

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
South Carolina Workers' Compensation Commission
Commissioner Avery B. Wilkerson, Jr., Chair of Appellate Panel

Case Number 1503413

James Thorpe, Employee, Claimant, Respondent,

vs.

Town of Bowman, Employer, and State Accident Fund, Carrier, Appellants.

RECORD ON APPEAL

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SC Court of Appeals

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SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

James Thorpe, Jr.

Claimant,

vs.

Town of Bowman,

Employer,

and

State Accident Fund,

Carrier,

Defendants.

SCWCC File No. 1503413

DECISION AND ORDER

Hearing:

February 3, 2016, in Saint Mathews, South Carolina.

Appearances:

Robert Michael Johnson, Jr., Esquire of Michael Johnson, PC & Associates, Fort Mill, South Carolina, for Claimant,

Clarke W. McCants, III, of Nance, McCants & Massey, Attorneys at Law, Aiken, South Carolina, for Defendants.

Purpose of Hearing:

To determine those issues set forth on the Forms 50 and 51 and any other matters which may have timely come before the undersigned Commissioner.

Decision and Order:

By Melody L. James, Commissioner

Filed:

November 21, 2016

STIPULATIONS

1. The purpose of the Hearing was to determine the issues set forth in the Hearing Notice and Forms 50 and 51, and any other matters which may have timely come before the undersigned Commissioner.
2. The Notice of the Hearing was timely and properly served upon all parties of interest.
3. The Claimant's compensation rate is \$461.60 based upon an average weekly wage of \$692.36.
4. Venue for this matter is proper in Orangeburg County, South Carolina and the Parties, by agreement, conducted the hearing in this case in St. Matthews, South Carolina.
5. The Claimant seeks compensation and benefits pursuant to the provisions of the South Carolina Workers' Compensation Law.
6. The South Carolina Workers' Compensation Commission has jurisdiction in this matter.

APA SUBMISSIONS

Claimant

1. APA No. 1: The Regional Medical Center, Pages 1-9;
2. APA No. 2: S.C. Orthopedic Institute, Pages 10-24;
3. APA No. 3: Claimant's Personnel File, Pages 25-64;
4. APA No. 4: Photograph of Claimant's Hand, Pages 65-73.

Defendants

1. APA No. 1: Town of Bowman K-9 Policies and Regulations, Pages 1-2;
2. APA No. 2: Letter from James Thorpe to Town of Bowman, Page 3.

STATEMENT OF THE CASE

This matter is before the undersigned Commissioner to determine the issues set forth in the Parties' Forms 50 and 51, and the Claimant's entitlement to compensation and benefits under the South Carolina Workers' Compensation Law (hereinafter the "Act").

The Claimant in this case sustained injuries to his left hand February 27, 2015 as a result of a dog bite, which he contends occurred by accident arising out of and in the course of his employment as a police officer for the Town of Bowman, South Carolina. He further contends that he is entitled to receive compensation and benefits under the Act, including payment for certain medical treatment he received and compensation for a permanent disability.

The Defendants deny that the Claimant sustained an injury by accident arising out of and in the course of his employment. In that regard they contend that the Claimant is not entitled to compensation and benefits under the Act.

EVIDENCE IN THE CASE

At the time of the alleged accident in this case the Claimant was employed as a police officer by the Town of Bowman. His duties included the regular patrol of the Town and other law enforcement services for the citizens residing there.

The incident forming the basis for this case occurred at the Claimant's home on a Friday morning, and while he was not performing his regular patrol or law enforcement duties. There is no dispute that the Claimant was not being paid on otherwise "on the clock" at the time of the incident.

During the week before the incident involved here the Claimant spoke with Kevin Pendarvis, the Chief of Police for the Town of Bowman, and asked if he would allow him to use a working-police dog as part of his duties. While the Town does not own or require its officers to use such dogs, or "K-9s" as they are normally called, Chief Perndarvis indicated to the Claimant that he could use such a dog if he chose to do so. The evidence here shows that such dogs have been used in the past by police officers employed by the Town. The Town provides no care or boarding for the dogs, which are considered to be the personal property of the officer. A local animal feed store has donated dog food to the Town for individual officer's use in feeding their dogs. There is evidence that the Town may have paid for some veterinary care for dogs in the past.

Shortly thereafter the Claimant did obtain a dog, whose name is "Racks", from a colleague who works as a Deputy for the Orangeburg County Sheriff's Department. The Claimant did not pay any sum of money for Racks to the Orangeburg Deputy. There is no dispute with respect to the fact that Racks became the personal property of the Claimant here and the Town possessed no ownership interest in him.

Racks is a breed of German Shepherd which are commonly used as K-9 working dogs. Such working dogs are typically trained in one or more of the following three areas to assist their law enforcement partners: apprehension, search and rescue and drug detection. When he obtained possession of Racks the Claimant learned from the Orangeburg Deputy that Racks was, in fact, trained in "apprehension". This means that a K-9 has been trained specifically to attack, apprehend and hold, by biting, a person upon receiving a verbal command from an attending officer. Further, the Claimant was advised that Racks did not like to be grabbed around his neck area.

The Claimant then presented Racks to Chief Pendarvis, and they discussed his use for the Town's law enforcement needs. At that time Racks was tested for his ability to detect drugs. The Chief also then learned that Racks had been trained in "apprehension". There is a dispute between the Parties as to what the Claimant and the Chief discussed next.

The Chief testified that when he learned that Racks was trained in apprehension, he told the Claimant that he could not use him as part of carrying out his law enforcement duties with the Town. The Chief stated that the Town did not have liability insurance to cover K-9's who are trained in apprehension. The Town, in fact, has a written policy in this respect. Chief Pendarvis stated he trusted that the Claimant understood the Town's position and would not use Racks in any capacity as part of his work for the Town.

The Claimant does not dispute that he told Chief Pendarvis that Racks was, in fact, trained in apprehension. He contends, however, that the Chief did not tell him that he could not use Racks. He related that the Chief said he could use Racks, but not for apprehension purposes and under no circumstances could the verbal command for Racks to attack be used. The Claimant further testified that he was unaware of any written policy implemented by the Town and which prohibits the use of dogs trained in apprehension.

The conversation between the Claimant and the Chief took place on the Wednesday before the Friday morning incident in this case. Between those days the Claimant performed his regular work duties, and contends that he used Racks as part of the same. He testified that he brought Racks by the Bowman Police Department and the Chief was aware that Racks was being used as part of his job. The Claimant stated that he removed one of the seats in his patrol car to accommodate a dog kennel which the Chief gave to him. The Chief denies that he was aware that Racks was being used by the Claimant.

The Claimant then testified that on the following Friday morning at his home he spent time working with Racks in the Claimant's fenced backyard. After finishing the Claimant exited his backyard by way of his fence gate and went to his car to retrieve food for the dog. The Claimant left the fence gate open and Racks suddenly escaped through the open gate, ran into a neighbor's backyard and then into the neighbor's screened back porch. The Claimant gave chase to Racks and cornered him on the porch.

When Racks was cornered the Claimant grabbed him by his neck. When that occurred Racks immediately turned his head and bit the Claimant on his left hand. The Claimant was able wrestle his hand free from Racks' grip.

There is no dispute that the Claimant's left hand was significantly injured as a result of Racks' bite, and which required medical treatment as documented by the evidence presented to me. There is also no dispute that the bite has resulted in the Claimant permanently losing a certain degree of function and use of his left hand.

FINDINGS OF FACT

1. The purpose of the Hearing was to determine the issues set forth in the Hearing Notice and Forms 50 and 51, and any other matters which may have timely come before the undersigned Commissioner.

2. Although the testimony in this case is conflicting I find that both witnesses testified in a credible manner. It appears that there was a mis-communication or a misinterpretation of the conversation between the Claimant and Chief Pendarvis as to the use of Racks.

3. The Town of Bowman employed two police officers at the time of the incident involved in this case, namely the Claimant and Chief Pendarvis.

4. The dog, "Racks," was given to the Claimant by a colleague employed by the Orangeburg County Sheriff's Department. No money was exchanged as part of the transfer ownership from the Deputy to the Claimant and Racks became the sole personal property of the Claimant.

5. Racks was the property of and in the possession of the Claimant. The dog was given to him by an officer colleague from another jurisdiction. It is clear that there was not a meeting of the minds between the Claimant and Chief Pendarvas such that the dog could be owned by or possession transferred to the Town.

6. The Claimant was not required by the Town to have a working K-9 dog, as part of his equipment, tools or otherwise. As Racks is considered to be the personal property of the Claimant, the Town is not responsible for the 24-hour care of him.

7. The Claimant and Chief Pendarvis did discuss that the Claimant wanted to use a K-9 as part of his work with the Town of Bowman. Chief Pendarvis himself has used his dogs in conjunction with his work for the Town.

8. After obtaining Racks the Claimant brought him to the Town's police station and he and the Chief tested Racks for drug detection. After the testing for drug detection is where the understanding or interpretation of the conversation broke down.

9. At the end of the testing for drug detection the Chief discovered that Racks was trained in apprehension, and he instructed the Claimant that the Town could not use a dog that was trained in that area. The Town's written policy in that regard is included in the Defendants' APA Submissions Nos. 1 and 2.

10. The Claimant was unaware of the written policy at the time he acquired Racks and before the time of the incident involved here.

11. The policy does state that the K-9 unit shall attend weekly maintenance training, and that the canines must complete at least four hours of training per week. How or where this is to be accomplished is not set forth in the policy.

12. The Claimant's recollection of the conversation is that he could keep Racks, but was not allowed to use the command Racks had learned to prompt him to attack or apprehend someone.

13. From review of the testimony, it is clear how the mis-communication or misinterpretation could have taken place.

14. From the Claimant's understanding that the Town would be using the dog, he proceeded to take out the back seat of another police vehicle, so that it could accommodate the kennel that had been given to him earlier by Chief Pendarvis.

15. Any misunderstanding or mis-communication between the Claimant and Chief Pendarvis does not prejudice the Claimant in this case. The Claimant proceeded in his employment such that Racks was part of the K-9 unit. An activity can arise out of and be within the course and scope of employment where a claimant justifiably believes that the activity is permissible or required. The issue in this case becomes whether the activity is within the course and scope of his employment.

16. The incident forming the basis for this case occurred within a day of the conversation between the Claimant and Chief Pendarvis.

17. Chief Pendarvis did not discover that there was any misunderstanding or mis-communication until after the incident.

18. The Claimant was initially "working with" Racks in the backyard of his home, and in a manner that the Chief had told him to do.

19. The Claimant was not on duty and was "off the clock" at the time of the incident involved here.

20. Whether the Claimant was or was not paid for the time he spent training Racks is not dispositive of the issue presented here.

21. Racks left the fenced area of the Claimant's yard and while attempting to retrieve him the Claimant sustained a bite injury to his left hand.

22. If the incident had occurred during training required by the Town, the injury here might be compensable, as the Claimant understood that the dog was now part of the canine unit of the Town, and the training might have been part of the required training.

23. However, whether the Claimant and the dog were performing the required training, it is not dispositive of the case, as the training was not taking place when Racks escaped from the Claimant's backyard.

24. I find that the training on the date of the incident had been completed, as the Claimant was going to retrieve food for Racks. The testimony of the Claimant was that the dog was in the corner of the fenced backyard, and the Claimant went to go get his food from his police car. The food was given to him by the Chief from food that was donated to the Town. However, this was the Claimant's personal dog, and the feeding of his personal dog is not within the course and scope of his employment.

25. The Claimant did not sustain any injury on the date in question, by accident arising out of and in the course of her employment with the Employer in this case.

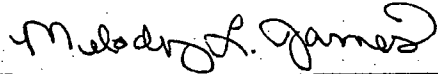
CONCLUSIONS OF LAW

1. The Notice of the Hearing for this matter was timely and properly served upon all parties of interest.
2. The Claimant's compensation rate is \$461.60 based upon an average weekly wage of \$692.36.
3. Venue for this matter is proper in Orangeburg, South Carolina. Further, the Parties by agreement conducted the hearing for this case in Calhoun County.
4. The Claimant seeks compensation and benefits pursuant to the provisions of the South Carolina Workers' Compensation Law.
5. The South Carolina Workers' Compensation Commission has jurisdiction in this matter.
6. Pursuant to S.C. Code Ann. § 42-1-160 (1976), and other applicable law and regulation, the Claimant did not sustain any injury by accident arising out of and in the course of her employment with the Employer.
7. The Claimant is not entitled to receive compensation and benefits pursuant to the terms and provisions of the Act.

ORDER

IT IS THEREFORE ORDERED that this matter shall be dismissed in its entirety with regard to any claim for compensation and other benefits under the Act, and as presented by the Claimant.

SO ORDERED.



Commissioner Melody L. James

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid, in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).
November 21, 2016

By: Tamara Morris, Administrative Assistant to Commissioner James

APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1503413

James Thorpe,)
)
Employee/Claimant/Respondent,)
)
v.)
)
Town of Bowman,)
)
Employer,)
)
and)
)
State Accident Fund,)
)
Carrier,)
)
Defendant(s)/Appellants.)
_____)

REVERSED

Appellate Panel Review held in Columbia, South Carolina, on February 21, 2017, per notices timely and properly served upon all parties of interest.

Appellate Panel Decision and Order filed on: May 23, 2017

APPEARANCES:

Claimant/Respondent represented by
R. Michael Johnson, Jr., Esquire

Defendant(s)/Appellant(s) represented by
Clarke W. McCants, Esquire

STATEMENT OF THE CASE

The parties were heard by Commissioner Melody L. James on February 3, 2016, in St. Matthews, South Carolina. As a result of the Hearing, the single Commissioner issued an Order

dated November 21, 2016, from which the Claimant, as Appellant, sought review pursuant to S.C. Code Ann. § 42-17-50 (as amended). Within the statutory period, counsel for the Claimant filed an Application for Review in the case setting forth assignments of error, copies of which were furnished to all interested parties prior to oral argument presented before the Appellant Panel on January 21, 2017, as set forth below:

1. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 4 in which the Commissioner found that the dog, Racks, was the sole personal property of the Claimant, where the record and law of this State do not support such a finding?
2. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 5 in which the Commissioner found that the dog, Racks, was the property of the Claimant and that there was not a meeting of the minds between the Claimant and the Chief of Police such that the dog could be the property of the Town, where the record and law of this State do not support such a finding?
3. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 6 in which the Commissioner found that the dog Racks, was the personal property of the Claimant and that the Town was not responsible for the 24-hour care of the dog, where the record and law of this State do not support such a finding?
4. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 8 in which the Commissioner found that the Claimant and the Chief of Police had a lack of understanding or interpretation of the conversation following Racks testing for drug detection, where the record and law of this State do not support such a finding?
5. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 9 in which the Commissioner found that the Chief of Police instructed the Claimant that Racks could not be used as a K-9 due to his apprehension training, where the record and law of this State do not support such a finding?
6. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 13 in which the Commissioner found that from a review of the testimony it is clear how the miscommunication occurred, where the record and law of this State do not support such a finding?
7. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 19 in which the Commissioner found that the Claimant was not on duty at the time of the incident, where the record and law of this State do not support such a finding?

8. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 24 in which the Commissioner found that the Claimant's injury was not within the course and scope of his employment, where the record and law of this State do not support such a finding?
9. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 25 in which the Commissioner found that the Claimant's injury/accident did not arise out of and in the course of his employment, where the record and law of this State do not support such a finding?
10. Did the Hearing Commissioner err as a matter of fact and law in Conclusion of Law 6 in which the Commissioner found that the Claimant did not sustain injury by accident arising out of and in the course of his employment, where the record and law of this State do not support such a finding?
11. Did the Hearing Commissioner err as a matter of fact and law in Conclusion of Law 7 in which the Commissioner found that the Claimant was not entitled to receive compensation and benefits under the Workers' Compensation Act, where the record and law of this State do not support such a finding?

All testimony and documentary evidence has been taken and delivered to the individual members of the Appellate Panel for their study and consideration. In addition, the parties have briefed and orally argued their positions before the Panel.

In an Appellate Panel review under S.C. Code Ann. § 42-17-50, the Commission's Appellate Panel shall review the award, weigh the evidence presented at the initial hearing, and, if good ground be shown therefore, make its own findings and conclusions consistent with or inconsistent with those of the Hearing Commissioner.

After careful review of the record in this case, the Commission, by unanimous vote, has determined that the Hearing Commissioner's Findings of Fact and Rulings of Law are hereby reversed. The Hearing Commissioner's Order is reversed in its entirety, and the Commission's Appellate Panel's Findings of Fact and Rulings of Law, as adopted below, are hereby the law of this case.

FINDINGS OF FACT

1. The parties to the proceedings are subject to and bound by the terms and provisions of the

South Carolina Workers' Compensation Act, as amended to date, with the Town of Bowman as the Employer; State Accident Fund, as the insurance carrier; and the Claimant as the employee of the employer on February 27, 2015.

2. The Claimant, James Thorpe, did sustain bodily injury on February 27, 2015, to his left hand while employed by the Town of Bowman and such injury arose out of and in the course of his employment.

3. The Claimant gave notice to the Defendants pursuant to the Act.

4. The average weekly wage is \$692.36, with a resulting compensation rate of \$461.60.

5. The Claimant is entitled to medical care to the left hand, as it will tend to lessen his period of disability. Defendants shall pay all outstanding medical to date that is causally related to the accident, including but not limited to the medical bills of the Regional Medical Center in Orangeburg and Dr. David Ajibade.

6. The Claimant is 38 years old, lives in Springfield, South Carolina and grew up in Orangeburg where he went to high school at Orangeburg-Wilkerson before receiving a G.E.D. in 1995.

7. The Claimant has been in law enforcement since 2005 when he began working for the Orangeburg County Sheriff's office before beginning work in Bowman as an officer in September/October of 2014.

8. Although the testimony in this case is conflicting, the Appellate Panel finds that both witnesses testified in a credible manner. It appears that there was a mis-communication or a misinterpretation of the conversation between the Claimant and Chief Pendarvis as to the use of Racks.

9. The Town of Bowman employed two officers at the time of the incident involved in this

case, namely the Claimant and Chief Pendarvis.

10. The Claimant and Chief Pendarvis did discuss that the Claimant wanted to use a K-9 as part of his work with the Town of Bowman. Chief Pendarvis used his three dogs in conjunction with his work for the Town as K-9 units.

11. The Claimant was given Racks, the K-9 unit, by a former co-employee in the Orangeburg Sheriff's office on Wednesday, February 25, 2015, two days before the accident. The Claimant did not pay for Racks and he was told that Racks was certified in narcotics, tracking, article location and attack.

12. The Claimant called Chief Pendarvis and asked if he could use Racks as a K-9. The Chief brought the Claimant a kennel to transport Racks and to keep him in at night.

13. Chief Pendarvis supplied the Claimant with dog food from the Town's K-9 room, which has K-9 equipment and donated dog food within it.

14. The Claimant was unaware of any written policy at the time he acquired Racks and before the time of the incident involved here.

15. The policy does state that the K-9 unit shall attend weekly maintenance training, and that the canines must complete at least four hours of training per week. How or where this is to be accomplished is not set forth in the policy.

16. The policy also states that the "Police K-9 will be considered a member of the Bowman Police Department." It also states that the "handler will be responsible for the health and welfare of the assigned canine, both on and off duty."

17. The Claimant's recollection of the conversations with the Chief is that he could keep Racks, but was not allowed to use the command Racks had learned to prompt him to attack or apprehend someone.

18. The Claimant's recollection of the conversations is consistent with the written policy of the Town which states, "At no time should a Police Canine be ordered to apprehend (bite)."

19. The Claimant and Chief Pendarvis worked out Racks for approximately an hour on Thursday, February 26, 2015, the day before the accident, and afterwards the Claimant's understanding was that he could use Racks as a K-9.

20. Both Racks and the Claimant stayed at work, at the police station, from 11:42 am until 10:01 pm the day before the accident.

21. As it was the Claimant understands that the Town would be using the dog, the Claimant proceeded, at the Chief's suggestion, to take out the back seat of another police vehicle - a K-9 unit patrol car - so that it could accommodate the kennel that had been given to him earlier by Chief Pendarvis.

22. At no time on February 26, 2015, the day before the accident, did Chief Pendarvis order the Claimant to take Racks away from the station. At no time after the accident was the Claimant ever reprimanded for not taking Racks away from the station.

23. Any misunderstandings or mis-communications between the Claimant and Chief Pendarvis does not prejudice the Claimant in this case. The Claimant proceeded in his employment such that Racks was part of the K-9 unit. An activity can arise out of and be within the course and scope of employment where a Claimant justifiably believes that the activity is permissible or required. In this case the Claimant justifiably believed that Racks was his K-9 unit and that it was his responsibility to care for and train Racks.

24. The incident forming the basis for this case occurred within a day of the conversation between the Claimant and Chief Pendarvis.

25. Chief Pendarvis did not discover that there was any misunderstanding or mis-

communication until after the incident.

26. Chief Pendarvis did not give clear and explicit instructions for the Claimant not to use Racks.

27. Chief Pendarvis did not give clear and explicit instructions to the Claimant that Racks was not considered a K-9 unit.

28. The Claimant had an expectation that Racks was his K-9 unit, for use in his role as a deputy for the Town of Bowman.

29. On the date of the accident, the Claimant took Racks in to his fenced back yard to train him per the instructions of Chief Pendarvis.

30. The Claimant would have Racks retrieve objects and then reward him by throwing a rubber hose for Racks to retrieve.

31. While training Racks, the Claimant went to his squad car to retrieve the bag of dog food given to him by the Chief from the back seat. The Claimant accidentally left the back gate ajar, allowing Racks to escape his backyard and run on to the porch of the Claimant's neighbor, an elderly woman.

32. Racks entered the neighbor's screened in porch through a swinging door and became trapped within the screened porch once the door closed.

33. The Claimant believed it was his responsibility to retrieve Racks and entered the porch to do so.

34. The Claimant described Racks as running into the screens and being disoriented. The Claimant ordered Racks to stop and when the dog did not, he grabbed his collar to retrieve him. Racks bit the Claimant on the left hand when he grabbed the collar. The Claimant was forced to choke Racks with his right hand until the dog passed out; releasing the Claimant's left hand.

35. Due to the bite, the Claimant sought medical care at the Regional Medical Center in Orangeburg, South Carolina and with Dr. David Ajibade.

36. The Claimant was diagnosed as having multiple wounds to the left hand and a proximal phalanx fracture of the fourth digit at the Regional Medical Center.

CONCLUSIONS OF LAW

Accordingly, as provided in South Carolina Code of Laws, (1976 as amended), Section 42-17-40, it is the determination of this Commissioner:

1. Under §42-1-160, the Claimant did sustain injury by accident, arising out of and in the course of his employment.
2. Under §42-15-20, the Claimant gave notice of the accident to the Employer.
3. Under §42-15-60, the Claimant is entitled to additional medical care, which will tend to lessen the period of disability.

ORDER AND AWARD

THEREFORE, it is ordered that the Defendants shall make the following payments:

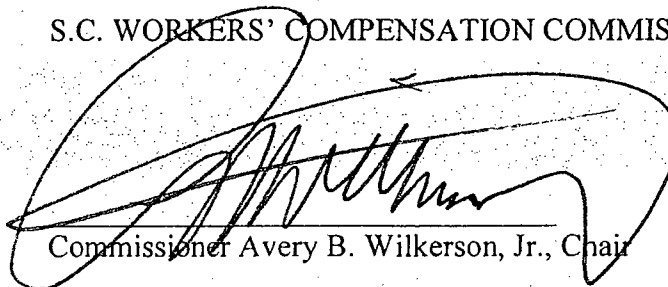
1. Charges for the Claimant's causally related medical care for his left hand with a specialist of the Defendants choosing until further Order of this Commission. Further, the Defendants shall pay for all causally related medical care to date, including but not limited to the Regional Medical Center and Dr. David Ajibade.

DECISION AND ORDER OF THE COMMISSION ON APPEAL

IT IS THEREFORE ORDERED that the Decision and Order of the Hearing Commissioner is hereby reversed by the Appellate Panel of the Commission with Findings of Fact and Law added.

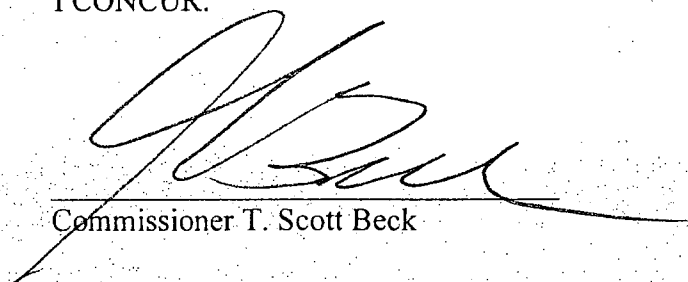
AND IT IS SO ORDERED.

S.C. WORKERS' COMPENSATION COMMISSION

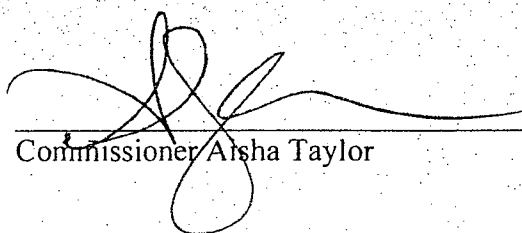


Commissioner Avery B. Wilkerson, Jr., Chair

I CONCUR:



Commissioner T. Scott Beck



Commissioner Aisha Taylor

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Eugenia Hollmon on May 23, 2017

South Carolina Workers' Compensation Commission
 1333 Main Street, Suite 500 • Post Office Box 1715
 Columbia, South Carolina 29202-1715
 (803) 737-5723 www.wcc.sc.gov



CC File #: 1503413
 Carrier File #: _____
 Carrier Code #: _____
 Employer FEIN #: _____

Claimant's Name: James T. Orpe, Jr. SSN: _____ Employer's Name: Town of Bowman
 Address: Post Office Box 575 Address: 131 Poplar Street
 City: Springfield State: SC Zip: 29146 City: Bowman State: SC Zip: 29018
 Home Phone: () - _____ Work Phone: () - _____ Insurance Carrier: State Accident Fund
 Preparer's Name: R. Michael Johnson, Jr. Law Firm: Michael Johnson, P.C. Preparer's Phone #: (803) 547-2800

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 02/27/2015

☒ Injury ☐ Illness ☐ Repetitive Trauma ☐ Occupational Disease ☐ Physical Brain Injury ☐ Concurrent Jurisdiction

1. The claimant sustained an injury to left hand (Part(s) of Body Injured) on 02/27/2015 (Month/Day/Year) in Orangeburg county, state of SC.
 2. Body part(s) affected are: left hand

Briefly describe how the accident occurred. The Claimant let his K-9 unit dog in to the backyard to exercise. The dog ran to the next yard and as the Claimant commanded the dog to sit the dog bit the claimant's left hand/arm causing immediate injuries

3. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.

4. The relationship of employer and employee existed at the time of injury.

5. At the time of the injury the claimant was performing services arising out of and in the course of employment.

6. Notice of the accidental injury was given to the Employer on 02/27/2015 (Month/Day/Year) in the following manner:

Verbally reported to Kevin Pendaris

☒ 7. Due to injury, the claimant is in need of (check one):

☐ (a) medical examination and treatment for: _____

☒ (b) additional medical examination and treatment for: The Claimant requests all medical care be authorized and paid for if not already done so. The Claimant requests authorization for evaluation and treatment for his hand/arm.

☐ 8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: _____

☐ 9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):

☐ (1) General Disability ☐ Total ☐ Partial

☐ (2) Specific Disability: ☐ Total ☐ Partial

☐ (3) Wage Loss

9a. ☐ A determination of permanent disability is premature at this time.

☐ 10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: _____

10a. At the time of the injury the Claimant was paid weekly wages of \$FORM 20 REQUESTED, and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
Murphy's Auto Glass, Orangeburg, SC

11. Further grounds or unusual aspects of claim:

Any and all benefits available under the Act. Claimant requests any Award be made payable in a lump sum.

11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:
The Regional Medical Center, Orangeburg, SC; SC Orthopaedic Institute, Orangeburg, SC

11b. To the best of your knowledge, did you have any prior permanent disability? _____
 If yes, describe: _____

12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.

☐ 13a. I am filing a claim. I am not requesting a hearing at this time.

14. Estimated time needed for hearing: 1 hour

☒ 13b. I am requesting a hearing. A \$25 fee is required.

☐ Mediation ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.

☐ b. Mediation is required pursuant to Reg. 67-1802.

☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to *SEE ATTACHED CERTIFICATE OF SERVICE *
 address _____ on the _____ day of _____ 20____ by ☐ first class postage ☐ certified mail ☐ personal service.

I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature _____

Attorney for Claimant _____
 Title _____

mjohnson@johnsonscslaw.com
 Email _____

Date 10/14/15

Questions about the use of this form should be directed to the Claims Department at 803.737.5723. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615 as well as Reg. 67-1801.

WCC Form # 50
 Revised 7/12

50

Employee's Notice of Claim and/or
 Request for Hearing

22



WCC File #: **1503413**
Carrier File #: **2015-1120**
Carrier Code #:
Employer FEIN #:

Claimant's Name: James Thorpe Jr. SSN: _____ Employer's Name: Town of Bowman
Address: PO Box 575
City: Springfield State: SC Zip: 29146 Address: 131 Poplar Street
Home Phone: () - Work Phone: () - City: Bowman State: SC Zip: 29018
Date of Injury: Alleged 2/27/15 Insurance Carrier: State Accident Fund
Preparer's Name: Clarke W. McCants, III Law Firm: Nance, McCants & Massey Preparer's Phone #: 803-649-6900

Date of Injury or Illness: Alleged 2/27/15

Complete each information blank. Clearly specify when contentions are admitted in part and denied in part. The Employer/Carrier in answer to the claim, respectfully shows:

1. It is ☐ Admitted ☒ Denied the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are: Defendant is without sufficient information and knowledge at the present time to admit or deny whether Claimant sustained compensable injury on or about the date alleged.
2. It is ☐ Admitted ☒ Denied both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: See Paragraph 1 above.
3. It is ☐ Admitted ☒ Denied the relationship of employer and employee existed at the time in question. The reasons for denial are: See Paragraph 1 above.
4. It is ☐ Admitted ☒ Denied at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are: See Paragraph 1 above.
5. It is ☐ Admitted ☒ Denied notice of injury was given the employer. The reasons for denial are: See Paragraph 1 above.
6. It is ☐ Admitted ☒ Denied the employee ☒ Needs ☐ Is Entitled to Additional medical care as a result of injury or illness. The reasons for denial are:
7. It is ☐ Admitted ☒ Denied the employee is entitled to temporary total disability for the period(s) of: See Paragraph 1 above.
8. It is ☐ Admitted ☒ Denied the employee is permanently disabled. The reasons for denial are: See Paragraph 1 above.
9. It is ☐ Admitted ☒ Denied the employee has serious disfigurement.
10. It is contended that an average weekly wage of **By Form 20** applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are: None at the present time; this Defendant reserves the right to amend its Form 51 in this matter.

