



February 2, 2017

RECEIVED

OCT 24 2017

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

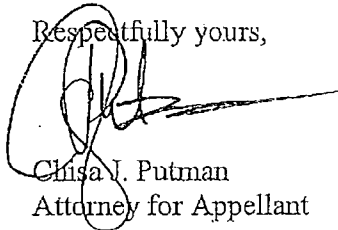
RE: The City of Rock Hill v. Anthony M. Ketchum
Case No. 2015-001817

Dear Ms. Kitchings:

Enclosed for filing with your office is the Appellant's *Motion to Recall Remittitur, Affidavit of Counsel for Appellant, and Motion for Extension of Time/Motion to File Appellant's Designation of Matter Outside of Time* in this case. Please note that the City is requesting a Recall of the Remittitur and additional time to file/ re-submit the required documents due to what it believes to be a timely filing as presented in the attached affidavit.

The *Certificate of Service* on Leland Greeley, Esquire is also being forwarded to you with two (2) additional copies of each document. I am asking Ms. Kitchings to return two (2) clocked copies per document to me in the enclosed self-addressed, stamped envelope.

Respectfully yours,

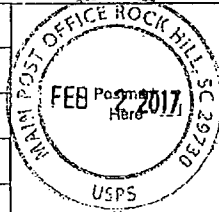


Chisa J. Putman
Attorney for Appellant

Enclosures (4)
Cc: Leland Greeley, Esquire

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input checked="" type="checkbox"/> <i>Howes</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to: <i>The Honorable Jerry Abbott Kitchens Clerk of the South Carolina Court of Appeals P.O. Box 11629 Columbia, SC 29211</i>	B. Received by (Printed Name) <i>Edward Chesh</i>	C. Date of Delivery <i>2-6-17</i>
2. Article Number <i>(Transfer from service label)</i>	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
PS Form 3811, July 2013	3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
	7014 2120 0001 8932 7454	
	Domestic Return Receipt	

4542 2668 1000 0212 4102

U.S. Postal Service CERTIFIED MAIL® RECEIPT <i>Domestic Mail Only</i>	
For delivery information, visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
	
Sent to <i>The Hon. Jerry Abbott Kitchens, Clerk of the SC Court of Appeals</i> Street & Apt. No., or PO Box No. <i>P.O. Box 11629</i> City, State, ZIP+4 <i>Columbia, SC 29211</i>	
PS Form 3800, July 2016 See Reverse for Instructions	

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box®

City of Rock Hill Solicitor's Office
201 E. Main STREET, 3RD FLOOR
Rock Hill, SC 29730

Certified Mail service provides the following benefits:

- A Certified Mail receipt (this portion of the Certified Mail label).
- A unique identifier for your mailpiece.
- Electronic verification of delivery or attempted delivery.
- A record of delivery (including the recipient's signature) that is retained by the Postal Service® for a specified period.

Important Reminders:

- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service®, or Priority Mail® service.
- Certified Mail service is *not* available for international mail.
- Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
- For an additional fee, you may request the following services:
 - Return receipt service, which provides you with a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your

mailpiece; include applicable postage to cover the return receipt service fee; and endorse the mailpiece "Return Receipt Requested," or see a retail associate for assistance. For an electronic return receipt, see a retail associate for assistance. To receive a duplicate return receipt, present this USPS®-postmarked Certified Mail receipt to the retail associate, who will provide a duplicate return receipt for no additional fee.

- Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent. Includes applicable postage to cover the restricted delivery fee and endorses the mailpiece "Restricted Delivery," or see a retail associate for assistance.

■ To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.

IMPORTANT: Save this receipt for your records.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge
Circuit Court Case No.: 2015-CP4601587

Appellate Case No: 2015-001817

City of Rock Hill.....Appellant,

v.

Anthony Ketchum..... Respondent.

