was torn. Subject stated he was upset when his wife came home drunk and pushed her down on the bed and they started fighting. Subject was placed under arrest and transported to County Jail for processing.

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
TYPE (GROUP)		TOTAL VALUE	
Burned			
Counl./Forged			
Dest./Damaged			
Recovered			
Seized			
Stolen			
Unknown			
SUBJECT IDENTIFIED <input type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input type="checkbox"/> YES <input type="checkbox"/> NO	
<input checked="" type="checkbox"/> ACTIVE <input type="checkbox"/> ADM. CLOSED		<input type="checkbox"/> ARRESTED UNDER 18 <input type="checkbox"/> EX-CLEAR UNDER 18	
<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER <input type="checkbox"/> EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY			
REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER
JANIE PRESLEY		MARION	
FOLLOW-UP INVESTIGATION OFFICER			
<input type="checkbox"/> YES <input type="checkbox"/> NO			

MARION MUNICIPAL COURT

1024 S. MAIN ST., P. O. BOX 1190

MARION, SC 29571

DISPOSITION SHEET

Date Printed: 11/08/2016

Case Type: Arrest Ticket 780

Case #: 780

Name: SHAWN L BETHEA
1006-E MASON COURT
MARION, SC 29571

Violation: 16-25-0020(1) / 1246
CRIMINAL DOMESTIC VIOLENCE

Trial Date: 05/17/1993

Offense Date: 05/16/1993

Disposition: 1 FORFEITURE

Total Fine: 248.25 **Total Paid:** 248.25

Sentence: \$248.25 OR 30 DAYS