☐ **Mediation**

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐ b. Mediation is required pursuant to Reg. 67-1802.
- ☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- ☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I verify the contents of this form are accurate and true to the best of my knowledge.

Clarke W. McCants III
Preparer's Signature

Attorney for Defendants
Title

mccants3rd@aol.com
Email

11/17/15
Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Refer to R. 67-1801 for mediation. Questions about the use of this form may be directed to the Commission's Judicial Department at 803-737-5675 or judicial@wcc.sc.gov or mediation@wcc.sc.gov. Pursuant to R.67-606, a Form 20 must be filed with the Claimant's Department at least 30 days from the date of filing this form.

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500

P.O. BOX 1715

Columbia, SC 29202-1715

(803) 737-5739

www.wcc.sc.gov**PRE-HEARING BRIEF****WCC File No:**

<<Matter.CustomField.WCC#>>

Claimant's Name: James Thorpe, Jr.Employer's Name: Town of BowmanAddress: Post Office Box 575Address: 131 Poplar StreetCity: Springfield State: SC Zip: 29146City: Bowman State: SC Zip: 29018

Home Phone: () - Work Phone: () -

Carrier: State Accident FundPreparer's Name: R. Michael Johnson, Jr.Preparer's Phone #: 803-547-2800**A claim for workers' compensation benefits is made based on the following grounds:**☒ Injury ☐ Illness ☐ Repetitive Trauma1. Compensation Rate: TBD 2. AWW: TBD Date of Injury: 02/27/20153. Type of injury and body part(s): Injury by accident; left hand4. Facts in controversy: See attached.5. Legal issues involved: See attached.6. Unusual aspects: See attached.7. Witnesses (designate if expert):* Claimant; any witnesses listed by the Defendants, and other lay witnesses to be named.8. Exhibits: Exhibit A: Claimant's Personnel File; Exhibit B: Pictures of Claimant's hand; Exhibit C: Depositions of Steven Thompson, Mario, Fonseca, and Kevin Pendaris9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
See APA submissions.10. Name, address, and specialty, if any, of the treating physician: The Regional Medical Center, Orangeburg, SC; SC Orthopaedic Institute, Orangeburg, SC

11. Impairment rating(s); body part(s); physician and date of opinion:

12. I am amending my Form 50/51 in the following manner:

☐ **Mediation** ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.☐ b. Mediation is required pursuant to Reg. 67-1802.☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.Questions regarding mediation may be submitted to mediation@wcc.sc.gov.**I verify the contents of this form are accurate and true to the best of my knowledge.****I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to * SEE ATTACHED CERTIFICATE OF SERVICE ***address on the day of 20 by; ☐ first class postage ☐ certified mail ☐ personal service.Signature: Email: MJohnson@JohnsonSCLaw.comDate of hearing: February 3, 2016Time needed for hearing: 45 minutes

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67-1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

WCC Form # 58

Revised 7/13

58**PRE-HEARING BRIEF****024**

Attachment to Form 58
James Thorpe, Jr. v. Town of Bowman
WCC File No. 1503413

4. Facts in controversy:

- (1) Whether the Claimant is an employee of the employer on the date of accident;
- (2) Whether the Claimant sustained injury by accident arising out of and in the course of his employment to his left hand. On February 27, 2015, the Claimant let his K-9 unit dog in to the backyard to exercise. The dog ran to the next yard and as the Claimant commanded the dog to sit the dog bit the claimant's left hand/arm causing immediate injuries;
- (3) Whether Claimant gave Notice of the accident pursuant to the Act. The Claimant gave verbal notice to Kevin Pendaris, on February 27, 2015;
- (4) Whether the Claimant is entitled to medical care to lessen his period of disability.

5. Legal issues involved:

- (1) Definition of employee pursuant to S.C. Code Ann. § 42-1-130;
- (2) Definition of repetitive trauma injury pursuant to S.C. Code Ann § 42-1-172;
- (3) Notice to Employer of accident pursuant to S.C. Code Ann §42-15-20;
- (4) Claimant's entitlement to medical care pursuant to S.C. Code Ann. § 42-15-60.

6. Unusual aspects:

To date no form 20 has been filed. The Claimant seeks fines and penalties against the Carrier pursuant to Reg. 67-1603. The Claimant, by and through undersigned counsel, requests Commissioner James to leave the record open to allow for the Claimant to submit deposition transcripts from the depositions of Kevin Pendaris, Marion Fonseca, and Steven Thompson.

Respectfully submitted,



R. Michael Johnson, Jr.
Attorney for the Claimant

January 19, 2016

STATE OF SOUTH CAROLINA)

COUNTY OF ORANGEBURG)

James Thorpe, Jr.,)

Employee-Claimant,)

v.)

Town of Bowman,)

as Employer-Defendant)

and)

State Accident Fund,)

as Carrier-Defendant.)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1503413

**NOTICE OF WITNESSES AND
WRITTEN REPORT(S)/PHYSICIAN
OR OTHER EVIDENCE TO BE
INTRODUCED ON BEHALF OF
CLAIMANT JAMES THORPE, JR.**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION and
Clarke W. McCants, III, Esquire, ATTORNEY FOR THE DEFENDANTS.

YOU ARE HEREBY NOTIFIED THAT THE Claimant, James Thorpe, Jr. pursuant to the provisions of the South Carolina Workers' Compensation Act and South Carolina Code §1-23-330 (1976, as amended), herewith submits the following reports/physician or other evidence on behalf of the Claimant, to wit:

1. The Regional Medical Center	2/27/15-4/14/15	Pages 1-9
2. David Ajibade, MD, South Carolina Orthopaedic Institute	3/1/15-4/24/15	Pages 10-24
Exhibit A: Claimant's Personnel File		Pages 25-64
Exhibit B: Picture of Claimant's Hand		Pages 65-73

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the deposition(s) of any of the physicians or other person(s), whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred herein, or photocopies received from said physicians/others, are being herewith forwarded to the South Carolina Workers' Compensation Commission for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the Claimant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Claimant: Claimant, Steven Thompson, Mario Fonseca, Kevin Pendaris and any witness listed by the Defendants, and other lay witnesses to be named.

Respectfully submitted,



R. Michael Johnson, Jr.
Michael Johnson, P.C. & Associates
1201 Carolina Place, Suite 103
Fort Mill, South Carolina 29708
MJohnson@johnsonsclaw.com

January 19, 2016

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)
BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1503413

James Thorpe, Jr.,)
Employee-Claimant,)
v.)
Town of Bowman,)
as Employer-Defendant)
and)
State Accident Fund,)
as Carrier-Defendant.)

APA Submissions

Hearing Date: February 3, 2016

Pursuant to South Carolina Code § 1-23-330 and Commission Rule 67-612, the Attorney for the Claimant, submits the following report(s) in support of and on behalf of the Claimant in this matter.

1. The Regional Medical Center	2/27/15-4/14/15	Pages 1-9
2. David Ajibade, MD, South Carolina Orthopaedic Institute	3/1/15-4/24/15	Pages 10-24
Exhibit A: Claimant's Personnel File		Pages 25-64
Exhibit B: Picture of Claimant's Hand		Pages 65-73

XR Finger 4th Digit Left

Thorpe Jr, James Francis - 0000159954

* Final Report *

*** Final Report ***

Reason For Exam

Trauma

FINAL REPORT

PROCEDURE: PA, lateral, and oblique views of the left fourth finger

COMPARISON: None

CLINICAL HISTORY: Dog bite

FINDINGS:

There is a comminuted displaced fracture of the fourth proximal phalanx with soft tissue swelling and subcutaneous emphysema. No definite intra-articular extension of the fracture is seen. No radiopaque foreign body noted.

IMPRESSION: Comminuted displaced fourth proximal phalangeal fracture with soft tissue swelling and subcutaneous gas noted.

Signature Line

***** Final Report *****

Dictated by: Morgan, Gerard E
02/27/2015 10:03 am

Signed by: Morgan, Gerard E
02/27/2015 10:04 am

Transcribed by: Morgan, Gerard E

Completed Action List:

- * Order by Coleman MD, Thomas H , MD on 27 February 2015 09:09 EST
- * Perform by Ulmer RT(R), Mary on 27 February 2015 09:46 EST
- * VERIFY by Morgan, Gerard E on 27 February 2015 10:04 EST
- * Endorse by Coleman MD, Thomas H , MD on 27 February 2015 23:51 EST

Result type: XR Finger 4th Digit Left
Result date: 27 February 2015 09:46 EST
Result status: Auth (Verified)
Result title: XR Finger 4th Digit Left
Performed by: Morgan, Gerard E on 27 February 2015 10:03 EST
Verified by: Morgan, Gerard E on 27 February 2015 10:04 EST
Encounter info: 1001346235, RMC, Ambulatory Surgery, 02/27/2015 - 02/27/2015

Printed by: Robinson, Jaleesa K
Printed on: 08/12/2015 09:23 EDT

Page 1 of 1
(End of Report)



ED Note-Physician

Thorpe Jr, James Francis - 0000159954

* Final Report *

* Final Report *

Finger pain-swelling

Patient: Thorpe JR, James Francis MRN: 0000159954 FIN: 1001346235
Age: 37 years Sex: Male DOB: [REDACTED]
Associated Diagnoses: None
Author: Coleman MD, Thomas H, MD

Basic Information

Time seen: Date & time 02/27/2015 08:50:00.

History source: Patient

Arrival mode: Private vehicle.

History limitation: None.

Additional Information: Chief Complaint from Nursing Triage Note : ED Chief Complaint

02/27/2015 08:37 EST ED Chief Complaint Other: PT WAS BITTEN BY HIS OWN DOG. PT IS UNSURE OF RABIES STATUS BECAUSE HE JUST GOT THE DOG

History of Present Illness

37 y/o M presents for evaluation of dog bite to the Lt 4th finger and hand that occurred just pta. Pt is police officer on the K9 unit and one of the new dogs bit his hand this morning. Pt now w/ severe pain to the Lt 4th finger that is worse w/ attempted motion and no significant alleviating factors. Pt states he is unable to extend his finger. Denies any numbness of the hand or fingers. Pt has not taken anything for his pain. Pt states he has had severe bradycardia in response to morphine in the past. Pt denies any other injuries. He does not recall when he had his last tetanus.

Review of Systems

Additional review of systems information: All other systems reviewed and otherwise negative; All systems reviewed as documented in chart

Health Status

Allergies:

Allergic Reactions (Selected)

Severity Not Documented

Levaquin- No reactions were documented.

Medications: Per nurse's notes.

Immunizations: Per nurse's notes.

Past Medical/ Family/ Social History

Medical history:

Active

Gout (274.9)

Resolved

Hypertension (64176011): Resolved.

Acute sinusitis (26785019): Resolved.

Surgical history:

Result type: ED Note-Physician
Result date: 27 February 2015 10:20 EST
Result status: Auth (Verified)
Result title: Finger pain-swelling
Performed by: Coleman MD, Thomas H, MD on 27 February 2015 10:33 EST
Verified by: Coleman MD, Thomas H, MD on 27 February 2015 23:45 EST
Encounter info: 1001346235, RMC, Ambulatory Surgery, 02/27/2015 - 02/27/2015

Printed by: Robinson, Jaleesa K
Printed on: 08/12/2015 09:23 EDT

Page 1 of 6
(Continued)



ED Note-Physician

Thorpe Jr, James Francis - 0000159954

* Final Report *

Tonsillectomy, primary or secondary, younger than age 12 (42825).

Family history:

No family history items have been selected or recorded.

Social history:

Social & Psychosocial Habits

Alcohol

10/31/2011 Risk Assessment: Low Risk

Tobacco

10/31/2011 Risk Assessment: Medium Risk

11/05/2011 Use: Current every day smoker

Type: Cigarettes

Tobacco use per day: 21

CAVEAT: Chart reviewed for social history, past surgical history, past medical history, family history, medicines/allergies, and prior records. I agree with nursing documentation except as otherwise specified.

Physical Examination

Vital Signs

Vital Signs.

02/27/2015 08:37 EST

Temperature Oral	36.8 DegC
Peripheral Pulse Rate	67 bpm
Respiratory Rate	16 br/min
Systolic Blood Pressure	121 mmHg
Diastolic Blood Pressure	67 mmHg

Measurements.

02/27/2015 08:37 EST

Height/Length Dosing	180 cm
Weight Dosing	105 kg
Body Mass Index Dosing	32 kg/m2

Basic Oxygen Information.

02/27/2015 08:37 EST

Oxygen Therapy	Room air
SpO2	98 %

General: Alert, mild distress.

Skin: Warm, dry, There are puncture wounds of the Medial aspect of the Lt 4th finger w/ an assoc macerated appearing laceration. There is a puncture wound over the 3 MCP joint.

Head: Normocephalic, atraumatic.

Neck: Trachea midline, no tenderness.

Eye: Extraocular movements are intact, normal conjunctiva.

Ears, nose, mouth and throat: Oral mucosa moist, no pharyngeal erythema or exudate.

Cardiovascular: Regular rate and rhythm, No murmur.

Result type:

ED Note-Physician

Result date:

27 February 2015 10:20 EST

Result status:

Auth (Verified)

Result title:

Finger pain-swelling

Performed by:

Coleman MD, Thomas H, MD on 27 February 2015 10:33 EST

Verified by:

Coleman MD, Thomas H, MD on 27 February 2015 23:45 EST

Encounter info:

1001346235, RMC, Ambulatory Surgery, 02/27/2015 - 02/27/2015

Printed by:

Robinson, Jaleesa K

Printed on:

08/12/2015 09:23 EDT

Page 2 of 6
(Continued)



ED Note-Physician

Thorpe Jr, James Francis - 0000159954

* Final Report *

Blood Urea Nitrogen	13 mg/dL
Sodium Level	139 mmol/L
Potassium Level	4.3 mmol/L
Chloride	104 mmol/L
Carbon Dioxide Level	25 mmol/L
Anion Gap	14.3 mmol/L
Creatinine	1.0 mg/dL
BUN/Creatinine Ratio	13.0 ratio
Estimated Glomerular Filtration Rate	>60
mL/min/1.73 m2	NA
Est Glom Filtration Rate, African Americ	>60
mL/min/1.73 m2	NA
GFR Comment	See comment
Calcium Level Total	9.5 mg/dL

Hand/finger x-ray findings:

* Final Report *

Reason For Exam

Trauma

FINAL REPORT

PROCEDURE: PA, lateral, and oblique views of the left fourth finger

COMPARISON: None

CLINICAL HISTORY: Dog bite

FINDINGS:

There is a comminuted displaced fracture of the fourth proximal phalanx with soft tissue swelling and subcutaneous emphysema. No definite intra-articular extension of the fracture is seen. No radiopaque foreign body noted.

IMPRESSION: Comminuted displaced fourth proximal phalangeal fracture with soft tissue swelling and subcutaneous gas noted.

Signature Line

***** Final Report *****

Dictated by: Morgan, Gerard E
02/27/2015 10:03 am

Result type:	ED Note-Physician
Result date:	27 February 2015 10:20 EST
Result status:	Auth (Verified)
Result title:	Finger pain-swelling
Performed by:	Coleman MD, Thomas H, MD on 27 February 2015 10:33 EST
Verified by:	Coleman MD, Thomas H, MD on 27 February 2015 23:45 EST
Encounter info:	1001346235, RMC, Ambulatory Surgery, 02/27/2015 - 02/27/2015

Printed by: Robinson, Jaleesa K
Printed on: 08/12/2015 09:23 EDT

Page 4 of 6
(Continued)



ED Note-Physician

Thorpe Jr, James Francis - 0000159954

* Final Report *

Signed by: Morgan, Gerard E
02/27/2015 10:04 am
Transcribed by: Morgan, Gerard E

Result type: XR Finger 4th Digit Left
Result date: 27 February 2015 09:46 EST
Result status: Auth (Verified)
Result title: XR Finger 4th Digit Left
Performed by: Morgan, Gerard E on 27 February 2015 10:03 EST
Verified by: Morgan, Gerard E on 27 February 2015 10:04 EST
Encounter info: 1001346235, RMC, Emergency, 02/27/2015 -

Reexamination/ Reevaluation
Course: improving.
Pain status: decreased.

Procedure

Foreign body removal

Procedure notes:

Ring removed from the Lt 4th finger using string w/o complication. Digital block w/ 1% lidocaine prior to ring removal. No complications

Impression and Plan

Diagnosis

Closed fracture of the proximal phalanx of finger 816.01 -
Laceration of the finger with tendon involvement 883.2 -
Dog bite of finger -

Calls-Consults

- 02/27/2015 09:13:00 , Jones, Brandi M, consult, discussed pt. Dr. Jones to see pt.
- 02/27/2015 09:20:00 , Ajibade MD, David Adewole, consult, discussed pt. Dr. Ajibade to see pt.

Plan

Disposition: Admit Time 02/27/2015 09:20:00, Ajibade MD, David Adewole, Reason for delay: wait pending OR availability.

Notes: *This document serves as a record of the services and decisions personally performed and made by Thomas Coleman MD. It was created on his behalf by Weslynn Adderson, a trained medical scribe. The creation of this document is based the provider's statements to the medical scribe."*

Result type: ED Note-Physician
Result date: 27 February 2015 10:20 EST
Result status: Auth (Verified)
Result title: Finger pain-swelling
Performed by: Coleman MD, Thomas H, MD on 27 February 2015 10:33 EST
Verified by: Coleman MD, Thomas H, MD on 27 February 2015 23:45 EST
Encounter info: 1001346235, RMC, Ambulatory Surgery, 02/27/2015 - 02/27/2015

Printed by: Robinson, Jaleesa K
Printed on: 08/12/2015 09:23 EDT

Page 5 of 6
(Continued)



History and Physical

Thorpe Jr, James Francis - 0000159954

* Final Report *

* Final Report * Document Has Been Updated

Dog Bite

Patient: Thorpe JR, James Francis MRN: 0000159954 FIN: 1001346235
Age: 37 years Sex: Male DOB:
Associated Diagnoses: None
Author: Jones PA, Brandi L, PA

History of Present Illness

The patient is a 37 year old white male who presented to TRMC ER after sustaining a dog bite injury to his left hand. Following removal of a wedding band on the injured digit, radiographs were obtained, revealing a displaced proximal phalanx fracture of the left fourth digit. The Orthopedic Service was called for definitive care. Upon consultation, the patient states he's a law enforcement officer and was letting his, newly assigned, K9 out when the dog became startled and bit his hand. He states he immediately placed the dog in a "hold" until he was able to free his hand from his mouth. He wrapped the hand in a towel and present to the ER. He states he has been diagnosed with Gout, HTN, and "cholesterol issues" but doesn't take any medications. He is married and has been on the force for 14+ years. He denies any other injuries. He also states that morphine causes him to have significant bradycardia.

Review of Systems

See HPI

Constitutional: Negative except as documented in history of present illness.

Respiratory: No shortness of breath, No cough.

Cardiovascular: No chest pain.

Health Status

Allergies:

Allergic Reactions (Selected)

Severity Not Documented

Levaquin- No reactions were documented.

Current medications.

Histories

Past Medical History:

Active

Gout (274.9)

Resolved

Hypertension (64176011): Resolved.

Acute sinusitis (26785019): Resolved.

Procedure history:

Tonsillectomy, primary or secondary; younger than age 12 (42825).

Social History

Social & Psychosocial Habits

Alcohol

Result type:	History and Physical.
Result date:	27 February 2015 11:23 EST
Result status:	Modified
Result title:	Dog Bite
Performed by:	Jones PA, Brandi L, PA on 27 February 2015 12:23 EST
Verified by:	Jones PA, Brandi L, PA on 27 February 2015 12:23 EST
Encounter info:	1001346235, RMC, Ambulatory Surgery, 02/27/2015 - 02/27/2015

Printed by: Robinson, Jaleesa K
Printed on: 08/12/2015 09:23 EDT

Page 1 of 3
(Continued)



History and Physical

Thorpe Jr, James Francis - 0000159954

* Final Report *

10/31/2011 Risk Assessment: Low Risk

Tobacco

10/31/2011 Risk Assessment: Medium Risk

11/05/2011 Use: Current every day smoker

Type: Cigarettes

Tobacco use per day: 21

Physical Examination

VS/Measurements

Vital Signs

02/27/2015 08:37 EST

Temperature Oral	36.8 DegC
Peripheral Pulse Rate	67 bpm
Respiratory Rate	16 br/min
Systolic Blood Pressure	121 mmHg
Diastolic Blood Pressure	67 mmHg

General: Alert and oriented, No acute distress, Lying on stretcher, appearing quite calm and comfortable..

Eye: Extraocular movements are intact.

HENT: Normocephalic, Normal hearing.

Neck: Non-tender.

Respiratory: Respirations are non-labored.

Cardiovascular: Normal rate, Regular rhythm.

Gastrointestinal: Non-tender.

Musculoskeletal

Upper extremity exam: Remarkable for left hand, which is resting on the table with active oozing emanating from the 4th digit volarly. Digit is resting in a flexed slightly rotated position at the the PIP joint. Puncture wounds noted along medial and ulnar sides of the 4th digit and the dorsum metacarpal head of the 3rd. All digits move freely and w/o sensational changes except for the 4th. He demonstrates flexion at the MCP joint. No active extension but passive correction can be obtained. Parasthesias along distal end. Brisk cap refill of all 5 digits..

Lower extremity exam: Bilateral LEs move freely w/o discomfort.

Review / Management

Radiology results

X-ray (Reading Per Radiology: Comminuted displaced fourth proximal phalangeal fracture with soft tissue swelling and subcutaneous gas noted.)

Impression and Plan

37 year old white male with multiple wounds to the left hand and a proximal phalanx fracture of the fourth digit following a dogbite injury. The case has been discussed with Dr. Ajibade who has seen and evaluated the patient independently as well. The significance of his injuries have been discussed with the patient and his wife, pointing out significant concern for infection due to the nature of the injury. Patient has been counseled on the need to undergo a formal I&D with wound exploration and possible fixation of the fracture.

Result type:	History and Physical
Result date:	27 February 2015 11:23 EST
Result status:	Modified
Result title:	Dog Bite
Performed by:	Jones PA, Brandi L, PA on 27 February 2015 12:23 EST
Verified by:	Jones PA, Brandi L, PA on 27 February 2015 12:23 EST
Encounter info:	1001346235, RMC, Ambulatory Surgery, 02/27/2015 - 02/27/2015

Printed by: Robinson, Jaleesa K
Printed on: 08/12/2015 09:23 EDT

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(Continued)



Operative Report

Thorpe Jr, James Francis - 0000159954

* Final Report *

* Final Report *

Operative Note

Patient: Thorpe Jr, James Francis
Age: 37 years Sex: Male DOB:
Associated Diagnoses: None
Author: Ajibade MD, David Adewole

MRN: 0000159954

FIN: 1001372067

Preoperative Diagnosis: LEFT ring finger retained hardware, proximal phalanx fracture
Postoperative Diagnosis: LEFT ring finger retained hardware, proximal phalanx fracture
Procedure: LEFT ring finger hardware removal, manipulation under anesthesia, fluoroscopic examination under anesthesia
Explants: 2 Kirschner wires removed
Surgeon: Ajibade, David MD
Anesthesia: General
Tourniquet time: 0 minutes
Antibiotics: Cefazolin
Estimated Blood Loss: 0.5 cc
Specimen: None
Complications: None
Condition: Stable in PACU

INDICATIONS FOR PROCEDURE: The patient is a 37-year-old male who injured his LEFT hand and sustained a proximal phalanx fracture and wounds from a dog bite on 2/20/15. He was taken to the operating room on the day of injury and underwent percutaneous pinning and irrigation with debridement. The history, physical exam, and imaging findings were consistent with LEFT ring finger retained hardware, proximal phalanx fracture. The risks, benefits, complications and alternatives of the procedure were discussed with the patient and family at length. The risks include but are not limited to infection, bleeding, damage to neurovascular structures, failure to heal, loss of motion, inability to return to activities at the same level, risk of anesthesia, blood clots, and swelling. The patient expressed understanding of the risks and benefits and wished to proceed with LEFT ring finger hardware removal, manipulation under anesthesia and fluoroscopic examination under anesthesia. The patient has ALLERGIES to Levaquin and morphine which was confirmed preoperatively.

PROCEDURE IN DETAIL:

The patient's LEFT upper extremity was identified, confirmed by the patient and family and marked with an indelible marker. The patient was taken to the operating room and placed under general anesthesia in the supine position. A time-out was performed confirming the correct patient, procedure, extremity, and equipment present in the room. Prophylactic Cefazolin was administered prior to the skin incision. A digital block was performed with 0.25% Marcaine plain. The operative extremity was prepped and draped in the usual sterile fashion. 2 Kirschner wires were removed utilizing orthopaedic pliers. Manipulation was performed to release adhesions until the hand was able to be flattened on the table and the patient was able to passively make a complete fist. Fluoroscopic examination showed abundant callus formation but some mobility at the fracture site. Sterile dressings were placed in the usual fashion. I was present for and performed the entire procedure. All instrument, sponge and needle counts were found to be correct prior to skin closure. Early ambulation will be utilized postoperatively for deep venous thrombosis prophylaxis.

Result type:	Operative Report
Result date:	14 April 2015 11:50 EDT
Result status:	Auth (Verified)
Result title:	Operative Note
Performed by:	Ajibade MD, David Adewole on 14 April 2015 12:37 EDT
Verified by:	Ajibade MD, David Adewole on 14 April 2015 15:21 EDT
Encounter info:	1001372067, RMC, Ambulatory Surgery, 04/14/2015 - 04/14/2015

Printed by: Robinson, Jaleesa K
Printed on: 08/12/2015 09:24 EDT

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(Continued)



Operative Report

Thorpe Jr, James Francis - 0000159954

* Final Report *

Completed Action List:

- * Perform by Ajibade MD, David Adewole on 14 April 2015 12:37 EDT
- * Modify by Ajibade MD, David Adewole on 14 April 2015 15:21 EDT
- * Sign by Ajibade MD, David Adewole on 14 April 2015 15:21 EDT
- * VERIFY by Ajibade MD, David Adewole on 14 April 2015 15:21 EDT

Result type: Operative Report
Result date: 14 April 2015 11:50 EDT
Result status: Auth (Verified)
Result title: Operative Note
Performed by: Ajibade MD, David Adewole on 14 April 2015 12:37 EDT
Verified by: Ajibade MD, David Adewole on 14 April 2015 15:21 EDT
Encounter info: 1001372067, RMC, Ambulatory Surgery, 04/14/2015 - 04/14/2015

Printed by: Robinson, Jaleesa K
Printed on: 08/12/2015 09:24 EDT

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(End of Report)



Operative Report

Thorpe Jr, James Francis - 0000159954

* Final Report *

Result type: Operative Report
Result date: 27 February 2015 22:50 EST
Result status: Auth (Verified)
Result title: Operative Note
Performed by: Ajibade MD, David Adewole on 01 March 2015 11:59 EST
Verified by: Ajibade MD, David Adewole on 01 March 2015 11:59 EST
Encounter Info: 1001346235, RMC, Ambulatory Surgery, 02/27/2015 - 02/27/2015

* Final Report *

Operative Note

Patient: Thorpe JR, James Francis MRN: 0000159954 FIN: 1001346235
Age: 37 years Sex: Male DOB:
Associated Diagnoses: None
Author: Ajibade MD, David Adewole

Preoperative Diagnosis: Left Hand Dog Bite Wounds, Ring Finger Proximal Phalanx Fracture
Postoperative Diagnosis: Left Hand Dog Bite Wounds, Ring Finger Proximal Phalanx Fracture
Procedure: Left Hand Irrigation and Debridement, Left Ring Finger Proximal Phalanx Percutaneous Pinning
Implants: 0.045" K-wires x 2
Surgeon: Ajibade, David MD
Anesthesia: General, Local
Tourniquet time: 8 minutes
Antibiotics: Clindamycin
Estimated Blood Loss: 1 cc
Specimen: None
Complications: None
Condition: Stable in PACU

INDICATIONS FOR PROCEDURE: The patient is a 37-year-old male that suffered a bite to the LEFT hand from a canine in the K-9 unit. The history, physical exam, and imaging findings were consistent with **LEFT hand dogbite wounds and open ring finger proximal phalanx fracture**. The risks, benefits, complications and alternatives of the procedure were discussed with the patient and family at length. The risks include but are not limited to infection, bleeding, damage to neurovascular structures, failure to heal, loss of motion, inability to return to activities at the same level, risk of anesthesia, blood clots, and swelling. The patient expressed understanding of the risks and benefits and wished to proceed with **LEFT hand irrigation and debridement with percutaneous pinning of the LEFT ring proximal phalanx**. The patient has an **ALLERGY** to Levaquin which was confirmed preoperatively.

PROCEDURE IN DETAIL:

The patient's operative extremity was identified, confirmed by the patient and family and marked with an indelible marker. The patient was taken to the operating room and placed under general anesthesia in the supine position. A time-out was performed confirming the correct patient, procedure, extremity, and equipment present in the room. Prophylactic Clindamycin was administered prior to the skin incision. The operative extremity was prepped and draped in the usual sterile fashion. The LEFT upper extremity was exsanguinated with an Esmarch bandage and the tourniquet was inflated to 250 mm Hg for total of 8 minutes. The patient's wounds over the proximal

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Printed on: 07/30/2015 10:28 EDT

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Operative Report

Thorpe Jr, James Francis - 0000159954

* Final Report *

portion of the ring finger and over the long finger metacarpophalangeal joint were irrigated copiously with normal saline and bacitracin. The tourniquet was deflated and hemostasis was achieved. A closed reduction was performed and 2 Kirschner wires were placed into the proximal phalanx and across the fracture into the metacarpal head. The mini image intensifier was utilized during the procedure to confirm appropriate wire placement. 0.5% Marcaine with epinephrine was injected for local anesthesia and a digital block for postoperative pain control. A sterile nonadherent dressings and a short arm splint were placed in the usual fashion, I was present for and performed the entire procedure. All instrument sponge and needle counts were found to be correct prior to skin closure. Early ambulation will be utilized postoperatively for deep venous thrombosis prophylaxis. The patient will be weightbearing for the elbow.

Completed Action List:

- * Perform by Ajibade MD, David Adewole on 01 March 2015 11:59 EST
- * Sign by Ajibade MD, David Adewole on 01 March 2015 11:59 EST
- * VERIFY by Ajibade MD, David Adewole on 01 March 2015 11:59 EST

Printed by: Williams, Cynthia R
Printed on: 07/30/2015 10:28 EDT

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Orthopedic Office/Clinic Note

Thorpe Jr, James Francis - 0000159954

* Final Report *

Result type: Orthopedic Office/Clinic Note
 Result date: 04 March 2015 18:36 EST
 Result status: Auth (Verified)
 Result title: Postoperative Orthopedic Clinic Visit
 Performed by: Ajibade MD, David Adewole on 04 March 2015 18:48 EST
 Verified by: Ajibade MD, David Adewole on 04 March 2015 18:48 EST
 Encounter info: 1001347688, SCOI, Clinic Outpatient, 03/04/2015 - 03/04/2015

* Final Report *

Postoperative Orthopedic Clinic Visit

Patient: Thorpe JR, James Francis MRN: 0000159954 FIN: 1001347688
 Age: 37 years Sex: Male DOB:
 Associated Diagnoses: None
 Author: Ajibade MD, David Adewole

Visit Information

Visit type: Scheduled follow-up.
 Source of history: Self.