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the Motion to Recall Remittur, Affidavit of Counsel for Appellant, and Motion for Extension of Time/Motion to File Appellant's Designation of Matter Outside of Time in the above captioned case has been served upon opposing counsel by sending a copy via regular U.S. Mail on the 2nd day of February 2017, to Leland B. Greeley, Attorney for Respondent, 128 East Main St., Suite 102, Post Office Box 2981, Rock Hill, South Carolina 29732.



Chisa J. Putman, SC Bar #77825
Solicitor's Office
City of Rock Hill
Post Office Box 11706
201 East Main Street (29730)
South Carolina 29731
(803) 817-5136
Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge
Circuit Court Case No.: 2015-CP4601587

Appellate Case No: 2015-001817

City of Rock Hill.....Appellant,

v.

Anthony Ketchum..... Respondent.

MOTION TO RECALL THE REMITTITUR

COMES NOW THE APPELLANT, The City of Rock Hill, by and through its counsel of record, respectfully asking this Honorable Court to Recall the Remittitur. Counsel's request is based on the attached Affidavit of Counsel for the Appellant [Exhibit 1]. Should the Motion of Remittitur be granted, Counsel will re-submit documentation previously sent to the Court.

Respectfully submitted,



Chisa J. Putman, SC Bar #77825
Christopher E.A. Barton, SC Bar #65621
Solicitor's Office
City of Rock Hill
201 East Main Street, 3rd Floor
South Carolina 29730
(803) 817-5136
Attorney for Appellant

EXHIBIT

1

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge
Circuit Court Case No.: 2015-CP4601587

Appellate Case No: 2015-001817

City of Rock Hill.....Appellant,

v.

Anthony Ketchum..... Respondent.

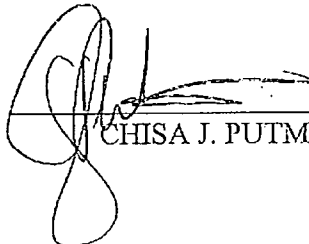
AFFIDAVIT OF COUNSEL FOR THE APPELLANT

PERSONALLY APPEARED BEFORE ME, CHISA J. PUTMAN, who after being duly sworn, deposes and says:

1. I am the Appellant Counsel in this appellate matter.
2. I timely mailed and provided Appellant's Response to Respondent's Motion to Dismiss and Appellant's Motions to File Brief Outside of Time and For Extension of Time in Which to File.
3. On May 20, 2016, I mailed the following documents via regular mail to the Honorable Jenny Abbott Kitchings [collectively Exhibit A]:
 - a. Cover letter copying Mr. Leland B. Greely, Esquire,
 - b. Certificate of Service,
 - c. Certificate of Counsel,
 - d. Response to Respondent's Motion to Dismiss and Appellant's Motions to File Brief Outside of Time and for Extension of Time in Which to File.
4. This mailing was accomplished through regular mail and is evidenced by the receipt dated 05/20/2016 and time stamped at 5:02pm. [Exhibit B]

5. The documents were also faxed to Mr. Greely and the Honorable Jenny Kitchings. [Collectively Exhibit C].
6. In addition to the timely mailing of the initial documents counsel also proceeded to timely submit the following [collectively Exhibit D]:
 - a. Cover letter dated June 20, 2016 to the Honorable Jenny Abbott Kitchings and copying Mr. Greecley,
 - b. The Initial Brief of Appellant.
 - c. Designation of Matter to Be Included in the Record on Appeal, and
 - d. Certificate of Service on Leland Greeley.
7. None of the previously listed documents are shown as having been received by the Court and filed as indicated in the South Carolina Appellate Case Management System (C-Track).