Chief Complaint

03/04/2015 15:53 EST Pt here for a f/u on Lt hand dog bite (workmans comp. pending)/I&D with Lt hand w/percutaneous pinning of the Lt ring finger on 2/27/15--5 days out. Splint remains intact, pt requesting a refill on Percocet. Accompanied by his wife.

History of Present Illness

Status post LEFT hand irrigation and debridement and percutaneous pinning of the ring finger. Denies any paresthesias. No fevers or chills.

Review of Systems

Constitutional: No fever, No chills.

Health Status

Allergies:
Allergies (2) Active Reaction
 Levaquin Facial swelling
 morphine Bradycardia

Current medications:

Home Medications (6) Active

acetaminophen-oxyCODONE 325 mg-5 mg oral tablet See Instructions, PRN
 Augmentin 875 mg oral tablet 1 tab, Oral, q12hr Interval
 clindamycin 300 mg oral capsule 300 mg = 1 cap, Oral, q6hr Interval
 Misc Prescription
 Ultram 50 mg oral tablet 50 mg = 1 tab, PRN, Oral, q6hr Interval
 Voltaren Topical 1% topical gel 1 application, PRN, Topical, QID

Physical Examination

VS/Measurements

Measurements from flowsheet: Measurements
 03/04/2015 15:53 EST Height/Length Measured 180.3 cm

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* Final Report *

Height/Length Dosing	180 cm
Weight Measured	104.78 kg
Weight Dosing	104.78 kg
BSA Measured	2.29 m2
Body Mass Index Measured	32.23 kg/m2

LEFT hand exam: Wounds are clean and healing with no drainage. Pin sites are clean dry and intact. No distal neurovascular deficits.

Impression and Plan**Diagnosis**

Postoperative orthopedic surgical visit.

Plan: Follow-up: In 7 days.**Patient Instructions:** Limitations: No lifting with affected extremity.**Orders****Orders (Selected).**Outpatient OrdersOrdered

Follow Up Appointment Req:

Occupational Therapy/Physical Therapy Eval Req:

Completed

Post Op/ Follow Up Fracture:

PrescriptionsPrescribed

Ultram 50 mg oral tablet: 50 mg, 1 tab, Oral, q6hr Interval, 30 tab, PRN: for pain

Voltaren Topical 1% topical gel: 1 application, Topical, QID, 100 gram, PRN: for pain

Completed Action List:

- * Perform by Ajibade MD, David Adewole on 04 March 2015 18:48 EST
- * Sign by Ajibade MD, David Adewole on 04 March 2015 18:48 EST
- * VERIFY by Ajibade MD, David Adewole on 04 March 2015 18:48 EST

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041

Orthopedic Office/Clinic Note

Thorpe Jr, James Francis - 0000159954

* Final Report *

Result type: Orthopedic Office/Clinic Note
 Result date: 11 March 2015 14:23 EDT
 Result status: Modified
 Result title: Postoperative Orthopedic Clinic Visit
 Performed by: Ajibade MD, David Adewole on 11 March 2015 14:25 EDT
 Verified by: Ajibade MD, David Adewole on 11 March 2015 14:25 EDT
 Encounter info: 1001351722, SCOI, Clinic Outpatient, 03/11/2015 - 03/11/2015

* Final Report *

Document Has Been Updated

Postoperative Orthopedic Clinic Visit

Patient: Thorpe Jr, James Francis MRN: 0000159954 FIN: 1001351722
 Age: 37 years Sex: Male DOB:
 Associated Diagnoses: None
 Author: Ajibade MD, David Adewole

Chief Complaint

03/11/2015 13:22 EDT - fu left ring finger pinning and I & D. DOS: 2/27/2015. doing well. states he has some sharp pains in small finger at times. still wearing splint and doing dally dressing changes. right handed.

History of Present Illness

Status post LEFT hand irrigation and debridement and percutaneous pinning of the ring finger. No pain currently.

Physical Examination

VS/Measurements

Measurements from flowsheet: Measurements

03/11/2015 13:22 EDT

Height/Length Measured	180.3 cm
Height/Length Dosing	180 cm
Weight Measured	105 kg
Weight Dosing	105 kg
BSA Measured	2.29 m2
Body Mass Index Measured	32.3 kg/m2

LEFT hand exam: All wounds are healed except for a volar wound on proximal phalanx. Pin sites clean and dry. No distal neurovascular deficits.

Review / Management

Radiology results

X-ray

No interval change in hardware

Impression and Plan

Diagnosis

Postoperative orthopedic surgical visit.

Diagnosis

Dog bite of finger.

Plan: Follow-up: In 2 weeks.

Patient Instructions: Limitations: No lifting with affected extremity.

Orders

Orders (Selected).

Outpatient Orders

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Orthopedic Office/Clinic Note

Thorpe Jr, James Francis - 0000159954

* Final Report *

Ordered

Follow Up Appointment Req:

Completed

Hand Lt 3v. POC:

Post Op/ Follow Up Fracture:

New films at next visit

We will schedule pin removal and examination under anesthesia at next visit, 6 weeks postop

Completed Action List:

- * Perform by Ajibade MD, David Adewole on 11 March 2015 14:25 EDT
- * Sign by Ajibade MD, David Adewole on 11 March 2015 14:25 EDT
- * VERIFY by Ajibade MD, David Adewole on 11 March 2015 14:25 EDT
- * Modify by Ajibade MD, David Adewole on 11 March 2015 16:58 EDT
- * Sign by Ajibade MD, David Adewole on 11 March 2015 16:58 EDT

Printed by: Williams, Cynthia R
Printed on: 07/30/2015 10:28 EDT

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(End of Report)

04:

History and Physical

Thorpe Jr, James Francis - 0000159954

* Final Report *

Result type: History and Physical
Result date: 25 March 2015 19:58 EDT
Result status: Auth (Verified)
Result title: LEFT Hand Hardware Removal
Performed by: Ajibade MD, David Adewole on 25 March 2015 20:07 EDT
Verified by: Ajibade MD, David Adewole on 25 March 2015 20:07 EDT
Encounter info: 1001358295, SCOI, Clinic Outpatient, 03/25/2015 - 03/25/2015

* Final Report *

LEFT Hand Hardware Removal

Patient: Thorpe Jr, James Francis MRN: 0000159954 FIN: 1001358295
Age: 37 years Sex: Male DOB:
Associated Diagnoses: None
Author: Ajibade MD, David Adewole

Visit Information

Visit type: Scheduled follow-up.
Accompanied by: No one.
Source of history: Self.
History limitation: None.

Chief Complaint

03/25/2015 10:00 EDT FU L ring finger pinning and I&D, DOS 2/20/15, denies any pain

History of Present Illness

Patient is a 37-year-old male sustained an injury to his LEFT hand from a dog bite 2/20/15. He also sustained a fracture in the proximal phalanx of his LEFT ring finger that underwent percutaneous pinning along with irrigation and debridement on 2/20/15. He denies any pain today. He is a police officer and he has been able to return to work with his current restrictions.

Review of Systems

Constitutional: No fever, No chills.
Respiratory: Negative.
Cardiovascular: Negative.
Gastrointestinal: Negative.
Musculoskeletal: Negative except as documented in history of present illness.
Neurologic: Alert and oriented X4.

Health Status

Allergies:

Nonallergic Reactions (Selected)

Moderate

Levaquin- Facial swelling.
Morphine- Bradycardia.

Current medications: (Selected),

Prescriptions

Prescribed

Ultram 50 mg oral tablet: 50 mg, 1 tab, Oral, q6hr Interval, 30 tab, PRN: for pain
Voltaren Topical 1% topical gel: 1 application, Topical, QID, 100 gram, PRN: for pain
acetaminophen-oxyCODONE 325 mg-5 mg oral tablet: See Instructions, 1-2 tab Oral q4hr Interval not to exceed
4000 mg acetaminophen per day, 50 tab, PRN: as needed for pain

Home Medications (3) Active

acetaminophen-oxyCODONE 325 mg-5 mg oral tablet See Instructions, PRN

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044

History and Physical

Thorpe Jr, James Francis - 0000159954

* Final Report *

Ultram 50 mg oral tablet 50 mg = 1 tab, PRN, Oral, q6hr Interval
Voltaren Topical 1% topical gel 1 application, PRN, Topical, QID

Problem list:

All Problems

Gout / ICD-9-CM 274.9 / Confirmed

Resolved: Hypertension / SNOMED CT 64176011

Resolved: Acute sinusitis / SNOMED CT 26785019

Histories

Past Medical History:

Active

Gout (274.9)

Resolved

Hypertension (64176011): Resolved.

Acute sinusitis (26785019): Resolved.

Family History:

No family history items have been selected or recorded.

Procedure history:

Tonsillectomy, primary or secondary; younger than age 12 (42825).

Social History

Social & Psychosocial Habits

Alcohol

10/31/2011 Risk Assessment: Low Risk

Tobacco

10/31/2011 Risk Assessment: Medium Risk

11/05/2011 Use: Current every day smoker

Type: Cigarettes

Tobacco use per day: 21

Physical Examination

LEFT hand exam: Wounds are well-healed without evidence of drainage or erythema. Pin sites are clean dry and intact. No evidence of malrotation. No distal motor or sensory deficits. Reduced range of motion secondary to pain. Brisk capillary refill to all 5 digits.

V&S/Measurements

Measurements from flowsheet: Measurements

03/25/2015 10:00 EDT

Height/Length Measured	180.3 cm
Height/Length Dosing	180 cm
Weight Measured	104.33 kg
Weight Dosing	104.33 kg
BSA Measured	2.29 m2
Body Mass Index Measured	32.09 kg/m2

General: Alert and oriented, No acute distress.

Appearance: Well developed.

Eye: Extraocular movements are intact.

HENT: Normocephalic.

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(Continued)

045

History and Physical

Thorpe Jr, James Francis - 0000159954

* Final Report *

Neck: Supple.

Respiratory: Respirations are non-labored, Symmetrical chest wall expansion.

Cardiovascular: Normal rate.

Neurologic: Alert, Oriented.

Psychiatric: Cooperative, Appropriate mood & affect.

Review / Management

Radiology results

X-ray

LEFT hand films demonstrate a healing fracture of the base of the ring finger proximal phalanx pins intact and in unchanged position.

Impression and Plan

Diagnosis

Open displaced fracture of proximal phalanx of left ring finger.

Hand injury.

Plan

Patient Instructions:

Limitations: No lifting with affected extremity.

Counseled: Patient.

Orders

Orders (Selected).

Outpatient Orders

Completed

Hand Lt 3v POC:

The risks, benefits, complications and alternatives of LEFT hand hardware removal and fluoroscopic examination under anesthesia were discussed with the patient at length. The risks include but are not limited to infection, bleeding, damage to neurovascular structures, failure to heal, loss of motion, inability to return to activities at the same level, risk of anesthesia, blood clots, and swelling. The patient expressed understanding of the risks and benefits and wished to proceed.

Completed Action List:

- * Perform by Ajibade MD, David Adewole on 25 March 2015 20:07 EDT
- * Sign by Ajibade MD, David Adewole on 25 March 2015 20:07 EDT
- * VERIFY by Ajibade MD, David Adewole on 25 March 2015 20:07 EDT

Printed by: Williams, Cynthia R
Printed on: 07/30/2015 10:29 EDT

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(End of Report)

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History and Physical

Thorpe Jr, James Francis - 0000159954

* Final Report *

Result type: History and Physical
Result date: 14 April 2015 10:40 EDT
Result status: Auth (Verified)
Result title: Preoperative H&P Update
Performed by: Ajibade MD, David Adewole on 14 April 2015 11:06 EDT
Verified by: Ajibade MD, David Adewole on 14 April 2015 11:06 EDT
Encounter info: 1001372067, RMC, Ambulatory Surgery, 04/14/2015 - 04/14/2015

* Final Report *

Preoperative H&P Update

Patient: Thorpe Jr, James Francis MRN: 0000159954 FIN: 1001372067
Age: 37 years Sex: Male DOB:
Associated Diagnoses: None
Author: Ajibade MD, David Adewole

Preoperative Information

The patient's history and physical from 3/25/15 is unchanged. The patient is scheduled for LEFT hand hardware removal and fluoroscopic examination under anesthesia today.

Health Status

Allergies:

Nonallergic Reactions (Selected)

Moderate

Levaquin- Facial swelling.

Morphine- Bradycardia.

Current medications:

Home Medications (1) Active

Zyrtec 10 mg oral tablet 10 mg = 1 tab, Oral, Daily

Histories

Past Medical History:

Active

Gout (274.9).

Resolved

Hypertension (64176011): Resolved.

Acute sinusitis (26785019): Resolved.

Review / Management

Results review: Lab results

04/02/2015 14:30 EDT

White Blood Cell Count	7.8 x10(3)/mcL
Hemoglobin	17.4 gm/dL
Hematocrit	48.8 %
Platelet Count	174 x10(3)/mcL
Neutrophil Automated	53.1 %
Blood Urea Nitrogen	9 mg/dL
Potassium Level	4.4 mmol/L
Creatinine	0.9 mg/dL
Calcium Level Total	9.8 mg/dL

Impression and Plan

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History and Physical

Thorpe Jr, James Francis - 0000159954

* Final Report *

The risks, benefits, alternatives, and complications of the procedure were discussed again with the patient and family. The signed consent was checked. The operative site was marked.

Completed Action List:

- * Perform by Ajibade MD, David Adewole on 14 April 2015 11:06 EDT
- * Sign by Ajibade MD, David Adewole on 14 April 2015 11:06 EDT
- * VERIFY by Ajibade MD, David Adewole on 14 April 2015 11:06 EDT

Printed by: Williams, Cynthia R.
Printed on: 07/30/2015 10:29 EDT

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(End of Report)

048

Operative Report

Thorpe Jr, James Francis - 0000159954

* Final Report *

Result type: Operative Report
Result date: 14 April 2015 11:50 EDT
Result status: Auth (Verified)
Result title: Operative Note
Performed by: Ajibade MD, David Adewole on 14 April 2015 12:37 EDT
Verified by: Ajibade MD, David Adewole on 14 April 2015 15:21 EDT
Encounter Info: 1001372067, RMC, Ambulatory Surgery, 04/14/2015 - 04/14/2015

* Final Report *

Operative Note

Patient: Thorpe Jr, James Francis MRN: 0000159954 FIN: 1001372067
Age: 37 years Sex: Male DOB:
Associated Diagnoses: None
Author: Ajibade MD, David Adewole

Preoperative Diagnosis: LEFT ring finger retained hardware, proximal phalanx fracture
Postoperative Diagnosis: LEFT ring finger retained hardware, proximal phalanx fracture
Proceduro: LEFT ring finger hardware removal, manipulation under anesthesia, fluoroscopic examination under anesthesia
Explants: 2 Kirschner wires removed
Surgeon: Ajibade, David MD
Anesthesia: General
Tourniquet time: 0 minutes
Antibiotics: Cefazolin
Estimated Blood Loss: 0.5 cc
Specimen: None
Complications: None
Condition: Stable in PACU

INDICATIONS FOR PROCEDURE: The patient is a 37-year-old male who injured his LEFT hand and sustained a proximal phalanx fracture and wounds from a dog bite on 2/20/15. He was taken to the operating room on the day of injury and underwent percutaneous pinning and irrigation with debridement. The history, physical exam, and imaging findings were consistent with LEFT ring finger retained hardware, proximal phalanx fracture. The risks, benefits, complications and alternatives of the procedure were discussed with the patient and family at length. The risks include but are not limited to infection, bleeding, damage to neurovascular structures, failure to heal, loss of motion, inability to return to activities at the same level, risk of anesthesia, blood clots, and swelling. The patient expressed understanding of the risks and benefits and wished to proceed with LEFT ring finger hardware removal, manipulation under anesthesia and fluoroscopic examination under anesthesia. The patient has ALLERGIES to Levaquin and morphine which was confirmed preoperatively.

PROCEDURE IN DETAIL:

The patient's LEFT upper extremity was identified, confirmed by the patient and family and marked with an indelible marker. The patient was taken to the operating room and placed under general anesthesia in the supine position. A time-out was performed confirming the correct patient, procedure, extremity, and equipment present in the room. Prophylactic Cefazolin was administered prior to the skin incision. A digital block was performed with 0.25% Marcaine plain. The operative extremity was prepped and draped in the usual sterile fashion. 2 Kirschner wires were removed utilizing orthopaedic pliers. Manipulation was performed to release adhesions until the hand was able to be flattened on the table and the patient was able to passively make a complete fist. Fluoroscopic examination showed abundant callus formation but some mobility at the fracture site. Sterile dressings were placed in the usual fashion. I was present for and performed the entire procedure. All instrument, sponge and needle counts were found to be correct prior to skin closure. Early ambulation will be utilized postoperatively for deep venous thrombosis prophylaxis.

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Printed on: 07/30/2015 10:29 EDT

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Operative Report

Thorpe Jr, James Francis - 0000159954

* Final Report *

Completed Action List:

- * Perform by Ajibade MD, David Adewole on 14 April 2015 12:37 EDT
- * Modify by Ajibade MD, David Adewole on 14 April 2015 15:21 EDT
- * Sign by Ajibade MD, David Adewole on 14 April 2015 15:21 EDT
- * VERIFY by Ajibade MD, David Adewole on 14 April 2015 15:21 EDT

Printed by: Williams, Cynthia R
Printed on: 07/30/2015 10:29 EDT

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(End of Report)

050

Orthopedic Office/Clinic Note

Thorpe Jr, James Francis - 0000159954

* Final Report *

Result type: Orthopedic Office/Clinic Note
 Result date: 24 April 2015 11:59 EDT
 Result status: Auth (Verified)
 Result title: Postoperative Orthopedic Clinic Visit
 Performed by: Ajibade MD, David Adewole on 25 April 2015 12:03 EDT
 Verified by: Ajibade MD, David Adewole on 25 April 2015 12:03 EDT
 Encounter info: 1001371831, SCOI, Clinic Outpatient, 04/24/2015 - 04/24/2015

* Final Report *

Postoperative Orthopedic Clinic Visit

Patient: Thorpe Jr, James Francis MRN: 0000159954 FIN: 1001371831
 Age: 37 years Sex: Male DOB:
 Associated Diagnoses: None
 Author: Ajibade MD, David Adewole

Visit Information

Visit type: Scheduled follow-up.
 Source of history: Self.

Chief Complaint

04/24/2015 08:00 EDT f/u removal of hardware from left ring finger. DOS: 4/14/2015. right handed.

History of Present Illness

Patient status post hardware removal from LEFT ring finger for a LEFT ring finger proximal phalanx fracture/dog bite. He denies any pain.

Review of Systems

Constitutional: No fever, No chills.

Health Status

Allergies:	
Allergies (2) Active	Reaction
Levaquin	Facial swelling
morphine	Bradycardia

Physical Examination

VS/Measurements

Measurements from flowsheet : Measurements
 04/24/2015 08:00 EDT

Height/Length Measured	178 cm
Height/Length Dosing	178 cm
Weight Measured	105 kg
Weight Dosing	105 kg
BSA Measured	2.28 m2
Body Mass Index Measured	33.14 kg/m2

LEFT hand exam: Pin site wounds healed. No distal neurovascular deficits. Excellent grip strength noted utilizing the radial 3 digits. Patient is able to make a fist passively but has decreased active range of motion. Patient is able make a fist with buddy taping of the finger.

Review / Management

Printed by: Williams, Cynthia R
 Printed on: 07/30/2015 10:29 EDT

Page 1 of 2
 (Continued)

051

Orthopedic Office/Clinic Note

Thorpe Jr, James Francis - 0000159954

* Final Report *

Radiology results

X-ray

Healed LEFT ring finger proximal phalanx fracture.

Impression and Plan

Diagnosis

Postoperative orthopedic surgical visit.

Plan:

Refer to: Occupational therapy.

Follow-up: In 3 weeks.

Patient Instructions: No Limitations Counseled: Patient.

Orders

Orders (Selected)

Outpatient Orders

Ordered

Follow Up Appointment Req: 04/24/15 8:43:00 EDT, 3wks, History of fracture of finger

Physical Therapy Eval/Occupational Therapy Req: 04/24/15 8:43:00 EDT, p/Vol, History of fracture of finger

Completed

Fingers Lt 2v POC:

Post Op/ Follow Up Fracture:

Completed Action List:

- * Perform by Ajibade MD, David Adewole on 25 April 2015 12:03 EDT
- * Sign by Ajibade MD, David Adewole on 25 April 2015 12:03 EDT
- * VERIFY by Ajibade MD, David Adewole on 25 April 2015 12:03 EDT

Printed by: Williams, Cynthia R
Printed on: 07/30/2015 10:29 EDT

Page 2 of 2
(End of Report)

052

**Bowman Police Department
Physical Protection Policy**

Penalties:

Violation of any of the requirements in this policy by any authorized personnel will result in suitable disciplinary action, up to and including loss of access privileges, civil and criminal prosecution and / or termination.

Violation of any of the requirements in this policy by any visitor can result in similar disciplinary action against the sponsoring employee, and can also result in termination of services with any associated consulting organization or prosecution in the case of criminal activity.

Acknowledgement:

I have read the policy and rules above and I will:

- Abide by the Bowman Police Department Physical Protection Policy. I understand any violation of this policy may result in discipline up to and including termination.
- Complete the security awareness training and take action to protect the Bowman Police Department facilities, personnel and associated information systems.
- Report any unauthorized physical access to the Bowman Police Department LASO.

Signature: _____

Date: _____

Other Related Policy Reference:

- Sanitization and Destruction Policy
- Disciplinary Policy
- CJIS Security Policy

Criminal Justice Information System Security & Awareness Training



**This is to certify that
JAMES THORPE**

**has successfully completed the CJIS Security & Awareness Course
by completing the following exam:
Level 1 CJIS Security Test**

*This certification expires two
years from the date of issuance.*

March 18, 2015

Certification Date

March 18, 2017

Expiration Date



Employee Non-Disclosure Agreement and Authorization State Criminal Records Check

Must be completed, signed by and submitted to South Carolina Criminal Justice Information Technology Department for every vendor employee who may have access to unencrypted NCIC/NLETS/ SLED data, within 30 days of his/her assignment to any program or product having access to SLED or to records storage.

<u>JAMES</u>	<u>FRANCIS</u>	<u>THORPE</u>	<u>Jr</u>
First Name	Middle Name	Last Name	Suffix
<u>[REDACTED]</u>	<u>1</u>	<u>M</u>	<u>W</u>
Social Security	Date of Birth	Sex	Race

Applicable employees of the Vendor/Contractor must complete this Vendor/Contractor Employee Eligibility form and submit a copy of their driver license.

I certify that I am the above referenced individual, and hereby agree and acknowledge:

1. That during the course of my association with SLED there may be disclosed to me certain trade secrets of this organization; said trade secrets consisting, but not necessarily limited to:
 - 1.1. Technical information: Methods, processes, formulae, compositions, systems, techniques, inventions, machines, computer programs, and research projects.
 - 1.2. Business information: Business associations, strategic plans, vendor information, financial data and systems designs, and/or plans.
2. I agree that I shall not during, or at any time after the cessation of my association with SLED, use for myself or others, or disclose or divulge to others including company employees, any trade secrets, confidential information, or any other proprietary data of SLED in violation of this agreement.
3. That upon the termination of my relationship from SLED:
 - 3.1. I shall return to SLED all documents and property, including but not necessarily limited to: drawings, blueprints, reports, manuals, correspondence, employee contact lists, computer programs, source code, and all other materials and all copies thereof relating in any way to SLED business, or in any way obtained by me during the course of my relationship with SLED. I further agree that I shall not retain copies, notes, or abstracts of the foregoing.
 - 3.2. SLED or duly authorized representative of the State of South Carolina may notify any future or prospective client or third party of the existence of this agreement, and shall be entitled to full injunctive relief for any breach.
 - 3.3. This agreement shall be binding upon me and my company and their successors, principals in such interest, and shall inure to the benefit of SLED.
4. By signing this waiver, I certify and acknowledge that all of the personal identifying information provided herein is accurate, and authorize SLED to conduct a Criminal Record Check for any local, state, or federal criminal history information.

I further understand, agree and acknowledge I must agree and submit to a national fingerprint-based records check, which must be conducted within 30 days of my initial assignment to any program or product having access to SLED or to records storage areas containing Computerized Criminal History (CCH) and/or Interstate Identifier (II) data.

<u>[Signature]</u>	<u>9/17/15</u>	<u>Sgt</u>
Signature	Date	Title
<u>Bowman Police Dept.</u>	<u>803-829-2511</u>	<u></u>
Company Name and Address	Phone Number	E-Mail address

BOWMAN POLICE DEPT.
P.O. BOX 37
BOWMAN, SC 29001

FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM

CERTIFICATION

I hereby certify that I am familiar with the contents of (1) the Security Addendum, including its legal authority and purpose; (2) the NCIC 2000 Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20; and agree to be bound by their provisions.

I recognize that criminal history record information and related data, by its very nature, is sensitive and has potential for great harm if misused. I acknowledge that access to criminal history record information and related data is therefore limited to the purpose(s) for which a government agency has entered into the contract incorporating this Security Addendum. I understand that misuse of the system by, among other things: accessing it without authorization; accessing it by exceeding authorization; accessing it for an improper purpose; using, disseminating or re-disseminating information received as a result of this contract for a purpose other than that envisioned by the contract, may subject me to administrative and criminal penalties. I understand that accessing the system for an appropriate purpose and then using, disseminating or re-disseminating the information received for another purpose other than execution of the contract also constitutes misuse. I further understand that the occurrence of misuse does not depend upon whether or not I receive additional compensation for such authorized activity. Such exposure for misuse includes, but is not limited to, suspension or loss of employment and prosecution for state and federal crimes.

James F. Tworpe, Jr.
Printed Name Signature of Contractor Employee

3/18/15
Date

Kari PerDarr BPD
Printed Name Signature of Contractor Representative

3-18-2015
Date

Bowman Police Dept / Chief of Police
Organization and Title of Contractor Representative

CLERK DEPT. BOWMAN POLICE DEPT.
P.O. BOX 37
BOWMAN, SC 29019
209231
CJISD-CIS-DO-0310650



SC Orthopaedic Institute

a Department of the Regional Medical Center

FAX

1175 Cook Road, Suite 215
Orangeburg, SC 29118-8201
PHONE: 803.395.3837
FAX: 803.536.5122

- ☐ James P. Marro, MD
- ☐ Jerrold M. Buckaloo, MD
- ☐ David A. Ajibade, M.D.
- ☐ Carrie L. Walters, PA-C
- ☐ Brandi L. Jones, PA-C

DATE: 3-5-15

TO: Melissa

FROM: Brittany R.

FAX: 531-1464

FAX #: 536-5122

PHONE #: _____

PHONE #: _____

RE: _____

OF PAGES (Including cover page) _____

COMMENTS: Here is Mr. Thorpe's work note.

The information contained in this facsimile message may be confidential, proprietary and/or privileged information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are notified that any copying, dissemination or distribution of confidential, proprietary or privileged information is strictly prohibited. If you receive this communication in error, please immediately notify the sender at the above phone number. Thank you.

057

Discharge Summary-Physician/Mid-Level
0000159954

Thorpe Jr, James Francis -

* Final Report *

Result type: Discharge Summary-Physician/Mid-Level
Result date: 05 March 2015 15:09 EST
Result status: Auth (Verified)
Result title: Work or School Excuse *
Performed by: Hawkins PA, Linda R on 05 March 2015 15:12 EST
Verified by: Hawkins PA, Linda R on 05 March 2015 15:12 EST
Encounter info: 1001347688, SCOI, Clinic Outpatient, 03/04/2015 - 03/04/2015

* Final Report *

Work or School Excuse *

Patient: Thorpe Jr, James Francis MRN: 0000159954 FIN: 1001347688
Age: 37 years Sex: Male DOB:
Associated Diagnoses: None
Author: Hawkins PA, Linda R

Today's date: 03/04/2015.

To whom it may concern:

This patient is currently under my care and Was seen in my office on 03/04/2015. . . Please excuse him/ her from work, 2/27/15 to 3/4/15. . He/ she may return to with the following restrictions: LIGHT DUTY ONLY, NO USE LEFT HAND. . Please contact me if you have any questions or concerns.

DAVID AJIBADE, MD

Printed by: Hawkins PA, Linda R
Printed on: 03/05/2015 15:13 EST

Page 1 of 1
(End of Report)

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(3 0)

Bowman Police Department

Departmental Firearms Qualification

Officer Name: James F. Thorpe JR. Date: 9/08/2014

Weapon Make: Glock Model: 22

Course of Fire: 50 Rounds

HUH999

Stage 1: 3 yards / 6 rounds (from holster)

2 rounds = 2 seconds

2 rounds = 2 seconds

2 rounds = 2 seconds

Stage 2: 7 yards / 12 rounds (from natural point, one hand only)

4 rounds strong hand and 2 rounds weak hand = 10 seconds

2 rounds strong hand and 4 rounds weak hand = 10 seconds

Stage 3: 12 yards / 14 rounds (from the weaver ready position)

2 rounds = 3 seconds

2 rounds = 3 seconds

2 rounds tactical reload 2 more rounds = 12 seconds

2 rounds = 3 seconds

2 rounds tactical reload 2 more rounds = 12 seconds

Stage 4: 15 yards / 12 rounds (from holster, from unsupported barricade position)

3 rounds strong side standing and 3 rounds weak side standing = 10 seconds

3 rounds strong side speed kneeling and 3 rounds weak side speed kneeling = 12 seconds

Stage 5: 25 yards / 6 rounds (from holster, from the supported barricade position)

2 rounds roll over prone

2 rounds strong side kneeling supported

2 rounds strong side standing supported

Qualification Score: 215 out of possible 250 points Pass / Fail

Firearms Instructor: Steven Holloway Inst. Last 5 SSN: [REDACTED] Date: 9-8-14

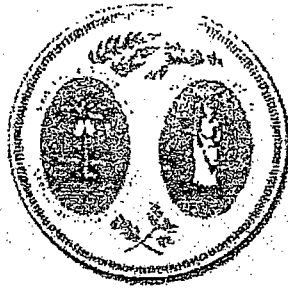
Instructor's Signature: [Signature] Officer Sign: [Signature]

Officer must score 75 % (188 points) to pass Qualification

State of South Carolina

Town of Bowman

Hire
9/03/14



Application for Employment

Please be advised the Town of Bowman is an Equal Opportunity Employer

Please Return This Application to:

Town of Bowman

P.O. Box 37

1. Position Applying For:

Job Title Parrot Officer Full Time ☒ Part Time ☐

Desired Salary \$ _____ Available date to Begin Work: _____

2. Applicant Information:

Social Security Number [REDACTED]

Date of Birth 5 _____

Name ☒ Mr. ☐ Mrs. ☐ Ms. (Please Circle One)

THORPE JAMES F
Last Name First Name Middle Name Maiden

Home Phone (863) 707-4774 Business Phone () _____

Fax Number () _____ E-Mail Address _____

Mailing Address: P.O. BOX 575

City Springfield County Orangeburg State SC Zip Code 29146

Physical Address (if different from above) 3830 SUMMIT LAKE RD

City Springfield County Orangeburg State SC Zip Code 29146

Do you have a legal right to be employed in the U.S.? ☒ Yes ☐ No

Are you over the age of 18? (21 if applying for police) ☒ Yes ☐ No

Have you ever been convicted of a crime? ☐ Yes ☒ No

If yes, please provide dates and details: _____

3. Education:

High School Er Ray Booley High Location FULTON N.Y.
[] Diploma [X] Other (Specify) GED Highest Grade Completed 11th
College _____ Location _____
College Graduate? [] Yes [X] No If no, give total credit received _____
Name if different while attending school. N/A

4. Job-Related Training and Course Work:

List any skills, training, licenses, and certifications that are related to the job you are seeking. (Please include words per minute typing speed, and computer software proficiency)

Certified with SC (Crimin.) Justice Academy

5. Work Experience:

A. Name of Present or Last Employer: Orangeburg County SO
Address 1520 ELLIS AVE Phone (703) 534-3550
Orangeburg SC 29115 Fax () _____
City State Zip Code
Job Title DEPUTY
Number Supervised N/A Supervisor's Name TERRANCE SMITH

From 2/15/10 To 3/25/14 Hours Per Week 40+ Salary 29,000

Job Duties ANS CALLS, ASSIST OTHER DEPUTIES FOLLOW UP
ON CASES INVESTIGATE CASES

Reason for Leaving PERSONAL

B. Name of Employer EUTAWVILLE P. A.

Address Porter Ave Phone ()

EUTAWVILLE SC 29048 Fax ()
City State Zip Code

Job Title Chief

Number Supervised 2 Supervisor's Name SELF

From 2/15/09 To 2/13/10 Hours Per Week 40+ Salary \$36,000

Job Duties PATROL, ANS CALLS, ASSIST OTHER AGENCIES

Keep up with Permittations AND COMMUNICATE WITH
TOWN COUNCIL
Reason for Leaving PERSONAL

C. Name of Employer Orangeburg County SC

Address 1520 ELLIS AVE Phone 803 534-3580

Orangeburg SC 29115 Fax ()
City State Zip Code

Job Title DEPUTY / Corporal

Number Supervised 6-7 Supervisor's Name CLARK WHETSTONE

From 2/2/05 To 2/2/09 Hours Per Week 40+ Salary \$48,000

Job Duties _____

Reason for Leaving _____

D. Name of Employer _____

Address _____ Phone() _____

_____ Fax() _____

City _____ State _____ Zip Code _____

Job Title _____

Number Supervised _____ Supervisor's Name _____

From ____/____/____ To ____/____/____ Hours Per Week _____ Salary _____

Job Duties _____

Reason for Leaving _____

6. References: (Personal & Professional)

A..Personal References

Name Terry Logan Relations Friend

Years Known 10 Phone # (813) 837-3844

Name Clinton Robinson Relations Friend

Years Known 2 1/2 Phone # (813) 258-3271

Name Curtis Mizell Relations Friend

Years Known 10 Phone # (803) 378-1960

B. Professional References

Name _____ Occupation _____
Address _____ Phone # _____
Name _____ Occupation _____
Address _____ Phone # _____
Name _____ Occupation _____
Address _____ Phone # _____

7. Other Documentation

Please be advised the following documentation must be submitted with this application before any processing will be completed.

1. Photo Copy of Driver's License
2. Copy of Social Security Card
3. Copy of High School Diploma or GED
4. Copy of any certificates or certifications
5. Copy of Credit History
6. Ten Year Criminal Background Report

Drug & Alcohol Policy:

This is to advise that the Town of Bowman holds all of its employees to a very high standard as it relates to drug & alcohol abuse. This is to advise that the Town of Bowman reserves the right to conduct drug and/or alcohol testing on its employee's at any time without notice.

Applicant must read and Sign.

I hereby affirm that the information provided on this application is true and complete. I also understand that any omission or misrepresentation provided may result in my rejection or termination from employment.

I authorize the Town of Bowman to contact and obtain information from all references listed and release any employers or persons listed from liability for any damages from furnishing such information.

In the event of my employment with the Town of Bowman, I will comply with all of the rules and policies of the employer. I understand that if I am employed, my employment will be at-will for no set period of time, and that my employment may be terminated for any reason at any time by either me or the Town of Bowman.

My signature certifies that I have read and fully understand the above statement.

Applicant's Signature

Date

8/22/14

OFFICE (805) 829-2511 FAX (805) 829-5061

P.O. BOX 97 BOWEN, NC 28714

Gustaf Kevin L. Pendarvis

[illegible]

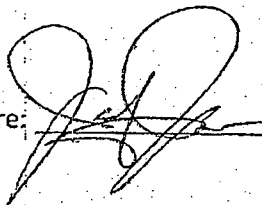
Consent to Release Information

Date: 8/28, 20 14

Name JAMES F. THORPE Jr Social Security Number XXX-X 

To Whom It May Concern:

I do hereby authorize your organization to release any and all information that your organization currently has on me to the Bowman Police Department for their background investigation for my possibility of employment. This is to include access to my criminal history, driver history, credit history, and any and all records that may be recorded at the Criminal Justice Academy.

Signature: 

Date: 8/28/14

Bowman Police Department

Post Office Box 27

100 Reesville Rd.

Bowman, SC 29018

(803) 829-2511 Fax: (803) 829-5061

Kevin L. Pendarvis Chief of Police

I JAMES G. THORPE JR was issued the following items belonging to the Bowman Police Department upon being hired as a member of this department.

Officer Signature

Authorizing Signature

Date

Equipment Received

1 GLOCK 40 CAL SERIAL # HUH 999

X HOLSTER

3 MAGAZINES WITH AMMO 46 Rounds

X OC/PEPPER SPRAY

X OC/PEPPER SPRAY HOLSTER

3 HANDCUFFS SERIAL # 3635/502810/227890

X HANDCUFF CASE

 DUTY BELT

1 ASP BATON SERIAL # 03447

1 ASP BATON HOLDER

✓ MOTOROLA PORTABLE RADIO SERIAL # Bowman 2

✓ MOTOROLA RADIO CHARGER SERIAL #

 MOTOROLA MIC SET FOR RADIO SERIAL #

1-set office keys

Green Uniform Pants, 1 Crown shirt, 2 Polo, 2 T-shirts
(40)

068

COULTER CLINIC, LLC

941 Summers Ave
Orangeburg, SC 29115
Phone: 803-534-0437
Fax: 803-531-1464

September 3, 2014

Re: James Thorpe, Jr
DOB: 07/25/1977

To Whom It May Concern,

Mr. James Thorpe, Jr is a patient of mine at Coulter Clinic, LLC. Mr. Thorpe is Medically cleared to work. If you have any questions or concerns, please feel free to contact my office at the number listed above.

Sincerely,

Franklin C. Coulter MD

Franklin C. Coulter, MD FAAFP

fcc/etc

Bowman Police Department

Interview Form for Employment

Applicant Name:

Tharpe

Date of Interview:

9-3-14

Interview Conducted by:

P. Rhett + Chief Pendarvis

1. Are you authorized to work in the United States? yes
2. Are you over the age of 21? yes
3. Could you travel if needed? yes
4. Are you able to work long shifts and weekends? yes
5. Are you able to maintain and file paperwork with or without computers? yes
6. Are you able to respond to the town if needed while off duty? yes
7. Are you able to lift and carry 150 pounds a minimal of 100 yards? yes
8. Are you able to perform the essential functions of this job with or without reasonable accommodations? (Must explain job)
- A. In times you may have to run long distances.
- B. In times you may have to lift and drag 100 or more pounds of dead weight for a safe distance.
- C. In times you may have to be able to see in no or very low light.
- D. In times you may have to fight another person.
- E. With this job you will be getting in and out of a vehicle numerous of times a shift.
- F. With this job you will be required to respond to calls alone.
- G. With this job you will have to enforce all local, state, and federal laws. yes
9. Have you ever been convicted of a crime? no
10. What training do you currently possess that would assist you in this job? Certified
11. Why do you want to be a police officer? n/a
12. Are you able to pass a medical exam allowing you to perform the duties of a police officer? yes

Bowman Police Department

Interview Form for Employment

Applicant Name: _____

Date of Interview: _____

Interview Conducted by: _____

1. Are you authorized to work in the United States? *yes*
2. Are you over the age of 21? *yes*
3. Could you travel if needed? *yes*
4. Are you able to work long shifts and weekends? *yes*
5. Are you able to maintain and file paperwork with or without computers? *yes*
6. Are you able to respond to the town if needed while off duty? *yes*
7. Are you able to lift and carry 150 pounds a minimal of 100 yards? *yes*
8. Are you able to perform the essential functions of this job with or without reasonable accommodations? *yes* (Must explain job)
 - A. In times you may have to run long distances.
 - B. In times you may have to lift and drag 100 or more pounds of dead weight for a safe distance.
 - C. In times you may have to be able to see in no or very low light.
 - D. In times you may have to fight another person.
 - E. With this job you will be getting in and out of a vehicle numerous of times a shift.
 - F. With this job you will be required to respond to calls alone.
 - G. With this job you will have to enforce all local, state, and federal laws.
9. Have you ever been convicted of a crime? *No*
10. What training do you currently possess that would assist you in this job? *Basic Class 1*
11. Why do you want to be a police officer? *X*
12. Are you able to pass a medical exam allowing you to perform the duties of a police officer? *yes*

Please advise that the police department is a drug and alcohol free work place and random drug testing is conducted. Please advise if this applicant is excepted for possible hire before hiring the applicant must successfully pass a medical exam and drug/alcohol testing.

Scenario:

1. You receive a call from dispatch advising a husband and wife are currently arguing at their residence and needs an officer to respond. On your arrival while speaking to the subjects the husband gets irate and begins cursing you and a physical altercation begins between you and the male subject. The male subject hits you and then attempts to flee the location. What do you do?
Persue on Foot / Request Assistance.
2. You make a lawful traffic stop on a subject for speeding and while speaking to the subject the subject begins cursing you and advises you they will have your job what do you do?
maintain Compost, be polite & cautious.
3. You receive a call from dispatch of a hostage situation and you are the first officer on scene. When you arrive you find a subject holding a knife on a child's throat and stating if any other officers pull up he will kill the child. You have a clean shot to eliminate the threat with your duty weapon what do you do? *back to safe distance, communicate with sub*
4. You attempt to stop a vehicle that you have positively identified the driver as a person to which the police department has outstanding warrants on and the driver speeds up to avoid getting stopped what do you do? *Policy of Town, Persue at safe distance*

Comments: _____

Would you Hire: ☐ Yes ☐ No

If No please give reason why: _____

James Francis Thorpe Jr.

P.O. Box 575
Springfield, SC 29146
Home Phone: 803-707-4774
Thorpe.jim@outlook.com

OBJECTIVE

Secure a position in a reputed agency that allows multiple responsibilities and will utilize my skills and experience in the field. Seeking a position with career growth potential.

PROFESSIONAL EXPERIENCE

Dates Employed	Job Title	Company
02/2011 - Present	Road Deputy	Orangeburg County Sheriffs Dept 1520 Ellis Ave Orangeburg, SC 29115

- Answering calls for service
- Investigated crimes
- Assist co-workers, and using resources to help victims of crimes, and to patrol the County of Orangeburg and be able to be observant to instances that require my abilities as Road Deputy.
- Assisted in the processing of materials and personnel confiscated during drug seizures.
- Provided testimony in Court.

Contact Company: Yes
Reason for leaving: Career Development

6/2010 - 02/2011	Chief of Police/Officer	Eutawville Police Dept 220 Porcher Ave Eutawville, SC 803-492-3374
-------------------------	--------------------------------	--

- Conducted analysis to address crime in Eutawville, SC, which led to less crime activity in the town, and provided on site training.
- Monitored multiple databases to keep track of all company inventory
- Effectively controlled the release of proprietary and confidential information for general client lists.
- Researched and updated all required materials needed to NCIC and SLED requirements.
- Analyzed departmental documents and and took necessary steps to cure any deficiencies
- Obtained documents, clearances, certificates, and approvals from local, state, and federal agencies. In this, I created a boardroom and courtroom multimedia presentations including video and text-synched depositions for enhanced understanding.

Contact Company: Yes
Reason for leaving: Family Considerations

12/2005 – 07/2007 Corporal/Deputy

Orangeburg County Sheriffs Dept
1520 Ellis Ave
Orangeburg, SC 29115

- Worked directly with other Law Enforcement agencies to achieve mutual aid between Departments.
- Analyzed departmental documents for appropriate distribution and filing
- Provided on site training and reviewed and provided comments on the adequacy of documents And took necessary steps to cure any deficiencies.
- Supervisor of Shift

Qualifications:

- Strong Verbal communication
- Conflict Resolution
- Proficiency in Law Enforcement
- Quick Learner
- Team Leadership
- Extremely Organized
- Team Liasion

Relevant Experience:

- Effective Communication : Followed up and kept track of expected orders from the court and correspondence from Opposing Attorneys
- Documentation: Wrote and edited documents to keep staff informed of policies and procedures.
- Process Improvement: Created new Departmental procedures manual, and assessed organizational training needs.
- Reporting" Documented and resolved personal issues with complaints which led to the position of Chief in Eutawville, SC.

*** Between 2007 and 2010, I worked as a Police Officer in Bowman, SC and Branchville, SC in which I held rank of Sergeant. This was to keep up my Certification in Law Enforcement

References:

Birdie Williams	803-414-3346
David Bazzle	803-671-1143
JC Cornelious	803-860-7398
Ronnie Hutto	803-534-7282

The South Carolina
Department of Public Safety
Criminal Justice Academy Division

This Certificate is awarded to
James J. Thorpe, Jr.
for the successful completion of a course of training for
Basic Law Enforcement

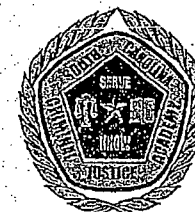
April 18, 2005 - June 17, 2005

James K. Schweitzer

James K. Schweitzer, Director
South Carolina Department of Public Safety

William R. Neill

William R. Neill, Deputy Director
South Carolina Criminal Justice Academy



SOUTH CAROLINA



HIGH SCHOOL EQUIVALENCY DIPLOMA

Be it known that **THORPE, JAMES FRANCIS, JR.** has satisfactorily completed the tests of General Educational Development and upon the recommendation of the State GED Administrator of the State Department of Education, the State Board of Education awards this certificate, which is regarded to be equivalent to the high school diploma.

Given at Columbia, South Carolina,

NOVEMBER 13, 1999

Raymond S. Gensert
STATE SUPERINTENDENT OF EDUCATION

David B. Stat, Jr.
STATE GED ADMINISTRATOR

Jim Hodges
GOVERNOR OF SOUTH CAROLINA

Calypso A. Williams
CHAIRMAN STATE BOARD OF EDUCATION



SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES
0038 Orangeburg
1720 CHARLESTON HWY
ORANGEBURG, SC 29115-0000

Receipt of Fees Paid
8/27/2014 11:11:05 AM

25888056
THORPE, MELISSA L
PO BOX 387
WILLISTON, SC 29853-0387

Reference No: 99969134

SERVICES

Customer Name	ServiceDescription	Identifier	Amount
THORPE, MELISSA L	INFO REQUEST	DL- OFFICIAL 10 YEAR DRIVER R	\$6.00
		Donate Life SC:	\$0.00
		Total Fees Due:	\$6.00

PAYMENTS

Cash		\$6.00
	Total Payments:	\$6.00

End of Receipt



OFFICIAL 10 YEAR DRIVER RECORD

Customer No: 25888058 Driver License No:
Name: THORPE, JAMES FRANCIS JR
Address: 921 SPRINGFIELD RD State: SC Zip: 291469193
City: SPRINGFIELD
County: ORANGEBURG Sex: M Driver Training: N
DOB:
Status - DL: NO SUSPENSION CDL: NO DISQUALIFICATION

License Information

Type	Class	Function	Issued	Expires	First Issued	Rest.	Endor.
Current							
DL	D	Modify	09/19/2012	07/25/2017	08/06/1993	Y	N
BP	M	Renewal	02/21/2002	02/21/2003	02/21/2002	N	N
Prior							
DL	D	Renewal	07/26/2007	07/25/2017	08/06/1993	Y	N
DL	D	Renewal	09/09/2002	07/25/2007	08/06/1993	N	N
DL	D	Renewal	08/05/1997	07/25/2002	08/06/1993	N	N

Current Restrictions: A Corrective Lens

Address Change - Date Changed: 09/25/2006
Address: 186 BIG BUCK BLVD
City: ORANGEBURG State: SC Zip: 291159516

Address Change - Date Changed: 11/01/2010
Address: 337 LAKE EDISTO RD
City: ORANGEBURG State: SC Zip: 291181527

Address Change - Date Changed: 06/24/2011
Address: 3413 CARVER SCHOOL RD
City: CORDOVA State: SC Zip: 290399248

Address Change - Date Changed: 08/27/2012
Address: 111 UTAF L N
City: ORANGEBURG State: SC Zip: 291156509

Address Change - Date Changed: 09/19/2012
Address: 122 TWIN OAKS DR
City: ORANGEBURG State: SC Zip: 291189500

Address Change - Date Changed: 09/20/2013
Address: 13425 CHURCH ST
City: WILLISTON State: SC Zip: 298535825

Point Summary

Total Current Points: 0
Driver Credit: -0
Adjusted Current Points: 0

Certified to be a true and correct
copy of the original document on file
with the South Carolina Department of
Motor Vehicles.

A. L. Phelps

Permittee & Compliance, Director
(50)

8/27/2014 11:10:28 AM

OFFICIAL 10 YEAR DRIVER RECORD

Customer No: 25888058
Name: THORPE, JAMES FRANCIS JR

Driver License No: 7390120

ACC: REPORTABLE
Accident: 03/24/2013
Accident Case Number: 13529538
Accident Jurisdiction: SC Acc Loc Ref: SCHDPT
Contributed: N

Posted: 05/01/2013
FR-10 Audit Number: E-461421
History: N

ACC: REPORTABLE
Accident: 11/14/2012
Accident Case Number: 12591536
Accident Jurisdiction: SC Acc Loc Ref: SCHDPT
Contributed: N

Posted: 12/04/2012
FR-10 Audit Number: E-470059
History: N

ACC: REPORTABLE
Accident: 06/28/2011
Accident Case Number: 11076247
Accident Jurisdiction: SC Acc Loc Ref: SCHDPT
Contributed: N

Posted: 08/23/2011
FR-10 Audit Number: E-153050
History: N

ACC: REPORTABLE
Accident: 02/23/2011
Accident Case Number: 11028673
Accident Jurisdiction: SC Acc Loc Ref: SCHDPT
Contributed: N

Posted: 04/14/2011
FR-10 Audit Number: B-434380
History: N

End of Report

Certified to be a true and correct
copy of the original document on file
in the South Carolina Department of
Motor Vehicles.

[Signature]
Director, Bureau of Motor Vehicles

(52)

Albany, N. Y. 12237

Certificate of Birth Registration

This certifies that a certificate of birth has been filed under the name of:

James Francis Thorne Jr.

Page 1

Born on:

At: Middletown, New York

Name of father: James Francis Thorne Sr.

Maiden name of mother: Corbin Jean Gray

Date filed: August 1, 1977

Date issued: August 7, 1973

Local Registration No.: -----

Registrar of Vital Statistics
Address: 75 James Street

This notice is void if it contains any erasures or corrections. Middletown, N.Y. 10940



SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY

5400 Broad River Road
Columbia, South Carolina 29212-3540
Attention: Certification Department
Phone: (803) 896-7802 Fax: (803) 896-7803



PERSONNEL CHANGE IN STATUS - HIRE FORM

Bowman Police Department	803-829-2511	09/03/2014
Reporting Department	Telephone #	Today's Date
James F. Thorpe	[REDACTED]	☒ Male
Officer's Name (First MI. Last)	SS# or Academy I.D.#	☐ Female
9/03/2014		White
Date of Hire	Date of Birth	Race
	SC	
Driver's License Number	Issuing State	

PLEASE CHECK ONE:	☒ Class 1 LE	☐ Class 2LCO (Jailer)
	☐ Class 3SLE (Limited Duty)	☐ Class 1LECO (LEO/Jailer)
	☐ Reserve Appointment	

Bowman Police Department	9/03/2014
Commissioning Agency	Date

AFFIDAVIT OF BACKGROUND INVESTIGATION

I hereby attest that I have conducted a complete background investigation on the above officer. Below is a list of this officer's former law enforcement agencies contacted for terms of separation:

Date Contacted	Agency(s)	Contact Person
9/03/2014	Orangeburg County S.O.	Chief Kinsey
9/03/2014	Eutawville PD	Sgt. Halloway

My background investigation concluded that this officer is of "Good Character" and does not have any disqualifications which would render the officer uncertifiable under the South Carolina Training Act, Section 23-23-60 and I hereby make application for certification.

A complete and current Criminal History Check has been conducted and charge(s):

- ☒ WERE NOT FOUND (no CHC / NCIC is required)
☐ WERE FOUND (attach CHC / NCIC showing disposition)

A complete and current Driving Record has been reviewed and Suspension(s) as a result of driving under the influence of alcoholic beverages or dangerous drugs, driving while impaired, reckless homicide, involuntary manslaughter, or leaving the scene of an accident:

- ☒ WERE NOT FOUND (no Driving Record is required)
☐ WERE FOUND (attach Driving Record showing suspensions)

Signature of Investigating Officer:

Kevin Pendarvis

(Sign)

Kevin Pendarvis

(Print Name)

Kevin Pendarvis

(Print Name)

Date: 9/05/14

Authorizing Signature for Department

Sworn to and subscribed before me this
5th day of September Year 2014

Yvonne K. Lewis

Signature of Notary Public for South Carolina

Yvonne K. Lewis

Print Name

My commission expires: 12/21/21

(53)

South Carolina DRIVER'S LICENSE

DL # THORPE JAMES FRANCIS JR
1342 CHURCH ST
WILLISTON SC 298635828

DOB: 07-26-1977
Issued: 07-26-2007
Expires: 07-26-2017
Class: D
Sex: M
Height: 236
Weight: 6-11
Restrict: A
Endorse: None

07-26-1977

06038 M 2

Governor

SOCIAL SECURITY

THIS NUMBER HAS BEEN ESTABLISHED FOR
JAMES F THORPE JR

James F Thorpe Jr
SIGNATURE

Certificate to
Return to School / Work

Name: James Thorpe
has been under my care from 10-28-14 to
10-29-14 and will be able to return to
school / work on 10-29-14.
Comments / Instructions:

Franklin C. Coulter MD 10/28/14
Dr. Franklin C Coulter, MD Date

Coulter Clinic
941 Summers Avenue
Orangeburg, SC 29115
Phone: 803-534-0437
Fax: 803-531-1464

Employee Pay Rate, Job Description, Pay Increase Forms

Date 9/8/14

Name of Employee James F. Thorpe, Jr.

Date of Hire 9/8/14

Hourly Rate \$11.00

Date of Last Pay Increase _____

Job Description Police Officer

Full Time ☒ **Part Time** _____

Health Insurance ☒ **Dental** ☒ **Vision** ☒

Retirement System ☒

Employee Signature _____

Mayor Signature _____

Marion Blum Jr.

Form W-4 (2014)

Purpose. Complete Form W-4 so that your employer can withhold the correct federal income tax from your pay. Consider completing a new Form W-4 each year and when your personal or financial situation changes.

Exemption from withholding. If you are exempt, complete only lines 1, 2, 3, 4, and 7 and sign the form to validate it. Your exemption for 2014 expires February 17, 2015. See Pub. 505, Tax Withholding and Estimated Tax.

Note. If another person can claim you as a dependent on his or her tax return, you cannot claim exemption from withholding if your income exceeds \$1,000 and includes more than \$350 of unearned income (for example, interest and dividends).

Exceptions. An employee may be able to claim exemption from withholding even if the employee is a dependent, if the employee:

- Is age 65 or older,
- Is blind, or
- Will claim adjustments to income, tax credits, or itemized deductions, on his or her tax return.

The exceptions do not apply to supplemental wages greater than \$1,000,000.

Basic Instructions. If you are not exempt, complete the **Personal Allowances Worksheet** below. The worksheets on page 2 further adjust your withholding allowances based on itemized deductions, certain credits, adjustments to income, or two-earners/multiple jobs situations.

Complete all worksheets that apply. However, you may claim fewer (or zero) allowances. For regular wages, withholding must be based on allowances you claimed and may not be a flat amount or percentage of wages.

Head of household. Generally, you can claim head of household filing status on your tax return only if you are unmarried and pay more than 50% of the costs of keeping up a home for yourself and your dependent(s) or other qualifying individuals. See Pub. 501, Exemptions, Standard Deduction, and Filing Information, for information.

Tax credits. You can take projected tax credits into account in figuring your allowable number of withholding allowances. Credits for child or dependent care expenses and the child tax credit may be claimed using the **Personal Allowances Worksheet** below. See Pub. 505 for information on converting your other credits into withholding allowances.

Nonwage income. If you have a large amount of nonwage income, such as interest or dividends, consider making estimated tax payments using Form 1040-ES, Estimated Tax for Individuals. Otherwise, you may owe additional tax. If you have pension or annuity income, see Pub. 505 to find out if you should adjust your withholding on Form W-4 or W-4P.

Two earners or multiple jobs. If you have a working spouse or more than one job, figure the total number of allowances you are entitled to claim on all jobs using worksheets from only one Form W-4. Your withholding usually will be most accurate when all allowances are claimed on the Form W-4 for the highest paying job and zero allowances are claimed on the others. See Pub. 505 for details.

Nonresident alien. If you are a nonresident alien, see Notice 1392, Supplemental Form W-4 Instructions for Nonresident Aliens, before completing this form.

Check your withholding. After your Form W-4 takes effect, use Pub. 505 to see how the amount you are having withheld compares to your projected total tax for 2014. See Pub. 505, especially if your earnings exceed \$130,000 (Single) or \$180,000 (Married).

Future developments. Information about any future developments affecting Form W-4 (such as legislation enacted after we release it) will be posted at www.irs.gov/w4.

Personal Allowances Worksheet (Keep for your records.)

A	Enter "1" for yourself if no one else can claim you as a dependent	A	<u>1</u>
B	Enter "1" if: • You are single and have only one job; or • You are married, have only one job, and your spouse does not work; or • Your wages from a second job or your spouse's wages (or the total of both) are \$1,500 or less.	B	<u>0</u>
C	Enter "1" for your spouse. But, you may choose to enter "-0-" if you are married and have either a working spouse or more than one job. (Entering "-0-" may help you avoid having too little tax withheld.)	C	<u>1</u>
D	Enter number of dependents (other than your spouse or yourself) you will claim on your tax return	D	<u>2</u>
E	Enter "1" if you will file as head of household on your tax return (see conditions under Head of household above)	E	<u>1</u>
F	Enter "1" if you have at least \$2,000 of child or dependent care expenses for which you plan to claim a credit (Note. Do not include child support payments. See Pub. 503, Child and Dependent Care Expenses, for details.)	F	<u>0</u>
G	Child Tax Credit (including additional child tax credit). See Pub. 972, Child Tax Credit, for more information. • If your total income will be less than \$65,000 (\$95,000 if married), enter "2" for each eligible child; then less "1" if you have three to six eligible children or less "2" if you have seven or more eligible children. • If your total income will be between \$65,000 and \$84,000 (\$95,000 and \$119,000 if married), enter "1" for each eligible child	G	<u>1</u>
H	Add lines A through G and enter total here. (Note. This may be different from the number of exemptions you claim on your tax return.) ▶	H	<u>6</u>

For accuracy, complete all worksheets that apply.

- If you plan to itemize or claim adjustments to income and want to reduce your withholding, see the **Deductions and Adjustments Worksheet** on page 2.
- If you are single and have more than one job or are married and you and your spouse both work and the combined earnings from all jobs exceed \$50,000 (\$20,000 if married), see the **Two-Earners/Multiple Jobs Worksheet** on page 2 to avoid having too little tax withheld.
- If neither of the above situations applies, stop here and enter the number from line H on line 5 of Form W-4 below.

Separate here and give Form W-4 to your employer. Keep the top part for your records.

Form W-4 Department of the Treasury Internal Revenue Service		Employee's Withholding Allowance Certificate ▶ Whether you are entitled to claim a certain number of allowances or exemption from withholding is subject to review by the IRS. Your employer may be required to send a copy of this form to the IRS.		OMB No. 1545-0074 2014
1 Your first name and middle initial <u>JAMES F</u>		Last name <u>THORPE</u>		2 Your social security number _____
Home address (number and street or rural route) <u>P.O. Box 575</u>		3 ☐ Single ☒ Married ☐ Married, but withhold at higher Single rate. Note. If married, but legally separated, or spouse is a nonresident alien, check the "Single" box.		
City or town, state, and ZIP code <u>Springfield SC 29146</u>		4 If your last name differs from that shown on your social security card, check here. You must call 1-800-772-1213 for a replacement card. ▶ ☐		
5 Total number of allowances you are claiming (from line H above or from the applicable worksheet on page 2)		5 <u>6</u>		
6 Additional amount, if any, you want withheld from each paycheck		6 \$ <u>0</u>		
7 I claim exemption from withholding for 2014, and I certify that I meet both of the following conditions for exemption. • Last year I had a right to a refund of all federal income tax withheld because I had no tax liability, and • This year I expect a refund of all federal income tax withheld because I expect to have no tax liability. If you meet both conditions, write "Exempt" here. ▶		7 <u>7</u>		
Under penalties of perjury, I declare that I have examined this certificate and, to the best of my knowledge and belief, it is true, correct, and complete.				
Employee's signature (This form is not valid unless you sign it.) <u>[Signature]</u>		Date ▶ <u>9-8-14</u>		
8 Employer's name and address (Employer: Complete lines 8 and 10 only if sending to the IRS.)		9 Office code (optional)		10 Employer identification number (EIN)

SUMMARY OF ENROLLMENT

SSN: [REDACTED]
Name: JAMES F THORPE JR
Salary: 22880
Change Reason: ENROLL

Effective Date: Oct 01, 2014
Approval Date: Sep 11, 2014
Birth Date: [REDACTED]

Transaction Id: 552665199
Group Id: 7381100
Hire Date: Sep 08, 2014

SUPPORTING DOCUMENTS

1. Appropriate supporting document verifying eligibility of your dependent.

CONTACT INFORMATION NEW VALUE

Name	JAMES F THORPE JR
Street 1	P O BOX 575
Street 2	
City	SPRINGFIELD
State	SOUTH CAROLINA
Zip	29146
Zip extension	
County	ORANGEBURG
Country	UNITED STATES
Home Number	803-707-4774
Work Number	803-829-2511
Email Address	THORPE.JIM@OUTLOOK.COM

COVERAGE INFORMATION NEW VALUE PREMIUM

Health	STANDARD PLAN	*
	ENROLLEE AND SPOUSE	
Dental	STATE DENTAL PLAN	*
	ENROLLEE AND SPOUSE	
Dental Plus	NO	*
Vision	STATE VISION PLAN	*
	ENROLLEE AND SPOUSE	
Optional Life	REFUSED	*
Dependent Life Spouse	REFUSED	*
Dependent Life Child	REFUSED	*
SLTD	REFUSED	*
Tobacco Premium	YES	*
PREMIUM PRETAX FEATURE (MONEYPLUS)	NO	
TOTAL		*

* Please contact your Benefits Administrator for all of your Coverage Premiums.