FURTHER AFFIANT SAYETH NAUGHT



CHISA J. PUTMAN

SWORN to and subscribed before me
This 2 day of February, 2017

Melissa Robinson
 Notary Public for South Carolina
 My commission expires: 8/29/2026

EXHIBIT

A



May 20, 2016

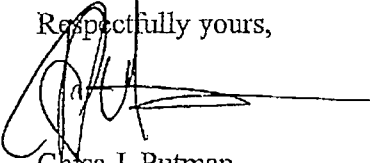
The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: The City of Rock Hill v. Anthony M. Ketchum
Appellate Case No.: 2015-001817

Dear Ms. Kitchings:

Enclosed for filing with your office is the Appellant's *RESPONSE TO RESPONDENT'S MOTION TO DISMISS AND APPELLANT'S MOTIONS TO FILE BRIEF OUTSIDE OF TIME AND FOR EXTENSION OF TIME IN WHICH TO FILE* in this case. The *Certificate of Service* on Leland B. Greeley, Esquire is also being forwarded to you with two (2) additional copies of each document. I am asking Ms. Kitchings to return two (2) clocked copies per document to me in the enclosed self-addressed, stamped envelope.

Respectfully yours,



Chisa J. Putman
Christopher E.A. Barton
Attorneys for Appellant

Enclosures

Cc: Leland B. Greeley, Esq. (mailed and faxed)

DELIVERED VIA FACSIMILE TRANSMITTAL TO 803-734-1839 AND VIA REGULAR UNITED STATES MAIL

CITY OF ROCK HILL SOLICITOR'S OFFICE

201 E. MAIN STREET, 3RD FLOOR, ROCK HILL, SOUTH CAROLINA 29730
OFFICE 803/329-5619 FACSIMILE 803/326-3865



IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Session

Daniel D. Hall, Circuit Court Judge

Case No. 2015-001817

City of Rock Hill.....Appellant,

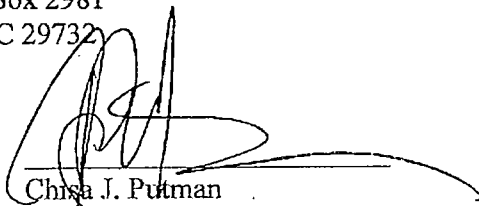
v.

Anthony M. KetchumRespondent

CERTIFICATE OF SERVICE

I, Chisa J. Putman, hereby certify that I served the Appellant's *Response To Respondent's Motion To Dismiss And Appellant's Motions To File Brief Outside Of Time And For Extension Of Time In Which To File* on counsel for Respondent, Leland B. Greeley Esquire, by depositing a copy of the document in the United States mail, with sufficient postage affixed, on the 20th day of May, 2016. The envelope was addressed as follows:

Leland B. Greeley
Post Office Box 2981
Rock Hill, SC 29732



Chisa J. Putman
Christopher E.A. Barton
Attorney(s) for Appellant
201 E. Main Street, Suite 300
Rock Hill, South Carolina 29730
803-817-5136

May 20, 2016
Rock Hill, South Carolina

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM YORK COUNTY
Court of General Sessions
DANIEL D. HALL, Circuit Court Judge

Appellate Case No. 2015-001817

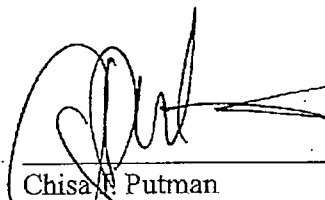
City of Rock Hill, Appellant,

v.

Anthony M. Ketchum, Respondent.

CERTIFICATE OF COUNSEL

Counsel for the Appellant certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



Chisa M. Putman
Christopher E. A. Barton
201 E. Main Street, 3rd Floor
Rock Hill, South Carolina 29730
(803) 817-5136
Attorneys for Appellant

This 20th day of May, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge

Case No.: 2015-001817

City of Rock Hill.....Appellant,

v.

Anthony Ketchum..... Respondent.