On Sep 11, 2014, 5:03 PM, I, JAMES F THORPE JR, Benefits Identification Number 77483602 hereby Electronically Sign the Summary of Change, thereby authorizing PEBA Insurance Benefits to make the selected changes on my behalf.

SUMMARY OF ENROLLMENT

SSN:
Name: JAMES F THORPE JR
Salary: 22880
Change Reason: ENROLL

Effective Date: Oct 01, 2014
Approval Date: Sep 11, 2014
Birth Date:

Transaction Id: 552665199
Group Id: 7381100
Hire Date: Sep 08, 2014

DEPENDENT	NEW VALUE
Name	MELISSA THORPE
SSN	
Relation	LAWFUL SPOUSE
Birth Date	
Gender	FEMALE
State Employee	NOT A STATE EMPLOYEE
Health	ACTIVE
Dental	ACTIVE
Vision	ACTIVE
Dependent Life Spouse	

BENEFICIARY	NEW VALUE
Name	MELISSA THORPE
SSN	
Relation	WIFE
Birth Date	
Street 1	PO BOX 575
Street 2	
City	SPRINGFIELD
State	SOUTH CAROLINA
Zip	29146
Basic Life	100%(PRIMARY)
Optional Life	

On Sep 11, 2014, 5:03 PM, I, JAMES F THORPE JR, Benefits Identification Number 77483602 hereby Electronically Sign the Summary of Change, thereby authorizing PEBA Insurance Benefits to make the selected changes on my behalf.

SUMMARY OF ENROLLMENT

SSN:
Name: JAMES F THORPE JR
Salary: 22880
Change Reason: ENROLL

Effective Date: Oct 01, 2014
Approval Date: Sep 11, 2014
Birth Date:

Transaction Id: 552665199
Group Id: 7381100
Hire Date: Sep 08, 2014

DISCLAIMER

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

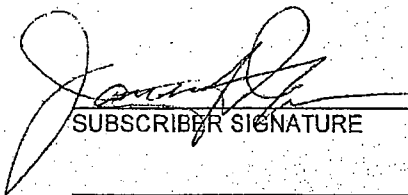
TOBACCO USER PREMIUM

I ACKNOWLEDGE THAT I WILL PAY THE TOBACCO-USER PREMIUM. I DECLARE THAT ONE OR MORE PERSONS COVERED ON MY HEALTH INSURANCE COVERAGE THROUGH EIP USES TOBACCO PRODUCTS IN SOME FORM OR THAT I CHOOSE NOT TO DISCLOSE MY STATUS AS IT RELATES TO TOBACCO USE. I UNDERSTAND THAT BY NOT MAKING AN ELECTION I AM CHOOSING TO PAY THE TOBACCO-USER PREMIUM.

On Sep 11, 2014, 5:03 PM, I, JAMES F THORPE JR, Benefits Identification Number 77483602 hereby Electronically Sign the Summary of Change, thereby authorizing PEBA Insurance Benefits to make the selected changes on my behalf.

SOUTH CAROLINA STATE BUDGET AND CONTROL BOARD
Employee Insurance Program
Certification Regarding Tobacco Use

SUBSCRIBER NAME: <i>JAMES F. THORPE JR</i>	SUBSCRIBER BIN OR SSN:
NON-TOBACCO-USER PREMIUM	☐ I certify that I am eligible for the Non-Tobacco-User Premium by checking this box and returning this form to the Employee Insurance Program ("EIP"). By checking this box, I certify truth and understanding of the following: ❖ I certify that all persons covered on my health insurance coverage through EIP (including myself and any dependents) are not currently using, and have not used, any tobacco products in any form (cigarettes, cigars, pipe, oral tobacco products, etc.) within the last 6 months. ❖ I certify that if this information changes at any time in the future, while I have health insurance coverage through EIP, I will notify EIP of such change within 30 days through completion and re-submission of this form. ❖ I certify that this information is true and correct to the best of my knowledge. ❖ I understand that if it is determined that I (or any of my covered dependents) have used tobacco products within the last 6 months or if I (or any of my covered dependents) start using tobacco products subsequent to the date of this certification without notifying EIP, I will be subject to penalties including, but not limited to, payment of premium difference since last certification plus a 10% penalty and elimination of tobacco user's out-of-pocket maximum for current year and subsequent year. ❖ I understand that all premium changes will be prospective. I will not be refunded any part of the Tobacco-User Premiums I have already paid.
TOBACCO-USER PREMIUM	☒ I acknowledge that I will pay the Tobacco-User Premium by checking this box. I declare that one or more persons covered on my health insurance coverage through EIP uses tobacco products in some form or that I choose not to disclose my status as it relates to tobacco use. I understand that by not making an election I am choosing to pay the Tobacco-User Premium. Please do not send me this certification again unless upon request.


 SUBSCRIBER SIGNATURE

9-8-14
 DATE

 BENEFITS ADMINISTRATOR SIGNATURE

 DATE

(Benefits Administrator's signature is required for active employees and for retirees and survivors of local subdivisions)

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THE AGENCY RESERVES THE RIGHT TO REVISE THE TERMS AND CONDITIONS OF THIS DOCUMENT IN WHOLE OR IN PART AT ANY TIME. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

11/09 If you have any questions, please call Customer Service at 803-734-0678 or toll-free at 888-260-9430.

Return this completed form to the Employee Insurance Program, PO Box 11661, Columbia, SC 29211.

SOUTH CAROLINA STATE ACCIDENT FUND

HARRY B. GREGORY, JR., Director

APRIL 24, 2015

Michael Johnson
1201 Carolina Place Suite 103
Fort Mill, SC 29708

RE: James Thorpe vs. TOWN OF BOWMAN
WCC #: 1503413
SF #: 2015-001120
D/A: 02/27/2015

Dear Mr. Thorpe:

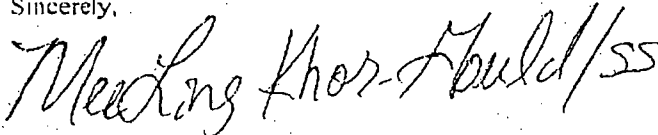
We have received from your employer a First Report of Injury (ACORD Form) relating to the above referenced incident. To qualify for workers' compensation benefits you must have either received an accident injury to your body or contracted an occupational disease arising out of and in the course of your employment. Additionally, the claim for benefits must have been reported and filed within the time and manner provided by the workers' compensation law.

Our review indicates that your case does not meet these requirements. It is in the opinion of the State Accident Fund, you did not sustain an injury arising out of or while in the course of your employment.

If you believe this decision is wrong we invite you to write to the Director pointing out any error you believe we have made and any fact we need to reconsider.

You should ask your employer's benefits coordinator about other possible coverage for your claim such as group insurance. Please feel free to call us at (803) 896-5832 if you have questions or if we can assist you further.

Sincerely,

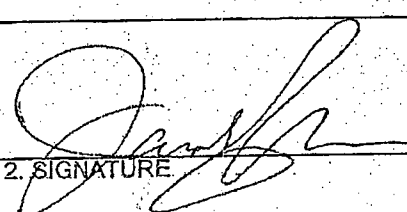


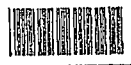
Mee ling Khor-gould
Claim Representative
mkgould@saf.sc.gov
Fax: (803) 612-2734

cc: Mrs. Sonji Spann, S.C. Workers' Compensation Commission, P.O. Box 1715, Columbia, South Carolina, 29202-1715

cc: TOWN OF BOWMAN PO Box 37 Bowman, SC 29018

Form 1102 Revised 04/12/2004 Page 1 Print or type in black ink		BENEFICIARY FORM BENEFICIARY DESIGNATION, CONTINGENT BENEFICIARY South Carolina Retirement Systems State Budget and Control Board Box 11960, Columbia, SC 29211-1960		CHECK ONE: ☒ New Enrollee ☐ Change of Beneficiary Retirement System (check one) ☐ SCRS ☒ FORS ☐ GARS ☐ JSRS
Please read the instructions on the reverse (page 2) before completing this form.		Use for designation beneficiaries and contingent beneficiaries. You may wish to consult with an attorney/estate planner before completing this form.		
PERSONAL INFORMATION				
Section I 1. Last Name & Suffix <u>THORPE Jr</u>		2. First/Middle Name <u>JAMES FRANCIS</u>		3. Social Security Number _____
4. Date of Birth _____		5. Address <u>3930 Surrey Lake Rd (PO BOX 575)</u>		
6. City <u>Springfield</u>		7. State <u>SC</u>		8. ZIP+4 <u>29146</u>
ALL SECTIONS MUST BE COMPLETED				
Section II-A BENEFICIARY(IES) FOR REFUND OF CONTRIBUTIONS/SURVIVOR BENEFITS - I designate the following PRIMARY beneficiary(ies) to receive the Retirement Systems refund of contributions or survivor benefits if eligible.				
1. Name of Beneficiary (ONE PERSON) <u>MELISSA THORPE</u>		Social Security # _____		Sex ☐ M ☒ F
2. Name of Beneficiary (ONE PERSON) _____		Social Security # _____		Sex ☐ M ☐ F
3. Name of Beneficiary (ONE PERSON) _____		Social Security # _____		Sex ☐ M ☐ F
Section II-B Contingent Beneficiaries Have No Rights Unless All Primary Beneficiaries Have Died - I designate the following CONTINGENT beneficiary(ies) to receive the Retirement Systems refund of contributions or applicable survivor benefits. If the contingent beneficiary designation below is blank all previous contingent beneficiaries will be revoked and your estate will become your contingent beneficiary.				
1. Name of Beneficiary (ONE PERSON) <u>HANNE EMILY JEAN THORPE</u>		Social Security # _____		Sex ☐ M ☒ F
2. Name of Beneficiary (ONE PERSON) <u>JAMES F THORPE III</u>		Social Security # _____		Sex ☒ M ☐ F
3. Name of Beneficiary (ONE PERSON) _____		Social Security # _____		Sex ☐ M ☐ F
Section III BENEFICIARY(IES) FOR GROUP LIFE INSURANCE (You may not designate contingent beneficiaries for Group Life). I designate the following beneficiary(ies) to receive the Retirement Systems Group Life Insurance.				
1. Name of Beneficiary (ONE PERSON) <u>MELISSA THORPE</u>		Social Security # <u>544-71-6176</u>		Sex ☐ M ☒ F
2. Name of Beneficiary (ONE PERSON) _____		Social Security # _____		Sex ☐ M ☐ F
3. Name of Beneficiary (ONE PERSON) _____		Social Security # _____		Sex ☐ M ☐ F
CERTIFICATION AND CONDITIONS				
IMPORTANT: Please read the Certification and Conditions sections of the instructions on the reverse (page 2) before signing this form. I hereby certify I have read and understand the information on the reverse (page 2), including the certification and conditions, and I agree to the provisions stated.				
MEMBER'S SIGNATURE <u>[Signature]</u>		WITNESS _____		
STATE OF <u>South Carolina</u>		COUNTY OF <u>Orangeburg</u>		
Acknowledged before me this date <u>12/21/21</u>		NOTARY NAME <u>Yvonne K. Lewis</u>		
My Commission Expires <u>12/21/21</u>		NOTARY SIGNATURE <u>[Signature]</u> (Out of state, requires Seal)		
PAGE ____ OF ____ Please call SC Retirement Systems Customer Service with any questions: 800/868-9002 (in state) or 803/737-6800				

Form 1101 Revised 07/01/2000 Page 1		ENROLLMENT FORM South Carolina Retirement Systems State Budget and Control Board Box 11960, Columbia, SC 29211-1960		CHECK ONE: ☒ NEW ENROLLEE ☐ CHANGE OF EMPLOYER ☐ CHANGE OF INFORMATION To change existing records, check appropriate box(es) below, see instructions on reverse side (page 2). ☐ Name (Prior Name): _____ ☐ Address _____ ☐ Date of Birth _____ ☐ SSN (Old Number): _____	
Print or type in black ink. See reverse (page 2) for instructions.					
SECTION I: TO BE COMPLETED BY EMPLOYEE					
1. Last Name & Suffix <u>THORPE Jr</u>		2. First/ Middle Name <u>JAMES FRANCIS</u>		3. Social Security Number <u>1</u>	
4. Address <u>3830 Surrey Hall Road Po Box 575</u>					
5. City <u>Springfield</u>	6. State <u>SC</u>	7. ZIP+4 <u>29146</u>	8. Sex <u>M</u> M=Male F=Female	9. Date of Birth ____/____/____	
10. Have you ever been a member of any of the South Carolina Retirement Systems? ☐ No ☒ Yes		11. If "Yes", name former employer(s): <u>Orangeburg County SO</u> Did you withdraw your contributions? ☐ No ☒ Yes Are you now receiving a monthly benefit check from any of the SC Retirement Systems? ☒ No ☐ Yes			
THE MEMBER'S ESTATE WILL BE DESIGNATED AS THE BENEFICIARY UNTIL SCRS IS IN RECEIPT OF A PROPERLY EXECUTED - BENEFICIARY FORM, UNLESS A BENEFICIARY DESIGNATION IS ALREADY ON FILE.					
12. SIGNATURE 		13. DATE <u>9-11-14</u>		WITNESS _____ (Required only when signed by mark)	

SECTION II: TO BE COMPLETED BY EMPLOYER			
14. A COPY OF SOCIAL SECURITY CARD MUST BE ATTACHED IN ORDER TO ENROLL THE MEMBER. NAME ON CARD MUST MATCH NUMBER 1-2 IN THE EMPLOYEE SECTION OF THIS FORM.		23. Member's Annual Statements will be sent to the primary Employer. Must be completed.	
15. Employer Code No. <u>738.11</u>	16. Employer Name <u>Town of Bowman</u>	☒ Primary Employer ☐ Secondary Employer	
17. Retirement System (check one) ☐ SCRS ☒ PORS ☐ JSRS ☐ GARS ☐ Senator (100.01) ☐ Representative (100.02) ☐ Judge (001.00) ☐ Solicitor (002.00)		Completed by:	
18. Universities, Technical Colleges, Schools K-12 ☐ ORP PENDING		<u>Yvonne Lewis</u> NAME	
19. Original Date of Hire (with employer in #15 & #16) <u>09/8/2014</u> mm-dd-yyyy	20. Date of Membership <u>09/8/14</u> mm-dd-yyyy	<u>803-829-2666</u> WORK PHONE #	
21. Title of Position <u>Police Officer</u>	22. Annual Salary <u>22,880.00</u>	<u>9/17/14</u> DATE (mm-dd-yyyy)	
			

Please call SC Retirement Systems Customer Service with any questions: 800/868-9002 (in state) or 803/737-6800



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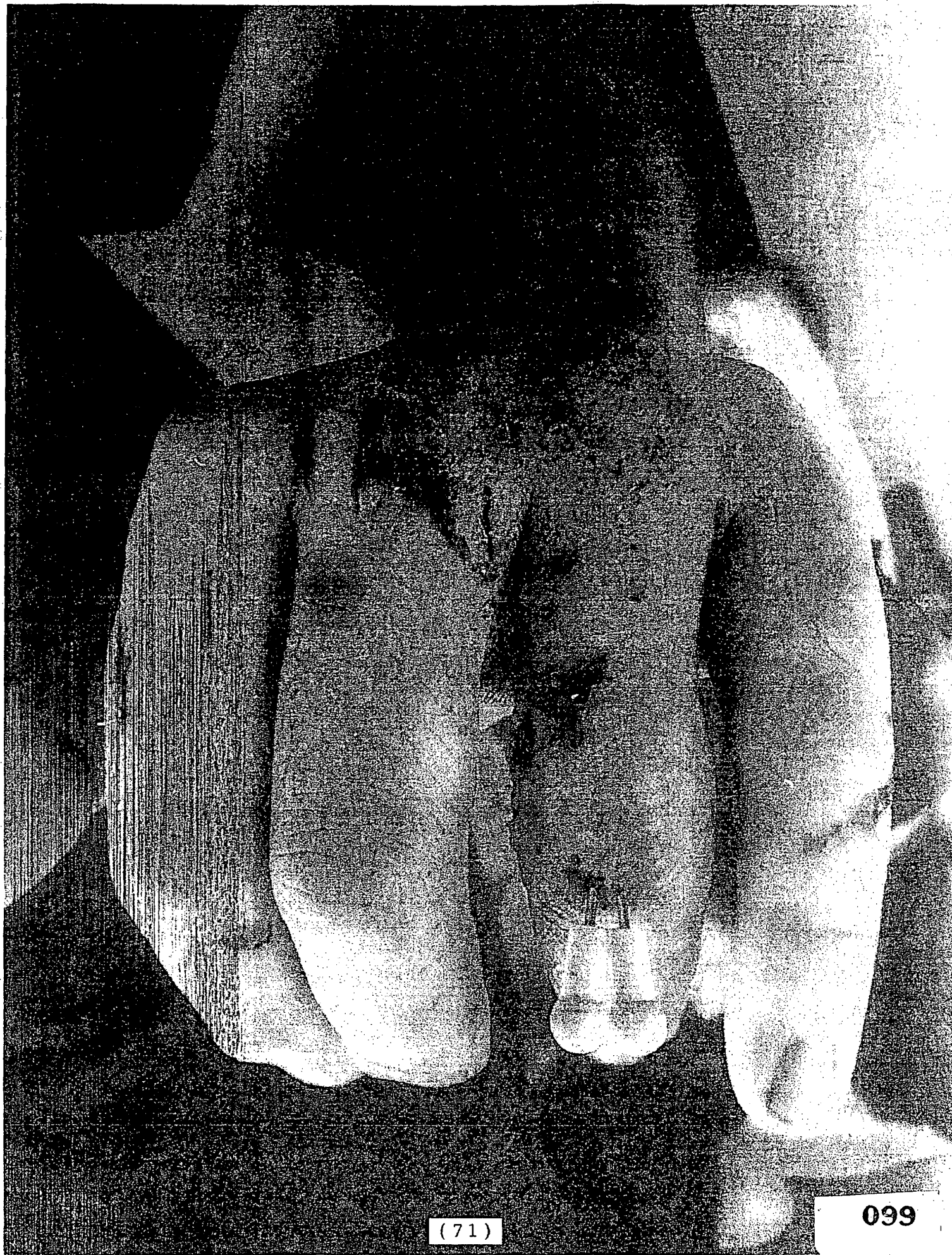
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(71)

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(73)

101



Claimant's Name: James Thorpe Jr. Employer's Name: Town of Bowman
Address: PO Box 575 Address: 131 Poplar Street
City: Springfield State: SC Zip: 29146 City: Bowman State: SC Zip: 29018
Home Phone: () - Work Phone: () - Carrier: State Accident Fund
Preparer's Name: Clarke W. McCants, III Preparer's Phone #: (803) 649-6200

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$ 461.60 2. AWW: \$ 692.36 Date of Injury: 2/27/2015
3. Type of injury and body part(s): Alleged left hand and left ring finger
4. Facts in controversy: Whether or not Claimant sustained an injury while in the course and scope of his employment
5. Legal issues involved: Liability of Defendants for payment of compensation and other benefits
6. Unusual aspects: None
7. Witnesses (designate if expert):* See attached Notice of Submission of Evidence
8. Exhibits: See attached Notice of Submission of Evidence
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
See attached Notice of Submission of Evidence
10. Name, address, and specialty, if any, of the treating physician: None authorized
11. Impairment rating(s); body part(s); physician and date of opinion: N/A
12. I am amending my Form 50/51 in the following manner: Not at the present time

☐ **Mediation**

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1802.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I verify the contents of this form are accurate and true to the best of my knowledge.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to: See attached.

Signature: Clarke W. McCants, III

Date of hearing: 2/3/16

Email: Mccants3rd@aol.com

Time needed for hearing: 30 minutes

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67- 1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

James Thorpe Jr.,	)	WCC File No. 1503413
Claimant,	)	
	)	
vs.	)	
	)	
Town of Bowman,	)	
Employer,	)	NOTICE OF SUBMISSION OF
	)	EVIDENCE BY DEFENDANTS
and	)	
	)	
State Accident Fund,	)	
Carrier	)	
Defendants.	)	

PLEASE TAKE NOTICE that the Employer/Carrier, pursuant to the provisions of the South Carolina Workers' Compensation Law and S. C. Code Ann. Section 1-23-10 (1976), et. seq., submits the following documentary evidence to be included in the record for the above-captioned matter. Copies of the documents listed below are herewith served upon Counsel for the Claimant and will be offered at the hearing for this matter for inclusion in the record.

DOCUMENTARY EVIDENCE

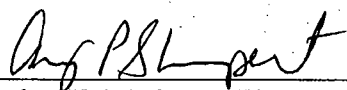
1. Town of Bowman K-9 Policies and Regulations, 4/1/13, Pages 1-2;
2. Letter from James Thorpe to Town of Bowman, 5/7/15, Page 3, and
3. Time Records for Claimant, to be produced upon receipt.

PLEASE ALSO TAKE NOTICE THAT the Employer may call the following witnesses to testify at the hearing for this matter:

Marion Glenn
Kevin Pendarvis
Steve Thompson
Mario Fonseca
James Crosby

Town of Bowman
Town of Bowman
Town of Bowman
Town of Bowman
State Accident Fund

NANCE, MCCANTS & MASSEY

By: 
for Clarke W. McCants, III
P. O. Box 2881
Aiken, SC 29802-2881
(803) 649-6200 Ext. 21
Counsel for Employer/Carrier

Dated: January 22, 2016

Descriptor Term:	Descriptor Code:	Issue Date:
Police K-9 Use	K9-01	01 April 2013

Purpose:

To establish procedures and regulations governing the training, use, and administration of police service dog teams employed by the Bowman Police Department. This standard operating procedure shall define the authority and responsibility for their use.

Policy:

- A. Utilization of properly trained police service dogs represents a highly cost effective and reliable asset to law enforcement personnel, by utilizing the canine's olfactory and hearing senses. The police service dog also provides a psychological deterrent by their presence at the scene of potential conflict or disturbance.
- B. The Police K-9 will be considered a member of the Bowman Police Department.
- C. Areas of potential deployment for the K9 teams may include, but not limited to:
 - 1. Building Searches
 - 2. Open area searches
 - 3. Evidence searches / Article recovery
 - 4. Tracking / Trailing
 - 5. Narcotics search / Controlled substance detection
 - 6. Back up for violent / Potentially violent calls
 - 7. Crowd Control
 - 8. Protection of Law Enforcement
 - 9. Public Relations

Use of Force:

- A. The canine unit shall be guided by the departmental use of force policies.
- B. K9 apprehension of a suspect is **Not Allowed**. K9's should only be used for Officer Protection during violent encounters. **At no time should a Police Canine be ordered to apprehend (bite). Canines of Bowman Police Department will not be taught Apprehension.**

Dog Bite Procedures:

If a Bowman Police Department Canine bites a person, the following must be completed.

- A. The injured person shall be afforded medical care as soon as possible.
- B. Photographs shall be taken as soon as possible, of the bite by a department supervisor. All photographs before and after cleaning of the wound area so that the photographs accurately reflect the extent of the injury in a non-prejudicial manner. Copies of the photos shall be held in evidence and attached to the incident report.

EXHIBIT	1
Deponent	Thompson, Jr.
Date	1/9/12 Rpt: CR
www.fpcbock.com	

Employee Conduct:

- A. No member of the department shall touch, handle, or pet the police canine without authorization from the handler.
- B. No personnel shall tease, agitate, or harass any police canine.
- C. All members of the department shall refrain from horseplay when the police canine is present. Do not make aggressive gestures toward the canine's handler.
- D. If a Police service dog approaches an employee, the employee should stand still, so not to startle the K9.

Training and Reporting:

- A. All K9 Unit personnel shall attend weekly maintenance training with their assigned canine.
- B. All canines must complete at least 4 hours of maintenance training a week.
- C. All canine handlers shall maintain a deployment file for their assigned canine.
- D. Monthly K9 activity reports must be turned in to the Chief before the 10th of each month.
- E. While training aids are checked out, and in the possession of the handler, their security will be the sole responsibility of the handler.

Uniforms and Equipment:

- A. All members of the K9 unit will be required to wear the department uniform that is issued to them (tactical uniform, Polo, or T-shirt) with Bowman Police Department Logo.
- B. "Boonie" hats or ball caps approved by the Chief will be allowed in field deployments.
- C. The handler may elect to wear associated gear in lieu of duty belt.
- D. Canine vehicle windows must be kept open at least 2 inches, while actively engaged in patrol duties while the canine is inside. When the handler leaves the vehicle unattended, the vehicle must be secured with adequate ventilation, and with the vehicle running as needed for temperature control.

Canine Care:

- A. The handler will be responsible for the health and welfare of the assigned canine, both on and off duty.
 - 1. Annual medical examinations will be conducted yearly or as needed should an injury occur by the department approved veterinarian.
 - 2. Any illness or injury of a non-emergency nature shall be reported to the handler's supervisor. If it is determined by the handler that the canine should be taken to the veterinarian, the Chief will be notified as soon as practical.
 - 3. In an emergency situation, the handler shall insure that the canine receives immediate medical attention. The handler shall submit a supplemental report to the Chief describing the entire incident.
 - 4. the handler will be responsible to administer any medication as prescribed by the veterinarian.
- B. The canine will be certified by a K9 association approved by the South Carolina Criminal Justice Academy.
- C. The handler will be responsible for the daily grooming of their assigned canine.
- D. The canine will be fed regularly by the handler at a time that will allow maximum time between feedings and going on duty. Fresh water must be available at all times.
- E. The canine's home kennel will be kept clean and sanitary.

05-07-2015

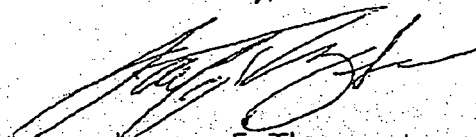
Chief Pendarvis and Town Council

Dear Chief Pendarvis and Town Council,

I, James F Thorpe Jr, am resigning from Bowman Police Department effective May 18, 2015. I would like to take this time to thank Chief Pendarvis and the Town of Bowman for the opportunity to work for Bowman Police Department.

At this time, I am resigning due to being informed by Chief Pendarvis that hours are being cut back and that the patrol car that I drive home has to be parked due to fuel bills. Again thank you for the opportunity, but at this time I have to do whats best for my family.

Sincerely,



James F. Thorpe Jr.

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Δ π EXHIBIT	2
Deponent	Thorpe Jr
Date	5-18-15
WWW.DEPOBOX.COM	



WCC File #: 1503413
Carrier File #: _____
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: James Thorpe, Jr. SSN: 123-60-2646 Employer's Name: Town of Bowman
Address: 3830 Surrey Race Road Address: 131 Poplar Street
City: Springfield State: SC Zip: 29146 City: Bowman State: SC Zip: 29018
Home Phone: () - Work Phone: () - Insurance Carrier: State Accident Fund
Preparer's Name: R. Michael Johnson, Jr. Law Firm: Michael Johnson, P.C. Preparer's Phone #: 803-547-2800

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ Claimant ☐ Employer (check one) Date of Injury or Illness: 2/27/15

he undersigned makes application for review of the findings of the Commissioner in the above-captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages if necessary).

See attachment to Form 30.

Check one) Oral argument ☒ is ☐ is not requested. Appellant's request for oral argument is waived if not indicated on this form.

☐ Mediation

☐ Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to *SEE ATTACHED CERTIFICATE OF SERVICE*
Address _____ on the _____ day of _____ 20____ by _____ first class postage _____ certified mail _____ personal service.

Preparer's Signature _____ Attorney for Claimant
Title _____

MJohnson@JohnsonSCLaw.com
Email _____

12/5/2016
Date _____

Check this box if you are not represented by an attorney ☐

Questions about the use of this form should be directed to the Judicial Department at 803.737.5675 or appeals@wcc.sc.gov.

If the claimant appeals and is not represented by counsel, the Judicial Department will properly serve this form pursuant to Reg. 67-607 C. Pursuant to Reg. 67-5 and Reg. 701, the appeal must be postmarked no later than 14 days from the date of service of the Decision and Order of the Hearing Commissioner along with the filing fee. Attach a Form 32, if you are unable to pay the filing fee. Refer to Reg. 67-211 and Reg. 67-701 through 711.

James Thorpe, Jr. v. Town of Bowman

WCC File No. 1503413

ATTACHMENT TO FORM 30

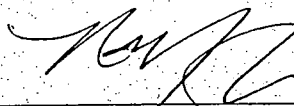
1. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 4 in which the Commissioner found that the dog, Racks, was the sole personal property of the Claimant, where the record and law of this State do not support such a finding?
2. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 5 in which the Commissioner found that the dog, Racks, was the property of the Claimant and that there was not a meeting of the minds between the Claimant and the Chief of Police such that the dog could be the property of the Town, where the record and law of this State do not support such a finding?
3. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 6 in which the Commissioner found that the dog Racks, was the personal property of the Claimant and that the Town was not responsible for the 24-hour care of the dog, where the record and law of this State do not support such a finding?
4. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 8 in which the Commissioner found that the Claimant and the Chief of Police had a lack of understanding or interpretation of the conversation following Racks testing for drug detection, where the record and law of this State do not support such a finding?
5. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 9 in which the Commissioner found that the Chief of Police instructed the Claimant that Racks could not be used as a K-9 due to his apprehension training, where the record and law of this State do not support such a finding?
6. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 13 in which the Commissioner found that from a review of the testimony it is clear how the miscommunication occurred, where the record and law of this State do not support such a finding?
7. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 19 in which the Commissioner found that the Claimant was not on duty at the time of the incident, where the record and law of this State do not support such a finding?
8. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 24 in which the Commissioner found that the Claimant's injury was not within the course and scope of his employment, where the record and law of this State do not support such a finding?

9. Did the Hearing Commissioner err as a matter of fact and law in Finding of Fact 25 in which the Commissioner found that the Claimant's injury/accident did not arise out of and in the course of his employment, where the record and law of this State do not support such a finding?