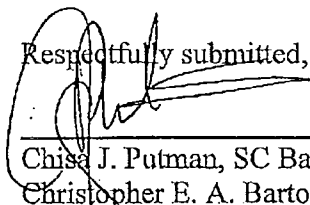
RESPONSE TO RESPONDENT'S
MOTION TO DISMISS
AND APPELLANT'S
MOTIONS TO FILE BRIEF OUTSIDE OF TIME
AND FOR EXTENSION OF TIME
IN WHICH TO FILE

COMES NOW THE APPELLANT, The City of Rock Hill, by and through its counsel of record, asking this Honorable Court to deny Respondent's Motion to Dismiss and moving for the Court's permission both to file outside of the existing time and for an extension of time to file the Initial Brief and Designation of Matter. Appellant's motion is based on the following: lead counsel who filed the action has since been called upon for military service, and current counsel was recently employed to assist with matters such as these.

The undersigned regrets the delay and requests an extension of time of thirty (30) days, or a reasonable time as the Court deems appropriate, to submit Appellant's Initial Brief and Designation of Matter. Appellant intended no disrespect to the Court and did not intentionally

delay the litigation of this matter.

Respectfully submitted,



Chisa J. Putman, SC Bar #77825
Christopher E. A. Barton
201 E. Main Street, 3rd Floor
Rock Hill, South Carolina 29730
(803) 817-5136
Attorneys for Appellant

EXHIBIT

B

=====

ROCK HILL
 WILSON ST
 ROCK HILL
 SC
 29730-4441
 4575200912
 (800)275-8777 5:02 PM

05/20/2016

=====

Product Description	Sale Qty	Final Price
First-Class Mail Large Envelope (Domestic) (ROCK HILL, SC 29732) (Weight:0 Lb 1.60 Oz) (Expected Delivery Day) (Monday 05/23/2016)	1	\$1.15
Butterfly PSA	1	\$0.68
Large Envelope (Domestic) (COLUMBIA, SC 29211) (Weight:0 Lb 3.40 Oz) (Expected Delivery Day) (Monday 05/23/2016)		\$1.57
Total		\$3.40

Debit Card (4837)

 ONE'S MAILBOX. Greeting
 for purchase at select
 25.

 stamps at usps.com/shop or call
 Stamp24. Go to
 clickship to print shipping
 labels with postage. For other
 information, see your local

 Get your mail when and where you want
 it with a secure Post Office Box. Sign
 up for a box online at
 usps.com/poboxes.

EXHIBIT

C



FAX COVER SHEET

TO: Leland B. Greeley
803-734-1890

FROM: Chisa Putman
City Solicitor

DATE: May 20, 2016

RE: The City of Rock Hill v. Anthony M. Ketchum
Appellate Case No. 2015-001817





FAX COVER SHEET

TO: The Honorable Jenny Abbott Kitchings
803-734-1890

FROM: Chisa Putman
City Solicitor

DATE: May 20, 2016

RE: The City of Rock Hill v. Anthony M. Ketchum
Appellate Case No. 2015-001817



EXHIBIT

D



June 20, 2016

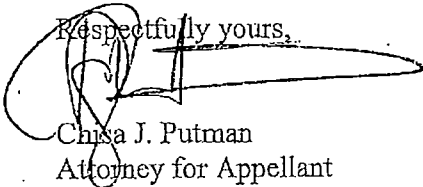
The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: The City of Rock Hill v. Anthony M. Ketchum
Case No. 2015-001817

Dear Ms. Kitchings:

Enclosed for filing with your office is the Appellant's *Initial Brief and Designation Of Matter To Be Included In The Record On Appeal*. The *Certificate of Service* on Leland Greeley, Esquire is also being forwarded to you with two (2) additional copies of each document. I am asking Ms. Kitchings to return two (2) clocked copies per document to me in the enclosed self-addressed, stamped envelope.

Respectfully yours,



Chisa J. Putman
Attorney for Appellant

cc: Leland Greeley Esquire (mailed and faxed)

DELIVERED VIA FACSIMILE TRANSMITTAL TO 803-734-1839 AND VIA REGULAR UNITED STATES MAIL



THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge

Appellate Case No.: 2015-001817

City of Rock Hill.....Appellant,

v.

Anthony Ketchum..... Respondent.

INITIAL BRIEF OF APPELLANT

CHISA J. PUTMAN
S.C. Bar No. 77825
CHRISTOPHER E.A. BARTON
S.C. Bar No. 65261

201 East Main Street, 3rd Floor
South Carolina 29730
(803) 817-5136

ATTORNEY FOR APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES i & iii
STATEMENT OF THE ISSUES ON APPEAL 1
STATEMENT OF THE CASE 2
ARGUMENT 3
CONCLUSION 7

TABLE OF AUTHORITIES

CASES

State v. Vinson, 400 S.C. 347; 734 S.E. 2d182; 2012 S.C. App. LEXIS 327 (2012) 3

State v. Pichardo, 367 S.C. 84, 101; 623 S.E.2d 840, 849 (Ct. App. 2005) 4

State v. Burgess, 394 S.C. 407, 412; 714 S.E.2d 917, 919 (Ct. App. 2011) 4

Whren v. U.S., 517 U.S. 806, 810; 116 S. Ct. 1769; 135 L. Ed.2d 89 (1996) 5

TABLE OF AUTHORITIES

STATUTES

S.C. Const. art. I, § 10 4
S.C. Code Ann. § 56-5-1900(a) (2006) 5
U.S. Const. amend. IV 4

STATEMENT OF THE ISSUES ON APPEAL

1. OFFICER MAURY HAD PROBABLE CAUSE TO BELIEVE RESPONDENT FAILED TO MAINTAIN LANE.
2. BASED UPON THE TOTALITY OF THE CIRCUMSTANCES, OFFICER MAURY HAD REASONABLE SUSPICION TO CONDUCT A TRAFFIC STOP.

STATEMENT OF THE CASE

On November 4, 2014, at or around 2 a.m., Officer Maury of the Rock Hill Police Department was on routine patrol sitting stationary facing the intersection of Cherry Road and Charlotte Avenue in Rock Hill, South Carolina. The officer knew it was closing time for the Pub House, a bar in Rock Hill that serves alcohol. The officer saw the Appellant leave the bar. He crossed over Cherry Road and testified that he witnessed the Respondent swerving back and forth in his lane on Charlotte Avenue. (R. ____) After closing some distance between he and the Appellant, Officer Maury testified that he witnessed the Respondent swerve into the bike lane located within the Respondent's lane. (R. ____) He then activated his blue lights and performed a vehicle stop on the Respondent, shortly after passing Wilson Street on Charlotte Avenue. When the officer stopped the vehicle, he informed the Respondent that he stopped him because he was drifting in the road. (R. ____) The officer then conducted three field sobriety tests on the Respondent and subsequently arrested him for DUI. The Respondent then registered 0.14% Blood Alcohol Content on the breathalyzer.

ARGUMENT

I. OFFICER MAURY HAD PROBABLE CAUSE TO BELIEVE RESPONDENT FAILED TO MAINTAIN LANE.

The circuit court erred in reversing the Respondent's conviction and dismissing the case. In general, it is recognized that it is reasonable that police, acting within the scope of their duties. Where this probable cause exists, an officer may conduct a valid traffic stop if it is believed a traffic violation has taken place. State v. Vinson, 400 S.C. 347; 734 S.E. 2d182; 2012 S.C. App. LEXIS 327 (2012). The principle that police may stop and briefly detain a vehicle when they have a reasonable suspicion that those occupying the vehicle are involved in criminal is also well recognized. Id. at 348.

The South Carolina Court of Appeals dealt with the issue of whether a highway patrolman had lawfully arrested Vinson and charged him with driving under the influence, where Vinson claimed the police lacked reasonable articulable suspicion to justify the traffic stop that resulted in Vinson's arrest.