10. Did the Hearing Commissioner err as a matter of fact and law in Conclusion of Law 6 in which the Commissioner found that the Claimant did not sustain injury by accident arising out of and in the course of his employment, where the record and law of this State do not support such a finding?

11. Did the Hearing Commissioner err as a matter of fact and law in Conclusion of Law 7 in which the Commissioner found that the Claimant was not entitled to receive compensation and benefits under the Workers' Compensation Act, where the record and law of this State do not support such a finding?

Respectfully Submitted,



R. Michael Johnson, Jr.
Michael Johnson, P.C. & Associates
1201 Carolina Place, Suite 103
Fort Mill, South Carolina 29708
803-547-2800
MJohnson@johnsonslaw.com

December 5, 2016

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 1503413

James Thorpe,
Employee-Claimant,
v.
Town of Bowman,
as Employer-Defendant
and
State Accident Fund,
as Carrier-Defendant.

**APPELLANT'S BRIEF
TO THE FULL COMMISSION**

STATEMENT OF THE CASE

On October 14, 2015, the Claimant filed a Form 50, Request for a Hearing, requesting that the single Commissioner find that the Claimant had (1) sustained injury by accident, arising out of and in the course of his employment on February 27, 2015; (2) an injury to his left hand; and (3) medical care for his left hand. The Defendants filed a Form 51 on November 17, 2015, denying the Claimant sustained injury by accident arising out of his employment and that the Claimant was entitled to medical care. A Hearing was held before Commissioner Melody L. James on February 3, 2016 in St. Matthews, South Carolina with an Order being issued on November 21, 2016.

The Order found that the Claimant did not sustain injury by accident, arising out of and in the course of his employment and was not entitled to medical care for the dog bite he received on

his left hand. The Claimant filed a Form 30, Request for Commission Review on December 5, 2016.

STATEMENT OF THE FACTS

At the Hearing the Claimant testified that he is 38 years old and grew up in Orangeburg, South Carolina. (R. at p. 7, ll. 7-14). The Claimant attended Orangeburg-Wilkerson High School and in 1995 he received his GED. (R. at p. 7, ll. 17-21). The Claimant began working in law enforcement in 2005 for the Orangeburg Sheriff's Office as a road deputy before going to work for the Town of Bowman. (R. at p. 7, ll. 22-25; p. 8, ll. 1-5).

At the time of the accident the Claimant had been working for the Town of Bowman as a police officer since September or October of 2014. (R. at p. 9, ll. 9-20). The Claimant testified that from the moment he started with the Town of Bowman he and Chief Pendarvis had talked about the Claimant getting a K-9 unit. (R. at p. 8, ll. 24-25; p. 9, ll. 1-7). The Claimant and the Chief were the only two employees and typically the Chief would work the day shift and the Claimant would work the night shift. (R. at p. 9, ll. 21-25; p. 10, ll. 1-7).

The Town of Bowman owned three K-9 units at the time of the accident, all under the care of Chief Pendarvis. (R. at p. 10, ll. 15-24). The Claimant testified that the Chief told him he owns the dogs, but he did not know whether the Chief owned them or the Town. (R. at p. 11, ll. 2-6). The Claimant testified that he and Chief Pendarvis had a conversation in which the Chief offered him a puppy, and said they could train the puppy for K-9 use. (R. at p. 12, ll. 1-5).

Before the Claimant could train the puppy, he received a call from a fellow co-employee at the Orangeburg Sheriff's Office, Sergeant Steven Thompson. The Claimant and Sergeant Thompson keep in touch and the Claimant shared with the Sergeant that he was looking for a K-9 unit. (R. at p. 11, ll. 17-25). Sergeant Thompson offered the Claimant Racks, a fully trained

K-9 unit, for free. (R. at p. 12, ll. 6-15). Sergeant Thompson told the Claimant that Racks was certified in narcotics, tracking, article location and attack. (R. at p. 13, ll. 4-7). The Claimant testified that he told Chief Pendarvis on Wednesday, February 25th that he had a K-9 and wanted to start using it for the Town of Bowman. (R. at p. 13, ll. 11-17). The Claimant stated that he called the Chief and informed him the Sergeant Thompson had a dog trained in these areas and asked him, "would it be something we could – that I could use in Bowman." (R. at p. 13, ll. 20-24). Chief Pendarvis replied, "Yeah" and that he would meet the Claimant at the police department. (R. at p. 13, ll. 24-25; p. 14, ll. 1).

That evening, Chief Pendarvis gave the Claimant a crate for Racks to sit in when in his vehicle. (R. at p. 14, ll. 8-17). The Claimant then left work and went to pick up Racks from Sergeant Thomspson. (R. at p. 14, ll. 22-24). On Thursday, February 26th the Claimant brought Racks to work with him at 11:42 am per his time sheet. (R. at p. 16, ll. 4-7; Defendants' Exhibit 1). The Chief arrived several hours later and informed the Chief that Racks was trained in "attack, the drugs, narcotics, and all that." (R. at p. 17, ll. 13-14). The Chief then placed drugs in various areas of the department and tested Racks ability to find them. (R. at p. 17, ll. 14-25). At the end of the testing/training the Claimant testified that the Chief said that the Town could use Racks and gave the Claimant a list of commands to use with Racks. (R. at p. 18; 22-25; p. 19, ll. 1-3).

At that time the Chief told the Claimant he could not use the command for "attack" in the Town of Bowman and the Claimant agreed. (R. at p. 19, ll. 10-14). The Claimant testified the Chief told him, "Well, since you're going to have a K-9 now, go ahead and get into the old charger, take the backseat out, put the kennel in the backseat of the old charger 'cause that's the K-9 car." (R. at p. 30, ll. 23-215; p. 31, ll.1). Prior to that instruction by the Chief, the Claimant

was using a “new charger” and switched vehicles in order to remove the backseat. (R. at p. 31, ll. 2-7). The Claimant removed the back seat from the K-9 vehicle and placed the back seat in the storage room of the police department. (R. at p. 10, ll. 25; p. 20, ll. 1-6). Racks remained at the police station for the remainder of the day until the Claimant left work at 10:01 pm that evening and took Racks with him. (R. at p. 20, ll. 15-19; p. 21, ll. 20-25; Defendants’ Exhibit 1).

It was the Claimant’s understanding that his responsibility was to take care of Racks – “that is like a child to you basically.” (R. at p. 20, ll. 25). The Claimant was responsible to feed, bathe and train Racks and care for him 24/7. (R. at p. 21, ll. 1-2; p. 26, ll. 1-2). Chief Pendarvis gave the Claimant dog food for Racks from the K-9 room at the police department. (R. at p. 21, ll. 3-8). That food had been donated to the town to help feed the departments K-9’s. (R. at p. 21, ll. 4-5). Based on conversations with the Chief about having a K-9, the Claimant’s understanding was that the Town of Bowman would pay for veterinarian bills and shots but that he was responsible for “anything else as far as feeding and bathing and stuff like that.” (R. at p. 22, ll. 3-11).

After leaving work the Claimant took Racks home, let him out to use the bathroom in his backyard, interacted with him and then put him in a kennel for the night inside his home. (R. at p. 22, ll. 21-25; p. 23, ll. 1-4). The following morning the Claimant took Racks outside and began doing training – commands and rewards. (R. at p. 23, ll. 10-22). The Claimant testified he believed it was part of his job to work and train Racks as “much as possible” and a minimum of four hours per week. (R. at p. 60, ll. 1-6). If Racks performed the task given the Claimant would award him by throwing a piece of rubber hose and Racks would retrieve it. (R. at p. 23, ll. 17-22). While Racks was in the back corner of the Claimant’s yard retrieving the rubber hose the

Claimant went out of the backyard to his vehicle to retrieve the bag of food that he had been given by the Chief. (R. at p. 23, ll. 23-24; p. 24, ll. 1-7).

The Claimant believes the gate to the fence did not latch properly allowing Racks to exit the backyard and run on to his elderly bedridden neighbors screened-in front porch. (R. at p. 23, ll. 24-25; p. 24, ll. 12-14; p. 47, ll. 22-24). As the door to the porch swings inward, at that point Racks was trapped within his neighbors porch and was "running into the screen on both sides trying to get out." (R. at p. 24, ll. 15-17; p. 25, ll. 4-5). The Claimant opened the screen door and commanded Racks to "come" however the Claimant believes the dog was "disoriented" from the screen door slamming and would not respond. (R. at p. 25, ll. 6-13). The Claimant described Racks as "in a chaos" and as he approached the door the Claimant commanded him to stop. (R. at p. 25, ll. 16-19). When Racks did not stop, the Claimant grabbed his collar to keep him from getting away. (R. at p. 25, ll. 18-19). When the Claimant did this, Racks bit his left hand. (R. at p. 25, ll. 20-21).

Once Racks bit the Claimant he did not let go of his left hand, locking down on his hand and beginning to shake his head. (R. at p. 26, ll. 17-20). At that point the Claimant grabbed the dog with his right hand and "choked him out 'till he just passed out." (R. at p. 26, ll. 20-25). Once Racks regained consciousness he obeyed all the Claimant's commands and walked with the Claimant to the squad car where the Claimant placed Racks in the kennel in the back seat. (R. at p. 27, ll. 6-16). The Claimant went inside, called his wife to take him to the hospital, wrapped his hand in a towel and called Chief Pendarvis to let him know that he would not be able to work. (R. at p. 28, ll. 6-16).

On cross-examination, the Claimant testified that he is on call 24 hours a day and the only time he would not be on call is if he requests a day off. (R. at p. 37, ll. 18-20; p. 38, ll. 1-5).

The Claimant agreed with defense counsel that he was obligated to report an illness or injury to the K-9 to the Chief and that the Town would pay for an annual medical evaluation.” (R. at p. 39, ll. 7-10, 17-22). The Claimant reiterated that he was allowed to use Racks as a K-9, however he was not to use him for apprehension. (R. at p. 43, ll. 1-5). The Claimant testified that after the accident Chief Pendarvis came to his house and removed the dog. (p. 57, ll. 7-10).

The next witness was Kevin Lee Pendarvis, the Chief of Police for the Town of Bowman. The Chief admitted that he performed drills with the Claimant and Racks on Thursday and Racks passed the tests. (R. at p. 66, ll. 21-25; p. 67, ll. 1-5). The Chief also admitted the Claimant informed him that Racks could be used for narcotics and apprehension. (R. at p. 67, ll. 9-13). At this point the Claimant and the Chief’s stories diverge, with the Chief testifying that he informed the Claimant that they could not use Racks due to the Town policy that no K-9 will be “ordered” to apprehend. (R. at p. 67, ll. 12-15; p. 68, ll. 2-4)(emphasis added). However, when pressed on this issue the Chief admitted that no town policy exists stating that a dog cannot be trained in apprehension, simply that an Officer cannot command the K-9 to apprehend. (R. at p. 68, ll. 22-25; p. 69, ll. 1-4).

Chief Pendarvis denied telling the Claimant he could use Racks as a K-9, that he could remove the backseat from the old charger and testified that Racks was never to be used. (R. at p. 70, ll. 1-14). Claimant’s counsel asked the Chief if he had reprimanded the Claimant for violating his orders,

Q. All right. Did you ever write him up for that?

A. No, sir.

Q. Did you ever put anything in his employee file about that?

A. No, sir.

Q. Did you ever - - did you give him a verbal warning, a written warning, any type of thing?

A. No, sir, just told him not to use the dog.

Q. All right. So he - so it's your testimony he directly disobeyed you, yet there is nothing that you ever did about him directly disobeying you? You didn't fire him?

A. No, sir.

Q. You didn't write him up? You didn't do anything; am I correct?

A. Yes, sir.

(R. at p. 71, ll. 6-21).

During questioning from Claimant's Counsel the Chief also testified that he specifically told the Claimant he could not use Racks as a K-9 and that he told him to "take the dog home." (R. at p. 77, ll. 6-9, 19-20). The Chief agreed that Racks was present at the police station for at least four and a half (4½) hours and based on the Claimant's testimony, the training only took 45 minutes. (R. at p. 78, ll. 6-8; p. 18, ll. 12-14). When questioned why he wasn't "sure that he [the Claimant] took that dog home" the Chief replied, "I can't answer that." (R. at p. 79, ll. 10-13).

ARGUMENT

The Full Commission is given great discretion to review the decisions made at the single Commissioner level as the ultimate finder of fact. However, it is also inherent in this discretion to determine whether to give weight to the single Commissioner's determination as to the credibility of the witnesses and decide whether to reach conclusions of law and fact that can be consistent with those of the single Commissioner. "Although it is logical for the Full Commission which did not have the benefit of observing the witness, to give weight to the hearing commissioner's opinion the Full Commission is empowered to make its own findings of

fact and to reach its own conclusions of law consistent or inconsistent with those of the hearing commissioner.” McGuffin v. Schlumberger-Sangamo, 307 S.C. 184, 414 S.E.2d 162 (1992)(citing Green vs. Raybestos-Manhattan, Inc., 250 S.C. 58, 156 S.E.2d 318 (1967)).

The Full Commission is also given the responsibility to construe the Act liberally to provide coverage rather than deny coverage to injured workers. “The Workers’ Compensation Act is to be liberally construed toward the end of providing coverage rather than denying coverage in order to further the beneficial purposes for which it was designed.” Bentley v. Spartanburg County, 398 S.C. 418, 730 S.E. 296 (2012). “Any reasonable doubt as to the construction of the Workers’ Compensation Act will be resolved in favor of coverage.” Mauldin v. Dyna-Color/Jack Rabbit, 308 S.C. 18, 22, 416 S.E.2d 639, 641 (1992).

All the provisions of the Workers’ Compensation Act are broadly construed in favor of coverage because “...the Workmen's Compensation Act is a form of social legislation wherein and whereby the employer and employee surrender benefits previously enjoyed under the common law in exchange for other benefits provided under the Act.” Bagwell v. Ernest Burwell, Inc., 227 S.C. 168, 171, 87 S.E.2d 583, 584 (1955). “The employee receives the right to swift and sure compensation; the employer receives immunity from tort actions by the employee. This quid pro quo approach has worked to the advantage of society as well as the employee and the employer.” Parker v. Williams & Madjanik, Inc., 275 S.C. 65, 69-70, 267 S.E.2d 524, 526 (1980).

The Supreme Court has observed the broad construction referenced above applies to the “arising out of and in the course of the employment” coverage issue. “It is the general policy in South Carolina to construe all provisions of the Workers’ Compensation Act, including § 42-1-160, in favor of coverage, and any reasonable doubts are resolved in favor of the coverage.”

Davis v. S.C. Dep't of Corr., 289 S.C. 123, 125, 345 S.E.2d 245, 246 (1986). "Where employer and employee are subject to the compensation act, ... an injured employee should not be excluded from the benefits of the law upon the ground that the accident did not arise out of and in the course of his employment when there is substantial doubt (arising from the proven facts) of the propriety of such conclusion. These words are construed broadly and should continue to be so construed." Pelfrey v. Oconee County, 207 S.C. 433, 439, 36 S.E.2d 297, 299 (1945).

1. The Commissioner Erred in her Focus on Ownership of the K-9 Unit.

In her Order, the single Commissioner ruled,

I find that the training on the date of the incident had been completed, as the Claimant was going to retrieve food for Racks. The testimony of the Claimant was that the dog was in the corner of the fenced backyard, and the Claimant went to get his food from the police car. The food was given to him by the Chief from food that was donated to the Town. However, this was the Claimant's personal dog, and the feeding of his personal dog is not within the course and scope of his employment. (Order, Finding of Fact 24).

The Commissioner's determination that the K-9 unit was the personal dog of the Claimant, as opposed to his K-9 unit allowed by the Town of Bowman, flies in the face of her previous findings. Specifically, in Finding of Fact 14 the Commissioner ruled that from "the Claimant's understanding that the town would be using the dog, he proceeded to take out the back seat of another police vehicle, so that it could accommodate the kennel that had been given to him earlier by Chief Pendarvis." (Order, Finding of Fact 14).

Further, the Commissioner ruled that "Any misunderstanding or mis-communication between the Claimant and Chief Pendarvis does not prejudice the Claimant in this case. The Claimant proceeded in his employment such that Racks was part of the K-9 unit." (Order, Finding of Fact 15). The Commissioner also found that the "Claimant was initially 'working with' Racks in the backyard of his home, and in a manner that the Chief had told him to do."

(Order, Finding of Fact 18.). Neither Finding of Fact 14, 15 or 18 were appealed by either party in this case.

In Finding of Fact 22 the Commissioner goes even farther, finding that if “the incident had occurred during training required by the Town, the injury here might be compensable, as the Claimant understood that the dog was now part of the canine unit of the Town, and the training might have been part of the required training.” (Order, Finding of Fact 22)(emphasis added). Ultimately, the Commissioner decided this case on a ruling that Racks was the Claimant’s dog. Again, this does not mesh with her Findings of Fact. Instead of ownership of the dog, the focus of the inquiry should have been on (1) Did the Claimant have a reasonable expectation that the dog was to be used as a K-9; and (2) Did the Claimant sustain injury by accident arising out of and the course of his employment? The answer to both questions is yes.

2. The Claimant had a Reasonable Expectation that he was Permitted to use the dog as a K-9.

The Claimant had a reasonable expectation that Racks would be his K-9 unit and that he should train, care and supervise the dog. In fact, to that end the Claimant removed the backseat of his squad car to accommodate the dog carrier – which was given to him by the Chief the day before. The Claimant and the Chief also put Racks through a series of drills at the station and the Chief gave the Claimant dog food from the Town’s supply to feed Racks.

After hearing this testimony, the single Commissioner concluded that it was the “Claimant’s understanding that the Town would be using the dog, [therefore] he proceeded to take out the back seat of another police vehicle, so that it could accommodate the kennel that had been given to him earlier by Chief Pendarvis.” (Order, Finding of Fact 14). The only way the

K-9 could be classified as the Claimant's dog would be if the Claimant knew the dog could not be used as a K-9 and acted in an adverse manner to his employer's instructions.

South Carolina caselaw has clearly shown that unless the Employer gives clear and explicit instructions, which was not the finding of the single Commissioner, that an act in violation of an employer's policy was still within the scope of their employment. See, e.g., Grant v. Grant Textiles, 372 S.C. 196, 641 S.E.2d 869 (2007)(injury incurred removing debris from road compensable even though it was not part of employee's job duties); Howell v. Kash & Karry, 264 S.C. 298, 214 S.E.2d 821 (1975)(fall while chasing purse snatcher off the premises not specifically prohibited by employer even though outside regular job duties); Compton v. Town of Iva, 256 S.C. 35, 180 S.E.2d 645 (1971)(employer allowed employees to act outside scope of their duties); Portee v. South Carolina State Hosp., 234 S.C. 50, 106 S.E.2d 670 (1959)(employee died of anaphylactic shock administered by nurse who knew of prohibition against giving shots without doctor's orders); Johnson v. Merchants Fertilizer Co., 198 S.C. 373, 17 S.E.2d 695 (1941)(compensation awarded where employee was found dead in an allegedly prohibited area because conflicting evidence on whether employer had given "clear and explicit" orders on not going into this area).

At the time of the accident the Claimant had an expectation that Racks would be used as a K-9 by the Town of Bowman and was not his personal dog.

3. The Claimant Sustained Injury by Accident Arising Out of and in the Course of his Employment.

In "determining whether something constitutes an injury by accident the focus is not on some specific event, but rather on the injury itself." Stokes v. First Nat'l Bank, 306 S.C. 46, 50, 410 S.E.2d 248, 250 (1991). Further, an injury is unexpected, bringing it within the category of

accident, if the worker did not intend it or expect it would result from what he was doing. Colvin v. E.I. DuPont DeNemours Co., 227 S.C. 465, 468-69, 88 S.E.2d 581, 582 (1955)(emphasis added). Therefore, if an injury is unexpected from the worker's point of view, it qualifies as injury by accident.

The term “arising out of” refers to the origin of the cause of the accident. The term “in the course of” refers to the time, place, and circumstances under which the accident occurred. Bickley v. South Carolina Elec. & Gas Co., 259 S.C. 463, 467, 192 S.E.2d 866, 868 (1972). The two parts of the phrase are not synonymous and both parts must exist simultaneously before a recovery may be made. Osteen v. Greenville County School Dist., 333 S.C. 43, 48, 508 SE2d 21, 28 (1998).

In this matter the Commissioner specifically found that “both witnesses testified in a credible manner. It appears that there was a mis-communication or a misinterpretation between the Claimant and Chief Pendarvis as to the use of Racks.” (Order, Finding of Fact 2). In essence the Commissioner found that the Claimant had a reasonable expectation that Racks was to be his K-9 unit.

If one assumes that the Claimant had a reasonable expectation that Racks was to be used as a K-9, then the focus is on whether his retrieval of the K-9 from his neighbor’s porch, and the ultimate bite that ensued, is within his scope of employment. The clear answer is yes. Defendants submitted a Police K-9 Use policy which states in part that the “handler will be responsible for the health and welfare of the assigned canine, both on and off duty” and the “canine will be fed regularly by the handler at a time that will allow maximum time between feedings and going on duty.” (Defendants’ APA at p. 2). The uncontroverted testimony is that on the morning of the accident the Claimant spent time training Racks in his backyard. This

training consisted of verbal commands followed by an award, the throwing and retrieving of a rubber hose.

Racks escaped while the Claimant was going to his patrol car to retrieve the dog food provide by Chief Pendarvis. The Chief testified that K-9's don't always listen to commands and do exactly what the officer instructs them to. (R. at p. 74, ll. 9-17). Per the Town's own policy, the Claimant is "responsible for the health and welfare of the assigned canine, both on and off duty." (Defendants' APA at p. 2)(emphasis added). Thus, the Claimant was obligated to retrieve Racks and bring him back to the Claimant's home. The Claimant could not board him for the night nor could he let him roam the streets. (R. at p. 26, ll. 4-10). The Claimant, under the belief that Racks was his K-9, went to retrieve the dog from the porch. During that event, he was bitten by the confused and agitated dog. No evidence was presented at the Hearing to the contrary and the Claimant's testimony was the only evidence of how the accident occurred. The retrieval of a K-9 unit entrusted to a law enforcement officer's care, clearly arises out of his employment.

An injury arises out of employment when there is apparent to the rational mind, upon consideration of all the circumstances, a causal relationship between the conditions under which the work is to be performed and the resulting injury. Owings v. Anderson County Sheriff's Dep't, 315 S.C. 297, 299, 433 S.E.2d 869, 871 (1993). This often-cited quote from Owings is actually a part of a much longer quote from the Supreme Court in the case of Eargle v. S.C. Electric & Gas, 205 S.C. 243, 32 S.E.2d 240, 242 (1944):

[An accidental injury] arises 'out of the employment,' when there is apparent to the rational mind upon consideration of all the circumstances, a causal connection between the conditions under which the work is required to be performed and the resulting injury. Under this test, if the injury can be seen to have followed as a natural incident of the work and to have been contemplated by a reasonable person familiar with the whole situation as a result of the exposure occasioned by the nature of the employment, then it

arises 'out of' the employment. But it excludes an injury which cannot fairly be traced to the employment as a contributing proximate cause and which comes from a hazard to which the workmen would have been equally exposed apart from the employment. The causative danger must be peculiar to the work and not common to the neighborhood. It must be incidental to the character of the business and not independent of the relation of master and servant. It need not have been foreseen or expected, but after the event it must appear to have had its origin in a risk connected with the employment, and to have flowed from that source as a rational consequence.

The focus then is whether there is a relationship between the injured worker's injury and his or her work. In this case the answer is again yes. The Claimant was training and preparing to feed Racks per the Town's policy and his understanding of caring for a K-9 Unit entrusted to his care. When Racks escaped the backyard the Claimant had to retrieve the dog as he simply couldn't allow him to roam the neighborhood. By policy and understanding with the Chief, the Claimant was responsible for the health and welfare of Racks. This act of retrieval is what rationally connects the dog bite to his employment.

The Claimant was acting with the scope and course of his employment by retrieving Racks and the bite was an unintended consequence of the retrieval. The Full Commission should reverse the single Commissioner on these grounds and find that the Claimant's injury arose out of and in the course of his employment.

CONCLUSION

Based on the foregoing, the Claimant/Appellant respectfully requests that the Full Commission reverse the Order and Award of the single Commissioner and Order that the Claimant sustained injury by accident, arising out of and in the course of his employment and is in need of medical care.

Respectfully Submitted,



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January 23, 2017

SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

James Thorpe, Jr.	)	
	)	SCWCC File No. 1503413
Claimant,	)	
	)	RESPONDENTS' BRIEF
vs.	)	
	)	
Town of Bowman,	)	
	)	
Employer,	)	
	)	
and	)	
	)	
State Accident Fund,	)	
	)	
Carrier,	)	
Defendants.	)	
	)	

STATEMENT OF THE CASE

This matter is before the South Carolina Workers' Compensation Commission for review of the Decision and Order of the Honorable Melody L. James, filed in this matter on November 21, 2016. For the reasons set forth below the Respondents respectfully submit that Commissioner James' Decision and Order should be affirmed.

The Claimant in this case sustained injuries to his left hand February 27, 2015 as a result of a dog bite, which he contends occurred by accident arising out of and in the course of his employment as a police officer for the Town of Bowman, South Carolina. He further contends that he is entitled to receive compensation and benefits under the Act, including payment for certain medical treatment he received and compensation for a permanent disability.

The Defendants deny that the Claimant sustained an injury by accident arising out of

and in the course of his employment. In that regard they contend that the Claimant is not entitled to compensation and benefits under the Act.

A hearing to consider the issues presented by the Parties' Forms 50 and 51 was held before Commissioner James on February 3, 2016 in St. Mathews, South Carolina. Following that hearing Commissioner James issues her Decision and Order for this matter and by which she denied the Claimant's claim for compensation and other benefits.

ISSUE PRESENTED

1. Did the Single Commissioner err in finding that the Claimant did not sustain an injury as a result of an injury arising out of and in the course of his employment with the Employer?

ARGUMENT

The Full Commission, of course, is the ultimate fact-finder here and may make its own findings, adverse to those of the Single Commissioner. Ross v. American Red Cross, 298 S.C. 490, 381 S.E. 2d 728 (1989). However, and while the final determination of witness credibility and the weight to be afforded evidence is reserved to the full Commission, great weight should be given to the Single Commissioner's findings in that regard. Green v. Raybestos-Manhattan, Inc., 250 S.C. 58, 156 S.E.2d 318 (1967).

At the time of the alleged accident in this case the Claimant was employed as a police officer by the Town of Bowman. His duties included the regular patrol of the Town and other law enforcement services for the citizens residing there.

The incident forming the basis for this case occurred at the Claimant's home on a Friday morning, and while he was not performing his regular patrol or law enforcement duties.

There is no dispute that the Claimant was not being paid on otherwise "on the clock" at the time of the incident.

During the week before the incident involved here the Claimant spoke with Kevin Pendarvis, the Chief of Police for the Town of Bowman, and asked if he would allow him to use a working-police dog as part of his duties. While the Town does not own or require its officers to use such dogs, or "K-9s" as they are normally called, Chief Pendarvis indicated to the Claimant that he could use such a dog if he chose to do so. The evidence here shows that such dogs have been used in the past by police officers employed by the Town. The Town provides no care or boarding for the dogs, who are considered to be the personal property of the officer. A local animal feed store has donated dog food to the Town for individual officer's use in feeding their dogs. There is evidence that the Town may have paid for some veterinary care for dogs in the past.

Shortly thereafter the Claimant did obtain a dog, whose name is "Racks", from a colleague who works as a Deputy for the Orangeburg County Sheriff's Department. The Claimant did not pay any sum of money for Racks to the Orangeburg Deputy. There is no dispute with respect to the fact that Racks became the personal property of the Claimant here and the Town possessed no ownership interest in him.

Racks is a breed of German Shepherd which are commonly used as K-9 working dogs. Such working dogs are typically trained in one or more of the following three areas to assist their law enforcement partners: apprehension, search and rescue and drug detection. When he obtained possession of Racks the Claimant learned from the Orangeburg Deputy that Racks was, in fact, trained in "apprehension". This means that a K-9 has been trained specifically to attack, apprehend and hold, by biting, a person upon receiving a verbal command from an attending officer.

Further, the Claimant was advised that Racks did not like to be grabbed around his neck area.

The Claimant then presented Racks to Chief Pendarvis, and they discussed his use for the Town's law enforcement needs. At that time Racks was tested for his ability to detect drugs. The Chief also then learned that Racks had been trained in "apprehension". There is a dispute between the Parties as to what the Claimant and the Chief discussed next.

The Chief testified that when he learned that Racks was trained in apprehension, he told the Claimant that he could not use him as part of carrying out his law enforcement duties with the Town. The Chief stated that the Town did not have liability insurance to cover K-9's who are trained in apprehension. The Town, in fact, has a written policy in this respect. Chief Pendarvis stated he trusted that the Claimant understood the Town's position and would not use Racks in any capacity as part of his work for the Town.

The Claimant does not dispute that he told Chief Pendarvis that Racks was, in fact, trained in apprehension. He contends, however, that the Chief did not tell him that he could not use Racks. He related that the Chief said he could use Racks, but not for apprehension purposes and under no circumstances could the verbal command for Racks to attack be used. The Claimant further testified that he was unaware of any written policy implemented by the Town and which prohibits the use of dogs trained in apprehension.

The conversation between the Claimant and the Chief took place on the Wednesday before the Friday morning incident in this case. Between those days the Claimant performed his regular work duties, and contends that he used Racks as part of the same. He testified that he brought Racks by the Bowman Police Department and the Chief was aware that Racks was being used as part of his job. The Claimant stated that he removed one of the seats in his patrol car to accommodate

a dog kennel which the Chief gave to him. The Chief denies that he was aware that Racks was being used by the Claimant.

The Claimant then testified that on the following Friday morning at his home he spent time working with Racks in the Claimant's fenced backyard. After finishing the Claimant exited his backyard by way of his fence gate and went to his car to retrieve food for the dog. The Claimant left the fence gate open and Racks suddenly escaped through the open gate, ran into a neighbor's backyard and then into the neighbor's screened back porch. The Claimant gave chase to Racks and cornered him on the porch.

When Racks was cornered the Claimant grabbed him by his neck. When that occurred Racks immediately turned his head and bit the Claimant on his left hand. The Claimant was able wrestle his hand free from Racks' grip.

The Parties do not disagree as to the law applicable here, and when examining whether the Claimant sustained an "injury by accident arising out of and in the course of his employment." The term "arising out of" refers to the origin of the cause of the accident. The term "in the course of" refers to the time, place and circumstances under which the accident occurred. Bickley v. S.C. Electric & Gas Co., Inc., 259 S.C. 463, 192 S.E.2d 866 (1972). Both prongs of this test must be met in order for an injury to be considered compensable under the Act. Osteen v. Greenville County School District, 333 S.C. 43, 508 S.E.2d 21 (1998).

Commissioner James focused on the timing of the event involving the Claimant and Racks when she decided that a compensable injury did not occur in this case. While she found that the Claimant, contrary to the Defendants' position, was allowed to use Racks as part of his job, she found that at the time of the incident, neither the Claimant or Racks was "working". She clearly

concluded that whatever training, formal or informal, being performed by the Claimant on the morning in question - and while he was "off duty" - had been completed at the time Racks escaped from the Claimant's back yard and he gave chase and apprehended him. However close in time the Claimant's injury may have occurred to the end of that training, the evidence in this case supports that finding.

Counsel for the Claimant, however, relies on a policy of the Town of Bowman which provides that an officer is responsible for the health and welfare of a canine "both on and off duty." Such a policy certainly seems reasonable as someone must be available to oversee the health and welfare of any animal around the clock. However, such a policy cannot create an non-existent liability under the Act in the absence of a reasonable connection between a worker's injury and a service that worker performs for his employer.

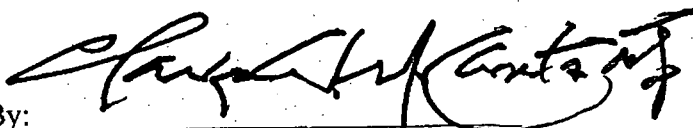
Otherwise, any injury at any time while taking care of an animal such as Racks is "an accident arising out of and in the course of one's employment." Such a result cannot logically be extended to circumstances where, for example, Racks were to escape the hands of the Claimant while the two of them were together during a vacation being taken by the Claimant and his Family. Or, if the Claimant were to be injured while he and Racks were enjoying playful activity, which served as a bonding exercise between them.

Thus, and while the Claimant's injury in this case was very close in time to the end of activity which might reasonably be viewed as connected to his employment with the Town of Bowman, that end had occurred. A line has to be drawn somewhere under such circumstances, and the Defendants respectfully submit that Commissioner James did so correctly in this case.

CONCLUSION

For the above reasons, the Defendants respectfully submit that Commissioner James' Decision and Order for this matter should be affirmed.

NANCE, McCANTS & MASSEY

By: 

Clarke W. McCants, III, Esquire
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Aiken, SC 29802-2881
Counsel for Employer/Carrier

Dated: February 13, 2017

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1503413

EMPLOYEE/CLAIMANT: JAMES THORPE

EMPLOYER: TOWN OF BOWMAN

CARRIER: STATE ACCIDENT FUND

COPY

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

PURSUANT TO NOTICE OF WORKERS' COMPENSATION
HEARING, THE WITHIN HEARING WAS TAKEN ON THE 3RD DAY OF
FEBRUARY, 2016, COMMENCING AT THE HOUR OF 12:59 P.M.,
IN SAINT MATTHEWS, SOUTH CAROLINA, BEFORE THE HONORABLE
MELODY L. JAMES, ATTENDED BY COUNSEL AS FOLLOWS:

TIMMI A. PARRISH
VERBATIM REPORTER

TIMMI A. PARRISH
COURT REPORTING SERVICES
POST OFFICE BOX 551
ROEBUCK, SOUTH CAROLINA 29376
864-921-8743

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ATTORNEY FOR THE EMPLOYER/CARRIER.

ALSO ATTENDING: MS. MELISSA THORPE
MR. KEVIN PENDARVIS

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1 PURSUANT TO NOTICE OF HEARING, THE WITHIN HEARING
2 WAS TAKEN BY THE ABOVE-NAMED COURT REPORTER, A NOTARY
3 PUBLIC FOR THE STATE OF SOUTH CAROLINA, IN SAINT
4 MATTHEWS, SOUTH CAROLINA.

5 * * * * *

6 BY COMMISSIONER JAMES:

7 TODAY IS FEBRUARY THE 2ND, 2016. WE ARE ON WCC
8 FILE NUMBER 1503413. THIS IS THE MATTER OF JAMES
9 THORPE VERSUS TOWN OF BOWMAN AND STATE ACCIDENT
10 FUND. PRESENT ON BEHALF OF THE CLAIMANT IS MR.
11 MICHAEL JOHNSON. PRESENT ON BEHALF OF THE
12 DEFENDANTS IS MR. CLARKE McCANTS. THE ALLEGED DATE
13 OF ACCIDENT IS FEBRUARY 27TH, 2015. THE CLAIMANT
14 HAS AN AVERAGE WEEKLY WAGE AND COMPENSATION RATE
15 THAT HAS BEEN STIPULATED TO BY THE PARTIES. THE
16 AVERAGE WEEKLY WAGE IS 692.36 WITH A CORRESPONDING
17 COMPENSATION RATE OF 461.60.

18 WE ARE HERE TO DETERMINE THE ISSUES ON THE FORM
19 50. ARE THERE ANY -- WELL, LET ME STATE WHAT THE
20 NUMBERS ARE FIRST. THE CLAIMANTS HAVE HANDED UP
21 PAGES ONE THROUGH SEVENTY-THREE, THE DEFENDANTS
22 PAGES ONE. ARE THERE ANY OBJECTIONS TO APAs,
23 JURISDICTION, VENUE, OR ANY OTHER ITEMS ON BEHALF OF
24 THE CLAIMANT?

25 BY MR. JOHNSON:

1 NO, COMMISSIONER.

2 BY THE COMMISSIONER:

3 ON BEHALF OF THE DEFENDANTS?

4 BY MR. McCANTS:

5 NO, MA'AM.

6 BY THE COMMISSIONER:

7 ALL RIGHT. WITHOUT OBJECTION THE COMMISSION
8 FILE BECOMES PART OF THE RECORD WITH THE EXCEPTION
9 OF ANY SELF-SERVING DECLARATIONS AND UNSTIPULATED
10 MEDICAL REPORTS.

11 THE CLAIMANT COMES BEFORE THE COMMISSION TODAY
12 SEEKING COMPENSABILITY FOR AN INJURY THAT HE
13 INDICATES OCCURRED TO HIS LEFT HAND. HE WISHES TO
14 RECEIVE PAST MEDICAL TREATMENT PAID FOR AND
15 CONTINUING MEDICAL TREATMENT, AS HE CONTENDS HE IS
16 NOT AT MAXIMUM MEDICAL IMPROVEMENT.

17 THE DEFENDANTS HAVE ISSUED A GENERAL DENIAL.
18 THEY CONTEND THAT THE MATTER IS NOT COMPENSABLE, AND
19 AS THE MAIN PRINCIPLE OF THAT DENIAL THEY CONTEND
20 THAT ANY INJURY OCCURRING TO MR. THORPE DID NOT
21 ARISE OUT OF HIS EMPLOYMENT AND WAS NOT WITHIN THE
22 COURSE AND SCOPE OF HIS EMPLOYMENT.

23 IS THERE ANYTHING FROM THE CLAIMANT IN ADDITION
24 TO OR CLARIFICATION OF THE ISSUES?

25 BY MR. JOHNSON:

1 NONE, COMMISSIONER.

2 BY THE COMMISSIONER:

3 ANYTHING ON BEHALF OF THE DEFENDANTS?

4 BY MR. McCANTS:

5 NO, MA'AM.

6 BY THE COMMISSIONER:

7 ALL RIGHT. THEN THE CLAIMANT, IF YOU WILL COME
8 AND SIT IN THAT CHAIR FOR ME, PLEASE, SIR. AND, MR.
9 THORPE, IF YOU WOULD RAISE YOUR RIGHT HAND.

10 * * * * *

11 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
12 WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE
13 MATTER HEREIN:

14 JAMES F. THORPE, JR.,

15 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS
16 FOLLOWS:

17 BY THE COMMISSIONER:

18 YOUR WITNESS.

19 BY MR. JOHNSON:

20 THANK YOU, COMMISSIONER. COMMISSIONER, IS
21 THERE ANYWHERE YOU WOULD LIKE ME TO BE, OR AM I FINE
22 AT THIS TABLE?

23 BY THE COMMISSIONER:

24 WHEREVER YOU'RE COMFORTABLE, AS LONG AS THE
25 COURT REPORTER AND I AND MR. McCANTS CAN HEAR YOU.

DIRECT EXAMINATION BY MR. JOHNSON:

Q. JIM, I'M GOING TO ASK YOU TO SPEAK LOUDLY SO THE COURT REPORTER AND THE COMMISSIONER CAN HEAR YOU. STATE YOUR NAME FOR THE RECORD AGAIN, PLEASE.

A. JAMES F. THORPE, JR.

Q. ALL RIGHT. AND YOUR AGE?

A. THIRTY-EIGHT.

Q. THIRTY-EIGHT. AND WHERE DO YOU LIVE?

A. SPRINGFIELD, SOUTH CAROLINA.

Q. HOW LONG HAVE YOU LIVED IN SPRINGFIELD?

A. TWO YEARS.

Q. TWO YEARS. WHERE DID YOU GROW UP?

A. RIGHT HERE IN ORANGEBURG.

Q. IN ORANGEBURG. ALL RIGHT.

A. SORRY.

Q. THAT'S FINE. WHERE DID YOU GO TO HIGH SCHOOL?

A. I WENT TO ORANGEBURG-WILKINSON.

Q. OKAY. AND WHAT YEAR DID YOU GRADUATE?

A. I GOT A G.E.D.

Q. ALL RIGHT. WHEN DID YOU GET YOUR G.E.D.?

A. IN, I THINK, '95.

Q. ALL RIGHT. HOW LONG HAVE YOU BEEN INVOLVED IN LAW ENFORCEMENT?

A. EVER SINCE 2005.

Q. 2005. WHAT WAS YOUR FIRST JOB IN 2005 IN LAW

1 ENFORCEMENT?

2 A. I WORKED FOR THE ORANGEBURG COUNTY SHERIFF'S OFFICE.

3 Q. OKAY. AND WHAT DID YOU DO FOR THE ORANGEBURG COUNTY
4 SHERIFF'S DEPARTMENT?

5 A. I WAS A ROAD DEPUTY.

6 Q. A ROAD DEPUTY. ALL RIGHT. DID YOU HAVE ANY
7 INVOLVEMENT WITH DOGS OR K-9s WITH THE ORANGEBURG
8 SHERIFF'S DEPARTMENT?

9 A. NOT REALLY.

10 Q. OKAY. WERE YOU -- LET ME ASK THAT BETTER, THEN.
11 WERE YOU A K-9 -- WERE YOU AN OFFICER WHO HAD A K-9
12 AT THE ORANGEBURG SHERIFF'S DEPARTMENT?

13 A. NO, SIR.

14 Q. ALL RIGHT. NOW, I'M GOING TO TAKE YOU BACK -- LET'S
15 GO BACK TO FEBRUARY OF 2015, AND WE'LL TALK ABOUT
16 THE DAYS LEADING UP TO YOUR ACCIDENT. YOU WERE --
17 FROM MY UNDERSTANDING, WHAT DAY OF THE WEEK WAS IT
18 WHEN YOU WERE -- WHEN THE ACCIDENT ACTUALLY
19 HAPPENED, THE DAY YOU WERE BITTEN? WHAT DAY OF THE
20 WEEK?

21 A. FRIDAY.

22 Q. IT WAS A FRIDAY. ALL RIGHT. SO, FRIDAY, THE 27TH
23 OF FEBRUARY, YOU WERE BITTEN. SO LET'S GO BACK IN
24 TIME FROM THERE A LITTLE BIT. HOW -- HAVE YOU EVER
25 HAD ANY DISCUSSIONS WITH ANYONE WITH THE TOWN OF

1 BOWMAN ABOUT GETTING A K-9 FOR YOUR USE?

2 A. YES, SIR.

3 Q. OKAY. WHO DID YOU TALK WITH ABOUT THAT?

4 A. CHIEF PENDARVIS.

5 Q. ALL RIGHT. WHEN DID YOU BEGIN TALKING WITH CHIEF
6 PENDARVIS ABOUT GETTING A K-9?

7 A. IT -- REALLY AND TRULY BASICALLY WHEN I STARTED.

8 Q. OKAY. AND WHEN DID YOU START AT BOWMAN?

9 A. SEPTEMBER OR OCTOBER.

10 Q. SO, SEPTEMBER OR OCTOBER OF 2014?

11 A. YES.

12 Q. SO YOU'D BEEN THERE -- LET'S ASSUME OCTOBER --
13 NOVEMBER, DECEMBER, JANUARY, FEBRUARY; YOU HAD BEEN
14 THERE ABOUT FOUR MONTHS AT THAT POINT, SOMEWHERE IN
15 THAT FOUR- OR FIVE-MONTH PERIOD?

16 A. YES.

17 Q. WHAT WAS YOUR JOB FOR THE TOWN OF BOWMAN?

18 A. TO ANSWER CALLS -- ANYTHING A POLICE OFFICER WOULD
19 BASICALLY DO; ANSWER CALLS, RUN TRAFFIC DEVICES,
20 ASSIST THE CHIEF WHEN HE NEEDED ANYTHING.

21 Q. OKAY. SO, WERE THERE ANY OTHER FULL-TIME EMPLOYEES
22 OTHER THAN YOU AND THE CHIEF?

23 A. NO, SIR.

24 Q. OKAY. SO YOU ALL WERE IT?

25 A. YES.

1 Q. HOW DID YOU ALL SPLIT UP THE DUTIES? WERE YOU BOTH
2 ON CALL AT THE SAME TIME? I MEAN, HOW DID THAT ALL
3 WORK?

4 A. YES, SIR. HE -- AT FIRST WE STARTED OFF WHERE HE
5 WORKED -- WE WORKED KIND OF TOGETHER. THEN WE
6 SEPARATED WHERE HE WOULD WORK THE DAY SHIFT, I WOULD
7 WORK THE KIND OF EVENING HOURS SHIFT.

8 Q. ALL RIGHT. AND WHEN YOU SAY A DAY SHIFT, WHAT --
9 ACTUALLY LET ME FOCUS ON YOUR SHIFT, THE NIGHT
10 SHIFT, THE EVENING SHIFT. WHAT HOURS WAS THAT; FROM
11 WHAT TO WHAT?

12 A. USUALLY FROM TWO TO TWELVE, SOMETHING LIKE THAT.

13 Q. ALL RIGHT. SO, FROM 2:00 P.M. TO MIDNIGHT?

14 A. YEAH.

15 Q. ALL RIGHT. DID ANYONE -- DOES THE TOWN OF BOWMAN
16 OWN ANY OTHER K-9s OR HAVE ANY OTHER K-9s?

17 A. YES, SIR.

18 Q. OKAY, THEY DO. WHAT K-9s EXIST FOR THE TOWN OF
19 BOWMAN WHILE YOU WERE EMPLOYED THERE; HOW MANY?

20 A. A TOTAL OF THREE, I BELIEVE.

21 Q. OKAY, THREE. WHO HAD POSSESSION OF THOSE K-9s?

22 A. CHIEF PENDARVIS.

23 Q. CHIEF -- SO, CHIEF PENDARVIS HAD ALL THREE K-9s?

24 A. YES.

25 Q. ALL RIGHT. DO YOU KNOW IF HE OWNED THOSE K-9s? ARE

1 THOSE HIS DOGS?

2 A. HE SAYS IT'S HIS DOGS. I DON'T KNOW. I'VE NEVER
3 SEEN PAPERWORK WHO OWNS THEM AND WHO DOESN'T.

4 Q. SO AS FAR AS YOU KNOW, CHIEF PENDARVIS OWNS THE
5 THREE K-9s THAT ARE USED AT THE TOWN OF BOWMAN?

6 A. YES, SIR.

7 Q. ALL RIGHT. WHAT KIND OF DOGS ARE THOSE; DO YOU
8 KNOW?

9 A. ONE WAS A GERMAN SHEPHERD, AND THE OTHER TWO WERE
10 BLOODHOUNDS.

11 Q. BLOODHOUNDS. OKAY. HOW -- THE DOG THAT BIT YOU,
12 WHAT'S THAT DOG'S NAME?

13 A. RACKS.

14 Q. RACKS. AND THAT'S -- AND I BELIEVE WE'VE DETERMINED
15 THAT THAT'S R-A-C-K-S?

16 A. YES, SIR.

17 Q. ALL RIGHT. HOW DID YOU COME INTO POSSESSION OF
18 RACKS? HOW DID THAT HAPPEN?

19 A. THROUGH STEVEN THOMPSON, SERGEANT STEVEN THOMPSON
20 WITH THE ORANGEBURG COUNTY SHERIFF'S DEPARTMENT.

21 Q. OKAY. HOW DID SERGEANT THOMPSON KNOW TO CALL -- TO
22 GET YOU A DOG? I MEAN, KIND OF GO BACK EVEN
23 FARTHER. HOW DID THAT ALL COME ABOUT?

24 A. STEVEN THOMPSON AND I, WE WORKED TOGETHER FOR YEARS
25 AT THE SHERIFF'S OFFICE, SO WE STILL COMMUNICATE.

1 AND WHEN I WENT TO BOWMAN, I TALKED TO CHIEF
2 PENDARVIS. CHIEF PENDARVIS KIND OF -- I HAD TALKED
3 TO HIM ABOUT GETTING INTO IT, AND HE SAID, "WELL,
4 I'VE GOT A PUPPY." HE SAID, "HE'S NOT TRAINED, BUT
5 YOU CAN TRAIN HIM." IN THE MIDST OF ALL OF THIS I
6 EVEN TALKED TO SERGEANT THOMPSON, AND SERGEANT
7 THOMPSON CALLED ME AND ADVISED ME THAT HE HAD ONE
8 THAT WAS ALREADY TRAINED.

9 Q. AND THE DOG THAT HE HAD WAS RACKS?

10 A. YES, SIR.

11 Q. WHEN DID -- LET ME ASK YOU, DID YOU PAY SERGEANT
12 THOMPSON FOR RACKS?

13 A. NO, SIR.

14 Q. DID HE GIVE HIM TO YOU?

15 A. YES, SIR.

16 Q. OKAY.

17 BY THE COMMISSIONER:

18 I'M SORRY? DID HE -- WOULD YOU ANSWER THE
19 QUESTION AGAIN.

20 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

21 Q. DID HE GIVE RACKS TO YOU?

22 A. YES, SIR.

23 Q. DID HE GIVE YOU ANY PAPERWORK ON RACKS WHEN HE GAVE
24 HIM TO YOU?

25 A. NO, SIR.

1 Q. OKAY. SO YOU DON'T KNOW WHAT HE -- WHAT HIS
2 PEDIGREE IS, WHAT HIS PAPERS MIGHT SAY?

3 A. NO, SIR.

4 Q. OKAY. WHAT DID OFFICER THOMPSON TELL YOU RACKS WAS
5 CERTIFIED TO DO AS A K-9?

6 A. HE WAS CERTIFIED IN NARCOTICS, TRACKING, ARTICLE
7 LOCATION, AND ATTACK.

8 Q. OKAY. SO, NARCOTICS, TRACKING, ARTICLE LOCATION,
9 AND ATTACK?

10 A. YES, SIR.

11 Q. OKAY. WHEN WAS THE FIRST TIME YOU TOLD THE CHIEF
12 THAT YOU HAD A K-9 AND WANTED TO START USING IT FOR
13 THE TOWN OF BOWMAN?

14 A. I CALLED HIM THAT WEDNESDAY, SOME -- MAYBE MID
15 AFTERNOON, EARLY MORNING, SOMETHING IN THAT AREA.

16 Q. OKAY. AND THAT WOULD BE WEDNESDAY, FEBRUARY 25TH?

17 A. YES, SIR.

18 Q. OKAY. YOU CALLED HIM. AND WHAT DID YOU TELL HIM ON
19 THE PHONE?

20 A. I ASKED HIM -- I TOLD HIM I HAD A -- THAT STEVEN
21 THOMPSON CALLED ME AND SAID HE HAD A DOG THAT WAS A
22 K-9 THAT WAS TRAINED IN ALL OF THESE AREAS, AND I
23 ASKED HIM, I SAID, "WOULD IT BE SOMETHING WE COULD
24 -- THAT I COULD USE IN BOWMAN?" HE SAID, "YEAH."
25 HE SAID, "I'M BUSY RIGHT NOW. I'LL MEET YOU UP

1 THERE AT THE POLICE DEPARTMENT."

2 Q. OKAY. AND DID YOU MEET THE CHIEF AT THE POLICE
3 DEPARTMENT?

4 A. YES, I DID.

5 Q. ALL RIGHT. AND WHAT TIME OF DAY WAS IT WHEN YOU DID
6 THAT?

7 A. IT WAS IN THE EVENING HOURS.

8 Q. OKAY, ALL RIGHT. DID THE CHIEF GIVE YOU ANYTHING TO
9 HELP TRANSPORT THIS DOG?

10 A. YES, SIR. WHEN I TALKED WITH THE CHIEF AND HE SAID
11 YEAH, YOU KNOW, IT WAS A POSSIBILITY WE COULD USE
12 THE DOG, HE -- I ASKED HIM, I SAID DID HE HAVE ANY
13 CRATE TO PUT THE DOG IN, AND HE BROUGHT A CRATE TO
14 THE POLICE DEPARTMENT TO GIVE ME TO PUT INTO THE
15 POLICE CAR.

16 Q. ALL RIGHT. AND DID YOU -- AND SO, YOU GOT THIS
17 CRATE; YOU PUT IT IN YOUR SQUAD CAR?

18 A. YEAH.

19 Q. DID YOU THEN GO GET THE DOG, GO GET RACKS?

20 A. NO, SIR; I STILL -- I WORKED MY SHIFT OUT.

21 Q. OKAY. BUT DID YOU GET RACKS ON WEDNESDAY EVENING?

22 A. AFTER I GOT OFF OF WORK I MET UP WITH STEVEN
23 THOMPSON AT HIS RESIDENCE, AND THAT'S WHEN I GOT
24 RACKS.

25 Q. OKAY. AND DID YOU ALL DISCUSS TRAINING, HOW TO --

1 WHAT SHOULD BE DONE WITH THE DOG, WHAT SHOULDN'T BE
2 DONE WITH THE DOG, THINGS LIKE THAT?

3 A. JUST FOR MAYBE A BRIEF TIME. LIKE I SAID, IT WAS
4 RAINING. LIKE I SAID, IT WAS REAL BRIEF.

5 Q. ALL RIGHT. SO YOU TOOK RACKS HOME?

6 A. YES, SIR.

7 Q. THE NEXT MORNING WHEN YOU -- WHICH WOULD HAVE BEEN
8 THURSDAY, THE 26TH, WHEN YOU WENT TO WORK ON THE
9 26TH, DID YOU TAKE RACKS WITH YOU?

10 A. YES, SIR.

11 Q. ALL RIGHT. DO YOU KNOW WHAT TIME YOU WENT TO WORK
12 THAT MORNING?

13 A. I THINK I WENT IN EARLY. IT WAS MAYBE 1:00.

14 Q. OKAY. I'M GOING TO SHOW YOU SOMETHING THAT WE WERE
15 PROVIDED TODAY PURSUANT TO A SUBPOENA, WHICH IS A
16 TIME SHEET.

17 BY MR. McCANTS:

18 HOLD ON JUST A SECOND. I'M SORRY.. THIS IS HIS

19 ---

20 BY MR. JOHNSON:

21 HIS TIME SHEET.

22 BY MR. McCANTS:

23 THURSDAY?

24 BY MR. JOHNSON:

25 YEAH, SHOWING WHEN HE GOT THERE.

1 BY MR. McCANTS:

2 THANK YOU.

3 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

4 Q. THIS IS A TIME SHEET SHOWING THAT YOU WENT TO WORK
5 ON THURSDAY, THE 26TH, AND YOU TELL ME WHAT TIME IT
6 SAYS THAT YOU CLOCKED INTO WORK.

7 A. 11:42 A.M.

8 Q. ALL RIGHT. SO YOU GOT TO WORK AT 11:42 THAT
9 MORNING?

10 A. YES, SIR.

11 Q. DID YOU BRING RACKS INSIDE WITH YOU?

12 A. YES, I DID.

13 Q. WAS THE CHIEF AT THE POLICE STATION WHEN YOU ARRIVED
14 THERE WITH RACKS?

15 A. NO, HE WAS NOT.

16 Q. ALL RIGHT. WHEN DID HE ARRIVE?

17 A. HE ARRIVED MAYBE A COUPLE HOURS LATER.

18 Q. OKAY. DID YOU AND THE CHIEF DO ANYTHING WITH RACKS?

19 A. YES, SIR.

20 Q. WHAT DID YOU ALL DO? KIND OF TELL US ALL WHAT
21 HAPPENED THAT DAY WITH RACKS.

22 A. WELL, FIRST OFF, I BROUGHT THE DOG TO THE POLICE
23 DEPARTMENT THURSDAY BECAUSE WEDNESDAY
24 AFTERNOON/EVENING WHEN I TALKED WITH CHIEF PENDARVIS
25 HE TOLD ME TO BRING RACKS TO THE POLICE DEPARTMENT

1 THE NEXT DAY WHEN I COME TO WORK SO WE COULD
2 ACTUALLY WORK WITH HIM AND SEE WHAT HE WAS ALL --
3 TRYING TO FIGURE WHERE HE -- WHAT HE KNEW BASICALLY,
4 WHAT HE COULD DO. SO, WHEN I BROUGHT HIM, I PUT HIM
5 IN THE KENNEL, LEFT HIM THERE, WAITED FOR CHIEF
6 PENDARVIS TO GET THERE. CHIEF PENDARVIS GOT THERE.
7 WHEN HE GOT THERE HE LOOKED AT HIM, HE SAID, "I
8 BELIEVE I KNOW THAT DOG." AND I SAID -- HE SAID,
9 "WHAT'S HIS NAME?" I SAID, "RACKS." HE SAID, "NO,
10 I BELIEVE THAT DOG'S NAME IS REX." I SAID, "I'M
11 BEING TOLD IT'S RACKS." SO HE SAID, "WHAT ALL CAN
12 HE DO?" AND I EXPLAINED EVERYTHING THAT THE DOG
13 COULD DO AS FAR AS THE ATTACK, THE DRUGS, NARCOTICS,
14 AND ALL THAT, EVERYTHING THAT HE COULD DO. WELL, AT
15 THAT TIME CHIEF PENDARVIS SAID, "LET ME GO PUT OUT
16 SOME DRUGS IN DIFFERENT AREAS. KEEP HIM THERE AND
17 THEN WE'LL GET HIM OUT." SO, IN THE POLICE
18 DEPARTMENT IN THE BACK BACK THERE WE HAVE EVIDENCE
19 ROOMS; WE HAVE LIKE A MEETING ROOM AND ANOTHER
20 LITTLE STORAGE ROOM. AND HE WENT AT THAT TIME AND
21 HE PLACED SOME DRUGS OUT, AND WE GAVE IT A FEW
22 MINUTES. HE SAID, "LET THE SCENT KIND OF SETTLE
23 DOWN." SO WE DID, AND AT THAT TIME HE SAID, "WELL,
24 GO GET RACKS OUT OF THE KENNEL." HE SAID, "LET'S GO
25 SEE WHAT HE CAN DO." SO WE WENT TO THE FIRST ROOM

1 TO THE LEFT. AND LIKE I SAID, EACH ONE WAS A
2 DIFFERENT DRUG, MARIJUANA, COCAINE, YOU KNOW,
3 ECSTASY, YOU KNOW, WHATEVER IT WAS, IT WAS
4 DIFFERENT. AND WE TOOK RACKS AROUND TO ALL THREE OF
5 THE ROOMS, AND HE FOUND ALL THREE OF THE DRUGS.

6 Q. OKAY. SO, BASICALLY YOU BRING THE DOG IN, AND YOU
7 ALL BEGIN TO SEE IF THE DOG HAD THE ACTUAL TRAINING
8 THAT YOU WERE TOLD HE HAD ---

9 A. YES.

10 Q. --- FOR NARCOTICS?

11 A. YES, SIR.

12 Q. AND YOU ALL RAN -- HOW LONG DID YOU ALL SPEND KIND
13 OF DOING ALL THIS TESTING WITH RACKS?

14 A. MAYBE 45 MINUTES.

15 Q. OKAY, ALL RIGHT. AT THE END OF THAT DID YOU AND THE
16 CHIEF HAVE A DISCUSSION ABOUT YOU USING RACKS LONG
17 TERM AS YOUR K-9?

18 A. YES, SIR.

19 Q. ALL RIGHT. WHAT WERE YOU TOLD AT THAT MEETING?

20 A. LIKE I SAID, AFTER WE WERE DONE I TOOK RACKS, PUT
21 HIM BACK IN HIS KENNEL, COME BACK IN, AND I ASKED
22 CHIEF PENDARVIS, I SAID, "IS HE SOMETHING THAT WE
23 COULD USE FOR THE TOWN OF BOWMAN?" AND HE SAID,
24 "YEAH." HE SAID, "HE KNOWS WHAT HE'S DOING AS FAR
25 AS NARCOTICS." AT THAT TIME I HAD A LITTLE PIECE OF

1 PAPER WITH THE COMMANDS THAT SERGEANT THOMPSON GAVE
2 ME. OKAY. AND LIKE I SAID, THE COMMANDS, FOUR.
3 AND I PULLED OUT THE COMMANDS, AND HE SAID, "THE
4 ONLY THING WITH THOSE COMMANDS THAT I SEE," HE SAID,
5 "YOU NEED TO CHANGE THEM, BECAUSE THERE'S A
6 DIFFERENCE BETWEEN DUTCH AND GERMAN," WHATEVER IT
7 WAS. HE SAID, "YOU NEED TO TRY TO GET HIM USED TO
8 THESE BECAUSE THEY'RE A LITTLE BIT EASIER TO
9 REMEMBER." AND AT THAT TIME I SAID, "OKAY." HE
10 SAID, "WELL, YOU KNOW, THE ONLY ONE YOU CAN'T USE IS
11 THE COMMAND TO ATTACK IN THE TOWN OF BOWMAN." I
12 SAID, "OKAY." I SAID, YOU KNOW, "THAT'S FINE." I
13 SAID, "I DON'T EVEN REMEMBER THAT ONE, TO BE HONEST
14 WITH YOU." AND SO THAT WAY I GOT THAT CARD, AND HE
15 WROTE IT OUT. WHEN ALL THAT HAPPENED, THE CARD, I
16 GUESS, WHEN I WENT TO THE EMERGENCY ROOM, THEY CUT
17 MY SHIRT OFF AND EVERYTHING ---

18 Q. WE'LL COME BACK TO THE CARD.

19 A. OKAY. ALL RIGHT.

20 Q. BUT YOU ---

21 A. BUT ANYWAYS, YES, HE TOLD ME, YES, I COULD, AND THAT
22 SINCE I WAS GOING TO HAVE A K-9 TO GO AHEAD AND GET
23 IN THE OLDER CHARGER, WHICH IS THE K-9 CAR, BUT TAKE
24 THE BACKSEAT OUT AND PUT THE KENNEL IN THE BACK.