In Vincent, Trooper Horne, of the South Carolina Highway patrol was patrolling Highway 215 in Union County at approximately 3:00 a.m. Highway 215 was a two-lane road with both northbound and southbound lanes divided by solid yellow lines. The facts indicate that Trooper Horne was travelling from Buffalo towards downtown Union, passing Vinson in the opposite direction. Trooper Horne proceeded to turn around and "observed Vinson's vehicle drift 'back and forth' between the double yellow lines that separated the opposing lanes of traffic." Id. at 349. Based on the trooper's observations he activated his in-car camera and followed Vinson for approximately two-tenths of a mile, but during this time Vinson never repeated the previous conduct. While the camera was recording, Vinson's vehicle never completely crossed into the

opposing lane nor did it drift to center. Id. Despite the activities not being repeated, Trooper Horne opted to pull the vehicle over.

Based on his most recent observations, experience, statistics, lack of any of other traffic on the road, day of the week, and time of night, Trooper Horne suspected Vinson was driving under the influence of alcohol. Id. at 349. Once the stop was executed, Vinson when initially asked, claimed he had not been drinking. Trooper Horne testified that Vinson's eyes were bloodshot and he smelled of alcohol. Upon Vinson exiting the vehicle and being questioned again about his alcohol consumption, he then admitted consuming four or five beers. Id. at 350. After Vinson acknowledged his consumption, Trooper Horne read him his *Miranda* rights and proceeded with two of the standard field sobriety tests. He failed both tests. He failed one twice after requesting to repeat it. Id. Subsequently Vinson was arrested for driving under the influence. Once at the police station, a breathalyzer test was conducted. Vinson registered a blood alcohol content of 0.14. Id. at 350.

At pretrial Vinson moved to dismiss his charge on the ground that the stop was not valid. He claimed the officer lacked reasonable suspicion or probable cause; therefore, the stop violated the Fourth Amendment. Id. The Court disagreed.

The Court of Appeals looked to the Fourth Amendment of the Constitution which protects against unreasonable searches and seizures. A traffic stop falls into the seizure category. U.S. Const. amend. IV; S.C. Const. art. I, § 10. It must be reasonable under the circumstances. "Reasonableness is measured in objective terms by examining the totality of the circumstances." State v. Pichardo, 367 S.C. 84, 101; 623 S.E.2d 840, 849 (Ct. App. 2005). A traffic stop is not unreasonable if conducted with probable cause to believe a traffic violation has occurred, or when the officer has a reasonable suspicion the occupants are involved in criminal activity. State

v. Burgess, 394 S.C. 407, 412; 714 S.E.2d 917, 919 (Ct. App. 2011). Also, “as a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred.” Whren v. U.S., 517 U.S. 806, 810; 116 S. Ct. 1769; 135 L. Ed.2d 89 (1996). The Court, in denying Vinson’s motion, found that reasonable suspicion was present at the time the stop was conducted, and it also found Vinson violated statutory law.

The Court looked specifically at language that read, “whenever any roadway has been divided into two or more clearly marked lanes for traffic following rules in addition to all other consistent herewith shall apply...[a] vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that such movement can be made with safety.” S.C. Code Ann. §56-5-1900(a). This statute requires that driver maintain his vehicle entirely within a single lane.

Here, as in Vinson, Officer Maury observed Respondent’s vehicle in the early hours of the morning as it failed to maintain its lane. Officer Maury testified that after he noticed the vehicle weaving back and forth in its own lane and weave over the white line into the bike lane he then caught up with the vehicle and turned on his dash camera. Like Vinson, Ketchum did not repeat the activity once the camera was activated. Although the activity did not repeat itself for the video, the officer testified to personally witnessing the occurrences. Here, there was no mention of any other cars on the road during the observation that would have caused Ketchum to veer toward the bike lane. There was nothing impeding Respondent from maintaining his vehicle within his lane of traffic or forcing him to the right side of the road to drift into the bike lane; therefore, there is no reasonable justification as to why his vehicle should/would veer into the bicycle lane.

Officer Maury personally observed Respondent's vehicle weave within its own lane and then veer into the bike lane. Respondent apparently corrected his driving, as it was not visible on the video; however, that correction did not negate the driving issues observed by the officer. Those initial observations are enough to give the reasonable person suspicion. Officer Maury was justified in conducting a traffic stop based on the Respondent's failure to maintain his lane.

II. BASED UPON THE TOTALITY OF THE CIRCUMSTANCES, OFFICER MAURY HAD REASONABLE SUSPICION TO CONDUCT A TRAFFIC STOP.

The Circuit Court erred in finding that the totality of the circumstances did not give rise to a reasonable suspicion to conduct a traffic stop.

As stated in Section I, a traffic stop is not unreasonable if conducted with probable cause to believe a traffic violation has occurred, or when the officer has a reasonable suspicion the occupants are involved in criminal activity. State v. Burgess, 394 S.C. 407, 412; 714 S.E.2d 917, 919 (Ct. App. 2011). Also, "as a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred." Whren v. U.S., 517 U.S. 806, 810; 116 S. Ct. 1769; 135 L. Ed.2d 89 (1996).

Here, the officer was sitting and observing as the local bar/pub closed. It was 2:00am and he noticed a vehicle leave the establishment. The vehicle, he noticed was swerving within its lane. There was nothing in the vehicle's lane to justify the swerving. The drifting alone may not arguably give rise to suspicion, but the totality of circumstances would give rise to a reasonable suspicion. The fact that the officer testified that he observed the swerving within its lane, crossing in the bike lane, and he had recently observed the vehicle leave a bar/pub shortly before,

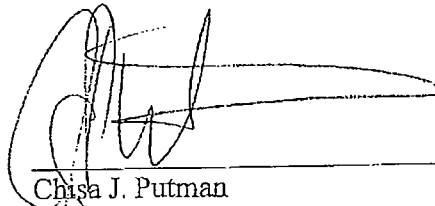
at 2:00 a.m. would give rise to suspicion. Individually, the facts are not convincing, but viewed collectively, the totality of the circumstances would provide an objective reasonable suspicion.

Respondent would argue that the stop was unreasonable and there was no probable cause for the initial stop, the City would disagree. Again, looking back at Vinson, the stop is in fact reasonable if it was conducted with probable cause or reasonable suspicion. Officer Maury testified that based on his experience and the totality of the circumstances, the facts he was presented at the time gave him reasonable suspicion to conduct the traffic stop. The ensuing arrest and conviction were, therefore, properly founded.

CONCLUSION

For all the foregoing reasons, the Appellant respectfully submits that the decision of the circuit court reversing Respondent's conviction and dismissing the charge should be reversed and the conviction reinstated.

Respectfully submitted,



Chisa J. Putman
Christopher E.A. Barton
201 E. Main St., 3rd Floor
Rock Hill, South Carolina 29730
(803) 329-5692
ATTORNEYS FOR APPELLANT

June 20, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge

Case No.: 2015-001817

City of Rock Hill.....Appellant,

v.

Anthony Ketchum..... Respondent.

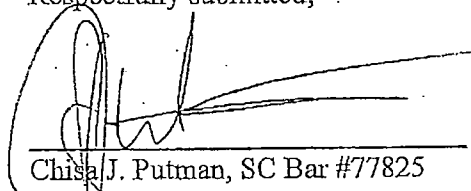
**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellant proposes the following to be included in the Record on Appeal:

- (1) Uniform Traffic Ticket
- (2) Notice of Appeal from Municipal Court dated May 26, 2015
- (3) Return to Appeal filed ---- including all exhibits (incident site videos and breath alcohol testing site videos respectively.
- (4) Transcript of hearing in Circuit Court dated July 6, 2015
- (5) Circuit Court Order Granting Appeal filed July 16, 2015
- (6) Notice of Appeal from Circuit Court July 30, 2015

Appellant notes for the record that the Respondent did not specify any designation of matter following the set

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Chisa J. Putman', is written over a horizontal line. The signature is stylized and extends to the right of the line.

Chisa J. Putman, SC Bar #77825
Christopher E.A. Barton
Solicitor's Office
City of Rock Hill
201 East Main Street, 3rd Floor
South Carolina 29730
(803) 817-5136
Attorney for Appellant

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge

Case No. 2015-0001817

City of Rock Hill.....Appellant,

v.

Anthony M. KetchumRespondent

CERTIFICATE OF SERVICE

I, Chisa J. Putman, hereby certify that I served the Appellant's *Initial Brief* on counsel for Respondent, Leland Greeley Esquire, by depositing a copy of the document in the United States mail, with sufficient postage affixed, on the 20th day of June, 2016. The envelope was addressed as follows:

Leland B. Greeley
Post Office Box 2981
Rock Hill, SC 29732

/s/Chisa J. Putman
Chisa J. Putman
Attorney(s) for Appellant
201 E. Main Street, Suite 300
Rock Hill, South Carolina 29730
803-329-5692

June 20, 2016
Rock Hill, South Carolina

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge

Case No. 2015-0001817

City of Rock Hill.....Appellant,

v.

Anthony M. KetchumRespondent

CERTIFICATE OF SERVICE

I, Chisa J. Putman, hereby certify that I served the Appellant's *Designation of Matter* on counsel for Respondent, Leland Greeley Esquire, by depositing a copy of the document in the United States mail, with sufficient postage affixed, on the 20th day of June, 2016. The envelope was addressed as follows:

Leland B. Greeley
Post Office Box 2981
Rock Hill, SC 29732

/s/Chisa J. Putman
Chisa J. Putman
Attorney(s) for Appellant
201 E. Main Street, Suite 300
Rock Hill, South Carolina 29730
803-329-5692

June 20, 2016
Rock Hill, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge
Circuit Court Case No.: 2015-CP4601587

Appellate Case No: 2015-001817

City of Rock Hill.....Appellant,

v.

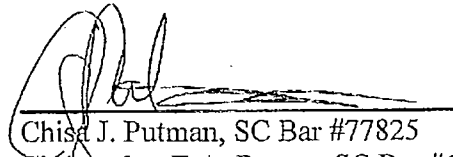
Anthony Ketchum..... Respondent.

APPELLANT’S MOTIONS TO FILE BRIEF OUTSIDE OF TIME
AND FOR EXTENSION OF TIME IN WHICH TO FILE

COMES NOW THE APPELLANT, The City of Rock Hill, by and through its counsel of record, moving for the Court’s permission both to file outside of the existing time and for an extension of time to re-file the Initial Brief and Designation of Matter. Appellant’s motion is based on the following: 1) on May 20, 2016, counsel initially mailed for filing a Motion to Deny Respondent’s Motion to Dismiss and Appellant’s Motions to File Outside of Time and for Extension of Time in Which to File, 2) under the assumption that initial documents had been received, Appellant’s Counsel submitted Initial Brief of Appellant on June 20, 2016, and 3) upon recent review it was noticed that none of the documents are showing as being filed with the Court, despite the documents being mailed.

The undersigned regrets the delay and requests an extension of time of thirty (30) days, or a reasonable time as the Court deems appropriate, to re-submit Appellant's Initial Brief and Designation of Matter. Appellant mistakenly assumed that the documents previously submitted had been filed with the Court and did not intentionally delay the litigation of this matter.

Respectfully submitted,



Chisa J. Putman, SC Bar #77825
Christopher E.A. Barton, SC Bar #65261
Solicitor's Office
City of Rock Hill
Post Office Box 11706
201 East Main Street (29730)
South Carolina 29731
(803) 817-5136
Attorney for Appellant



RECEIVED
OCT 24 2017
SC Court of Appeals

Fax

Date: 10/24/2017 2:37:10 PM
To: Tonisha @ Court of Appeals
Fax: 918037341839
Company:
From: ford, tammy
Phone: 803-329-5619

Pages including cover sheet: 39

Comments:
Attached please find our paperwork in regards to Ketchum.
Case No. 2015-001817