25 Q. OKAY. DID YOU TAKE THE BACKSEAT OUT OF THE SQUAD

1 CAR?

2 A. YES, SIR.

3 Q. ALL RIGHT. AND YOU DID THAT, AND WHERE DID YOU PUT
4 THE BACKSEAT?

5 A. I PUT IT IN ONE OF THE STORAGE ROOMS IN THE POLICE
6 DEPARTMENT.

7 Q. ALL RIGHT. AND YOU DID THAT AT THE CHIEF'S -- THE
8 CHIEF TOLD YOU TO TAKE THE BACKSEAT OUT OF THAT AND
9 USE IT AS YOUR K-9 VEHICLE?

10 A. YES, SIR.

11 Q. AND YOU TAKE THE BACKSEAT OUT SO THAT BASICALLY THE
12 CARRIER FOR THE K-9 CAN GO IN THAT BACK AREA,
13 CORRECT?

14 A. YES, SIR.

15 Q. OKAY. BASED ON THIS SAME TIME SHEET FOR THE 26TH,
16 IT SAYS THAT YOU LEFT WORK ABOUT WHAT TIME THAT DAY?

17 A. 10:01 P.M.

18 Q. 10:01 P.M. DID RACKS GO WITH YOU?

19 A. YES, SIR.

20 Q. ALL RIGHT. TELL ME WHAT YOUR UNDERSTANDING OF HOW
21 YOU TAKE CARE OF A K-9. I MEAN, WHO CARES FOR THE
22 K-9, WHO FEEDS IT, WHO TAKES IT TO THE VET? HOW DO
23 YOU DO ALL THOSE THINGS?

24 A. THEIR HANDLER IS THE ONE THAT TAKES CARE OF HIM.
25 THAT IS LIKE A CHILD TO YOU BASICALLY. YOU HAVE TO

1 DO EVERYTHING FOR THE DOG: FEED THEM, BATHE THEM,
2 TRAIN THEM, YOU KNOW, EVERYTHING.

3 Q. OKAY. WAS FOOD PROVIDED IN ANY WAY FOR THE DOG?

4 A. I WAS GIVEN A BAG FROM CHIEF PENDARVIS THAT IS
5 DONATED TO THE TOWN FOR THE K-9s TO FEED THEM.

6 Q. OKAY. DO YOU ALL ACTUALLY HAVE A K-9 ROOM AT THE
7 POLICE DEPARTMENT?

8 A. YES, SIR.

9 Q. AND THAT ROOM HAS -- WAS WHERE YOU STORE FOOD AND
10 CARRIERS AND THINGS FOR THE K-9s, CORRECT?

11 A. FOOD, CARRIERS, BITE SLEEVES, THINGS OF THAT SORT.

12 Q. OKAY, ALL RIGHT. AND IS THAT WHERE YOU GOT THE FOOD
13 FROM?

14 A. YES, SIR.

15 Q. WHERE DID YOU GET THE CRATE THAT YOU WERE USING?

16 A. FROM CHIEF PENDARVIS.

17 Q. IS IT THE SAME CRATE THAT YOU GOT THE NIGHT BEFORE,
18 OR WAS IT A DIFFERENT CRATE?

19 A. IT'S THE SAME CRATE.

20 Q. SAME CRATE. OKAY. DID YOU WORK THE REST OF THE DAY
21 AFTER -- FROM THE TIME YOU ALL TRAINED UNTIL 10:00
22 AT NIGHT DID RACKS LEAVE YOUR SIDE?

23 A. NO, SIR.

24 Q. SO, HE WAS WITH -- WHERE YOU WENT RACKS WENT?

25 A. YES, SIR.

1 Q. FOR THE REMAINDER OF THAT DAY?

2 A. YES, SIR.

3 Q. ALL RIGHT. WHAT WAS YOUR UNDERSTANDING ABOUT HOW
4 YOU WERE GOING TO HANDLE THE VET BILLS AND THINGS
5 LIKE THAT GOING FORWARD? DID YOU HAVE ANY
6 DISCUSSION WITH THE CHIEF ABOUT THAT?

7 A. WELL, FROM MY KNOWLEDGE TALKING WITH THE CHIEF, THAT
8 WHEN HE WAS TALKING WITH ME ABOUT A K-9, THAT THE
9 TOWN WILL PAY FOR SHOTS, BUT WE'RE RESPONSIBLE FOR
10 ANYTHING ELSE AS FAR AS FEEDING AND BATHING AND
11 STUFF LIKE THAT.

12 BY MR. JOHNSON:

13 COMMISSIONER, JUST -- THE DEFENDANTS' APA HAS
14 AN EXHIBIT ONE, WHICH ACTUALLY HAS A SECTION ON PAGE
15 TWO OF THEIR APA WHICH TALKS ABOUT K-9 CARE. I
16 WOULD JUST KIND OF REFERENCE THAT FOR YOUR REVIEW.

17 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

18 Q. YOU TAKE RACKS HOME. WHAT DID YOU DO THAT EVENING?
19 YOU GOT HOME PAST 10:00 P.M. AT NIGHT BY THE TIME
20 YOU GET HOME. WHAT DID YOU DO THAT NIGHT?

21 A. WHAT I DID WHEN I GOT HOME, I TOOK HIM IN THE
22 BACKYARD. I WORKED WITH HIM A LITTLE BIT IN THE
23 BACKYARD THAT NIGHT, LET HIM GO TO THE BATHROOM AND
24 STUFF LIKE THAT, TRIED TO GET HIM TO -- BASICALLY
25 LOVING ON HIM, YOU KNOW, TRYING TO SAY THE COMMANDS

1 OFF THE CARD SO THAT HE'LL GET USED TO ME. AND THEN
2 AFTER THAT I TOOK HIM IN THE HOUSE, AND I HAD A
3 KENNEL THAT I PUT UP INSIDE THE HOUSE BY MY FRONT
4 DOOR AND PUT HIM IN THAT KENNEL.

5 Q. OKAY. NEXT MORNING YOU WAKE UP; YOU GET UP. AT
6 SOME POINT YOU TOOK RACKS OUTSIDE, CORRECT?

7 A. YES, SIR.

8 Q. ALL RIGHT. TELL US WHAT YOU DID FORM THE MOMENT YOU
9 ALL WALKED OUTSIDE FORWARD.

10 A. WE WALKED OUTSIDE. I WALKED AROUND THE BACKYARD.
11 MY BACKYARD IS FENCED IN. THERE'S MY HOUSE, AND
12 I'VE GOT A SHOP. THEN THERE'S A GATE RIGHT THERE.
13 I TOOK RACKS OUT IN THE BACK AND STARTED WORKING
14 WITH HIM, JUST LIKE CHIEF PENDARVIS TOLD ME TO DO TO
15 GET HIM USED TO ME. WELL, THAT'S WHAT I WAS DOING
16 WITH HIM; I WAS GETTING HIM USED TO ME. HE HAS A
17 PIECE OF RUBBER HOSE THAT YOU USE TO REWARD HIM.
18 THAT'S WHAT HE LIKES. SOME DOGS LIKE A KONG; HE
19 LIKES A RUBBER HOSE. WELL, I WAS GIVING HIM
20 COMMANDS TO SIT AND THINGS OF THAT NATURE, AND EVERY
21 TIME I DO I'D GIVE HIM -- I'D THROW HIS REWARD; HE'D
22 GO FETCH IT. THEN WHEN I WAS -- HE WAS IN THE BACK
23 CORNER OF THE YARD. I WENT OUT TO GO GET HIS DOG
24 FOOD TO FEED HIM, AND THE GATE APPARENTLY DIDN'T
25 LATCH, OR WHATEVER. THAT'S WHEN RACKS COME OUT.

1 Q. ALL RIGHT. LET ME STOP YOU RIGHT THERE FOR A
2 SECOND. WHERE WAS THE DOG FOOD?

3 A. THE DOG FOOD WAS STILL IN THE BACK OF THE POLICE
4 CAR.

5 Q. SO THE DOG -- ALL RIGHT. SO THIS IS THE DOG FOOD
6 THAT'S FROM THE POLICE STATION?

7 A. YES.

8 Q. OKAY. SO YOU GO TO GET THAT, AND APPARENTLY SOMEHOW
9 RACKS GETS OUT?

10 A. YEAH.

11 Q. WHERE DOES RACKS GO ONCE HE LEAVES YOUR BACKYARD?

12 A. HE ACTUALLY RAN AROUND TO THE NEIGHBOR'S HOUSE, AND
13 THEY HAVE A SCREENED-IN PORCH, AND HE RAN UP ON THAT
14 PORCH.

15 Q. ALL RIGHT. THE DOOR TO THE SCREENED-IN PORCH MUST
16 OPEN INWARD ---

17 A. YES, SIR.

18 Q. --- AS OPPOSED TO OUTWARD, OR HE COULDN'T HAVE
19 GOTTEN IN?

20 A. NO.

21 Q. ALL RIGHT. SO ONCE HE'S IN THAT SCREENED PORCH HE'S
22 -- IS HE TRAPPED?

23 A. YES, SIR.

24 Q. ALL RIGHT. SO YOU THEN GO NEXT DOOR. TELL ME WHAT
25 HAPPENS FROM THE TIME YOU KIND OF GET IN THE

1 SCREENED PORCH UNTIL THE MOMENT YOU WERE BITTEN.

2 A. FROM THE TIME -- I COME AROUND THE CORNER. I SEEN
3 HIM IN THE PORCH. HE WAS TRYING TO GET OUT. HE WAS
4 FRANTICALLY TRYING TO GET OUT. HE WAS RUNNING INTO
5 THE SCREEN ON BOTH SIDES TRYING TO GET OUT. THAT'S
6 WHEN I OPENED THE DOOR AND GAVE THE COMMAND, "RACKS,
7 COME." BUT WHEN HE -- HE WAS STILL DISORIENTED, I
8 GUESS, FROM -- THE SCREENED DOOR HAD A VERY STRONG
9 SPRING ON IT. SO WHEN HE WENT UP, THIS DOOR CAME
10 BACK AND IT SLAMMED REAL HARD. SO I'M LIKE, OKAY,
11 HE'S SPOOKED BECAUSE THIS THING HAS JUST SLAMMED,
12 WHATEVER. NOW HE CAN'T GET OUT. HE FEELS LIKE HE'S
13 CAGED. WELL, WHEN I OPENED -- WHEN I OPENED THE
14 DOOR AND TELL HIM TO COME ON, HE FINALLY COMES TO
15 ME. WHEN HE COMES OUT I WENT TO GO GRAB HIM TO STOP
16 HIM BECAUSE HE WAS JUST IN A CHAOS. I GIVE HIM THE
17 COMMAND TO STOP, BUT HE WOULD NOT STOP. SO HE COME
18 OUT. I GRABBED HIM -- I TRIED TO GRAB HIM BY THE
19 CHOKE COLLAR. WHEN I GRABBED HIM BY THE CHOKE
20 COLLAR, I WENT TO GO HOOK THE LEASH TO HIM. THAT'S
21 WHEN HE CAME UP AND BIT MY HAND.

22 Q. ALL RIGHT. WE'RE GOING TO TALK ABOUT YOUR HAND IN A
23 MINUTE. SO, AT THAT POINT YOU ARE BITTEN?

24 A. YES, SIR.

25 Q. ALL RIGHT. BASED ON YOUR UNDERSTANDING OF OFFICERS

1 AND THEIR K-9s, YOU'RE RESPONSIBLE FOR THAT ANIMAL'S
2 CARE 24/7, CORRECT?

3 A. YES.

4 Q. YOU JUST CAN'T SEND -- CAN YOU TAKE HIM TO A KENNEL
5 AND DROP HIM OFF FOR THE NIGHT? CAN YOU JUST TAKE
6 HIM SOMEWHERE AND LEAVE HIM?

7 A. NO, SIR.

8 Q. OKAY. IN FACT, THE POLICY OF THE TOWN SAYS THAT YOU
9 HAVE TO CARE FOR THE DOG; ARE YOU AWARE OF THAT?

10 A. YES.

11 Q. WHAT DO YOU DO FROM THE -- RACKS BITES YOUR HAND.
12 WHAT HAPPENS FROM THAT POINT FORWARD?

13 A. WHEN HE LATCHED ONTO MY HAND, I WAS GIVING HIM
14 COMMANDS TO STOP. HE WAS IN -- HIS EYES JUST LOOKED
15 LIKE THEY'RE REAL DEEP WHEN I WAS TRYING TO GET HIM
16 TO STOP. HE WOULDN'T STOP. I THOUGHT HE WAS GOING
17 TO RELEASE A LITTLE BIT, SO I STARTED TO MOVE MY
18 HAND SLOWLY, AND HE LOCKED DOWN EVEN HARDER. AND
19 WHEN HE LOCKED DOWN HARDER HE SHOOK HIS HEAD, AND
20 WHEN HE SHOOK HIS HEAD I COULD FEEL THE BONE. AT
21 THAT TIME THAT'S WHEN I JUST KIND OF GRABBED THIS
22 HAND. WHAT FINGERS I HAD LEFT I GRABBED DOWN THE
23 BOTTOM OF HIS JAW, TOOK MY RIGHT HAND, AND I REACHED
24 UP UNDERNEATH HIS THROAT, AND I CHOKED HIM OUT 'TIL
25 HE JUST PASSED OUT.

1 Q. OKAY. SO THE DOG PASSES OUT?

2 A. YES, SIR.

3 Q. WHAT DID YOU DO THEN?

4 A. I TAKE MY HAND OUT OF HIS MOUTH AND LOOK AT MY
5 FINGER, AND MY FINGER -- MY RING FINGER, WHERE MY
6 RING WAS, WAS 90 DEGREES. SO, AT THAT TIME WHEN HE
7 STARTS TO COME TO, I ALREADY HAD THE COLLAR -- THE
8 LEASH ON HIM. AT THAT TIME HE COMES TO AND HE LOOKS
9 UP AT ME LIKE, WHAT JUST HAPPENED? THAT'S JUST THE
10 KIND OF EXPRESSION HE GIVE ME, BECAUSE AFTER THAT
11 THE DOG WAS VERY OBEDIENT. I MEAN, HE DIDN'T -- HE
12 STEPPED BY MY SIDE WHILE I WALKED BACK TO THE POLICE
13 CAR, OPENED THE POLICE CAR DOOR WHERE HIS KENNEL WAS
14 INSIDE, OPENED THE KENNEL, LOADED HIM IN THE KENNEL,
15 CLOSED THE KENNEL, AND HE SHOWED NO AGGRESSION
16 ANYMORE AT THAT TIME.

17 Q. OKAY. SO, HE BITES YOU; YOU RENDER HIM UNCONSCIOUS
18 SO YOU CAN GET YOUR HAND OUT BASICALLY, AND THEN YOU
19 TAKE THE DOG AND THE DOG GOES INTO THE SQUAD CAR,
20 THE POLICE CAR?

21 A. YEAH.

22 Q. ALL RIGHT. AT THAT POINT YOU GO TO THE HOSPITAL.

23 ALL RIGHT. AND WHERE DID YOU GO TO THE HOSPITAL AT?

24 A. TRMC.

25 Q. TRMC. AND YOU RECEIVE CARE THERE. DID YOU EVER

1 CALL THE CHIEF TO TELL HIM THE DOG HAD BITTEN YOU?

2 A. I BELIEVE MY WIFE DID.

3 Q. OKAY.

4 A. I'M SORRY. YES, I DID.

5 Q. THAT'S FINE.

6 A. I CALLED -- BECAUSE I'M TRYING TO GO THROUGH THIS
7 THE WAY IT WAS. I CALLED MY WIFE FIRST AND ASKED
8 HER, I SAID, "ARE YOU AT WORK?" SHE SAID, "NO.
9 WHY?" I SAID, "WELL, YOU NEED TO COME BACK AND PICK
10 ME UP BECAUSE I NEED TO GO TO THE HOSPITAL." I
11 SAID, "THE DOG JUST BIT ME." AND AT THAT TIME I GOT
12 OFF THE PHONE WITH HER, I WENT INSIDE, WRAPPED MY
13 HAND WITH A TOWEL TO STOP THE BLEEDING, PUT SOME
14 PRESSURE TO IT. THAT'S WHEN I CALLED CHIEF
15 PENDARVIS AND ADVISED CHIEF PENDARVIS, "I'M NOT
16 GOING TO BE IN TODAY BECAUSE THE DOG JUST BIT ME."

17 Q. OKAY. AND WHAT DID HE SAY?

18 A. HE SAID, "ARE YOU GOING TO THE HOSPITAL?" I SAID,
19 "YES, I AM."

20 Q. ALL RIGHT.

21 A. AND HE SAID, "JUST LET ME KNOW WHAT'S GOING ON."

22 Q. DID YOU -- AT THAT POINT IN TIME DID YOU AND THE
23 CHIEF HAVE ANY DISCUSSION ABOUT THE FACT THAT RACKS
24 WAS IN YOUR PATROL CAR?

25 A. NO.

1 Q. OKAY. DID HE ASK WHERE RACKS WAS?

2 A. MR. JOHNSON, AT THIS TIME I CAN'T REMEMBER.

3 Q. OKAY. THAT'S FINE.

4 A. AFTER I WAS BIT IT WAS...

5 Q. SURE. IT WAS A PRETTY BAD BITE. I MEAN, YOU
6 TESTIFIED YOUR FINGER WAS AT A 90-DEGREE ANGLE
7 BASICALLY AT THAT POINT.

8 A. RIGHT.

9 Q. YOU GO TO THE HOSPITAL, AND YOU ALSO TREATED AT
10 SOUTH CAROLINA ORTHOPEDIC IN ORANGEBURG, CORRECT?

11 A. YES.

12 Q. AND IF YOU WOULD ---

13 BY MR. JOHNSON:

14 COMMISSIONER, I'M GOING TO HAVE HIM TO COME UP
15 TO YOU SO YOU CAN ACTUALLY SEE HIS HAND. IF YOU
16 COULD COME UP HERE AND JUST KIND OF SHOW -- IF YOU
17 MAKE A FIST -- IT'S YOUR LEFT HAND THAT'S INJURED.
18 IF YOU'D MAKE A FIST WITH THAT LEFT HAND.

19 COMMISSIONER, YOU CAN SEE THE RING FINGER IS ---

20 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

21 Q. AND IS THAT RING FINGER PERMANENTLY BENT THAT WAY?

22 A. YES, SIR.

23 Q. DO YOU HAVE ANY REAL MOVEMENT OF THAT FINGER OTHER
24 THAN THE SHAPE IT'S IN RIGHT NOW?

25 A. NO, SIR.

1 Q. OKAY. DO YOU HAVE WEAKNESS IN YOUR LEFT HAND?

2 A. NO, SIR.

3 Q. BUT YOUR LEFT FINGER IS LOCKED, SO THERE HAS TO BE
4 SOME EFFECT?

5 A. I MEAN, AS FAR AS GRIP-WISE, IT'S LIMITED.

6 Q. OKAY. WOULD YOU LIKE ANOTHER DOCTOR TO LOOK AT YOUR
7 HAND TO SEE IF ANYTHING ELSE COULD BE DONE TO GET
8 YOU SOME MORE MOBILITY IN THAT FINGER?

9 A. I WOULD LIKE TO TRY TO.

10 Q. OKAY, ALL RIGHT. UP TO DATE HAVE YOU HAD TO PAY ALL
11 OF YOUR MEDICAL BILLS OUT OF YOUR OWN POCKET?

12 A. YES, SIR.

13 Q. HAS YOUR HEALTH INSURANCE CARRIER DENIED THE PAYMENT
14 OF ALL YOUR BILLS?

15 A. YES, SIR.

16 Q. GOING BACK TO THE TIME BEFORE YOU GOT THIS DOG, DID
17 YOU BELIEVE, BASED ON CONVERSATIONS THAT YOU HAD
18 WITH THE CHIEF, THAT YOU WERE ALLOWED TO HAVE A K-9?

19 A. YES, SIR. THE REASON THAT WAS WAS BECAUSE HE TOLD
20 ME TO BRING THE DOG TO THE POLICE DEPARTMENT, WORK
21 WITH HIM. AFTER WE WORKED WITH HIM HE SAID IT WAS A
22 DOG THAT WE COULD USE. AND THEN AT THAT TIME THAT'S
23 WHEN HE TOLD ME, "WELL, SINCE YOU'RE GOING TO HAVE A
24 K-9 NOW, GO AHEAD AND GET INTO THE OLD CHARGER, TAKE
25 THE BACKSEAT OUT, PUT THE KENNEL IN THE BACKSEAT OF

1 THE OLD CHARGER 'CAUSE THAT'S THE K-9 CAR."

2 Q. OKAY. AND YOU WERE ACTUALLY USING A DIFFERENT
3 PATROL CAR?

4 A. YES, SIR; I WAS USING A NEW CHARGER.

5 Q. ALL RIGHT. AND YOU ACTUALLY SWITCHED PATROL CARS ON
6 THURSDAY, THE 26TH?

7 A. YES, SIR.

8 Q. OKAY. HAD YOU NOT HAD PERMISSION TO HAVE A K-9,
9 WOULD YOU HAVE TAKEN THIS DOG?

10 A. WE WOULDN'T BE HERE TODAY, SIR.

11 BY MR. JOHNSON:

12 THAT'S ALL THE QUESTIONS I HAVE.

13 BY THE COMMISSIONER:

14 CROSS?

15 BY MR. McCANTS:

16 THANK YOU, COMMISSIONER.

17 CROSS EXAMINATION BY MR. McCANTS:

18 Q. GOOD AFTERNOON, OFFICER THORPE.

19 A. GOOD AFTERNOON, SIR.

20 Q. AGAIN, I'VE TOLD YOU THIS; I'M VERY SORRY YOU'VE
21 BEEN THROUGH THIS, BUT I HOPE YOU UNDERSTAND WHY
22 WE'RE HERE.

23 A. YES, SIR.

24 Q. THERE ARE LEGAL QUESTIONS ABOUT WHAT HAPPENED AND
25 WHETHER OR NOT THIS IS COVERED BY WORKERS'

1 COMPENSATION, OKAY?

2 A. YES, SIR.

3 Q. AND YOU AND I HAVE TALKED ABOUT THIS CASE, AND YOU
4 KNOW A LITTLE BIT ABOUT SOME OF THE QUESTIONS I'M
5 GOING TO ASK YOU.

6 A. YES, SIR.

7 Q. I'VE JUST GOT A FEW FOR YOU. AS YOU'VE TESTIFIED,
8 SERGEANT STEVEN THOMPSON, WHO IS WITH THE ORANGEBURG
9 COUNTY SHERIFF'S DEPARTMENT, ---

10 A. YES, SIR.

11 Q. --- GAVE RACKS TO YOU?

12 A. YES, SIR.

13 Q. AND HE GAVE HIM TO YOU UPON YOUR REQUEST; IS THAT
14 CORRECT?

15 A. REWORD THAT, IF YOU CAN.

16 Q. YOU WERE LOOKING FOR A WORKING DOG. SERGEANT
17 THOMPSON INDICATED HE HAD ONE AVAILABLE, AND YOU
18 REQUESTED THAT RACKS BE GIVEN TO YOU; IS THAT FAIR?

19 A. NO, SIR.

20 Q. I MEAN, NOBODY MADE YOU TAKE RACKS?

21 A. NO.

22 Q. ALL RIGHT. AND CERTAINLY THE TOWN OF BOWMAN DID NOT
23 REQUIRE YOU TO HAVE A K-9 OR A WORKING DOG TO
24 PERFORM YOUR OFFICIAL DUTIES WITH THE TOWN; THAT IS
25 ALSO TRUE, CORRECT?

1 A. YES.

2 Q. ALL RIGHT. SO IT'S REALLY -- IS IT NOT FAIR TO SAY
3 THAT AT THE TIME THAT YOU OBTAINED POSSESSION OF
4 RACKS AND AT THE TIME HE BIT YOU THAT FRIDAY, RACKS
5 WAS YOUR PROPERTY; DON'T YOU AGREE WITH THAT?

6 A. NO, SIR.

7 Q. ALL RIGHT. WELL, IN ORDER TO EXAMINE WHO OWNS
8 SOMETHING SOMETIMES WE GO THROUGH WHO'S RESPONSIBLE
9 FOR WHAT, AND MICHAEL JOHNSON HAS GONE THROUGH SOME
10 OF THE RESPONSIBILITIES FOR THE DOG. LET ME GO
11 THROUGH SOME OF THOSE WITH YOU, OKAY?

12 A. OKAY.

13 Q. AND YOU'VE SEEN THE TOWN POLICY ABOUT K-9s?

14 A. OKAY.

15 Q. YOU'VE HAD A CHANCE TO LOOK AT IT, AT LEAST AT THIS
16 POINT, AND IF YOU LOOK AT IT -- COMMISSIONER, THIS
17 IS MY NUMBER ONE -- ON PAGE TWO IT TALKS ABOUT K-9
18 CARE. THE FIRST THING IT SAYS, "THE HANDLER..." --
19 WHICH IS YOU, CORRECT?

20 A. YES.

21 Q. "...WILL BE RESPONSIBLE FOR THE HEALTH AND THE
22 WELFARE OF THE ASSIGNED K-9 BOTH ON AND OFF DUTY."
23 YOU AGREE WITH THAT, DON'T YOU?

24 A. YEAH.

25 Q. ALL RIGHT. AND LET ME ASK BOTH ABOUT BOTH ON AND

1 OFF DUTY. THAT SUGGESTS A PERIOD OF TIME FOR THE
2 K-9 TO BE WORKING AND SOMETIMES THE K-9 IS NOT
3 WORKING, CORRECT?

4 A. YES, SIR.

5 Q. JUST LIKE YOU?

6 A. RIGHT.

7 Q. WE'VE GOT YOUR TIME CARD IN HERE, AND WE LOOKED AT
8 SOME OF THE TIMES THAT YOU'RE ACTUALLY BEING PAID
9 FOR YOUR WORK AS A POLICE OFFICER FOR THE TOWN OF
10 BOWMAN. IN THOSE CARDS ---

11 BY MR. McCANTS:

12 ARE YOU PUTTING THAT INTO EVIDENCE, BY CHANCE,
13 THE TIME CARD?

14 BY MR. JOHNSON:

15 I HAVEN'T AS OF YET.

16 BY MR. McCANTS:

17 CAN I LOOK AT THE ONE YOU HAD OR, RATHER, BOTH
18 OF THEM? ARE YOU OKAY WITH PUTTING THESE IN?

19 BY MR. JOHNSON:

20 I DON'T HAVE ANY PROBLEM WITH THAT.

21 BY MR. McCANTS:

22 ALL RIGHT. WHY DON'T WE AT LEAST PUT HIS IN.
23 (COURT REPORTER MARKS CLAIMANT'S TIME SHEET DEFENDANTS'
24 EXHIBIT NUMBER ONE.)

25 CROSS EXAMINATION RESUMED BY MR. McCANTS:

1 Q. HOW ABOUT LOOKING AT THAT, JIM, IF YOU WOULD FOR A
2 SECOND. IS THAT YOUR TIME CARD FOR THE TIME
3 INVOLVED?

4 A. I CAN'T SAY. THAT'S NOT THE ACTUAL TIME CARD I
5 PUNCH IN AND OUT. THAT'S SOMETHING THAT SOMEBODY
6 PRINTED ON A COMPUTER.

7 Q. ALL RIGHT; FAIR ENOUGH. WELL, LOOK, FOR EXAMPLE,
8 YOU'VE ALREADY IDENTIFIED ON THIS WEEKLY TIME SHEET
9 THAT ON THURSDAY, FEBRUARY 26TH, 2015, YOU CAME IN
10 AT 11:42 A.M. AND WORKED UNTIL 10:01 P.M.; IS THAT
11 CORRECT?

12 A. YES, SIR.

13 Q. ALL RIGHT, SIR. AND JUMPING AHEAD, THERE'S NO TIME
14 ENTRY ON FRIDAY, THE DAY OF THE DOG BITE, CORRECT?
15 IS THAT FAIR?

16 A. THAT'S CORRECT.

17 Q. ALL RIGHT.

18 BY MR. McCANTS:

19 IS IT OKAY IF WE PUT THIS IN AS EXHIBIT ONE?

20 BY MR. JOHNSON:

21 I AM. WE ALSO HAVE THE PHYSICAL TIME CARDS
22 THAT YOU GAVE ME THIS MORNING.

23 BY MR. McCANTS:

24 ARE THEY CONSISTENT WITH ALL THAT?

25 BY MR. PENDARVIS:

1 IT ONLY HAS THAT DATE ON IT.

2 BY MR. McCANTS:

3 THIS JUST HAS THAT THURSDAY. IT HAS AN IN TIME
4 AND THEN AN OUT TIME.

5 CROSS EXAMINATION RESUMED BY MR. McCANTS:

6 Q. WHY DON'T WE LOOK AT THAT. DOES THAT ALSO HELP YOU?
7 DO YOU REMEMBER THAT BEING YOUR TIME CARD FOR THAT
8 THURSDAY?

9 A. I GUESS SO.

10 Q. WHOSE HANDWRITING IS THAT AT THE TOP?

11 A. THAT'S CHIEF PENDARVIS'.

12 BY MR. McCANTS:

13 OKAY. LET'S GO AHEAD AND PUT THAT IN, TOO; IS
14 THAT OKAY MIKE?

15 BY MR. JOHNSON:

16 NO OBJECTION.

17 BY MR. McCANTS:

18 THAT'S THE ACTUAL PUNCH CARD FOR THE THURSDAY,
19 COMMISSIONER.

20 BY THE COMMISSIONER:

21 OKAY. THAT WILL BE MARKED AS EXHIBIT TWO.
22 (COURT REPORTER MARKS CLAIMANT'S TIME CARD DEFENDANTS'
23 EXHIBIT NUMBER TWO.)

24 CROSS EXAMINATION RESUMED BY MR. McCANTS:

25 Q. ALL RIGHT. SO, THERE IS AN ON-DUTY TIME AND AN OFF-

1 DUTY TIME?

2 A. YES, SIR.

3 BY THE COMMISSIONER:

4 HOLD ON ONE SECOND. LET THE COURT REPORTER
5 CATCH UP.

6 BY MR. McCANTS:

7 OH, I BEG YOUR PARDON. I DO THAT SOMETIMES.
8 I'M GOING TOO FAST. DO YOU MIND IF I STAND UP HERE,
9 COMMISSIONER? IS THAT ALL RIGHT?

10 BY THE COMMISSIONER:

11 CERTAINLY.

12 BY MR. McCANTS:

13 OKAY, ARE YOU READY?

14 CROSS EXAMINATION RESUMED BY MR. McCANTS:

15 Q. ALL RIGHT. SO WE'VE GOT ON DUTY AND OFF DUTY FOR
16 PURPOSES OF PAY, CORRECT?

17 A. YES, SIR.

18 Q. AND I UNDERSTAND THE CONCEPT THAT LAW ENFORCEMENT
19 OFFICERS, MILITARY FOLKS REALLY WORK 24/7.

20 A. YES, SIR.

21 Q. BUT IF YOU'RE CALLED IN AFTER YOU'VE PUNCHED OUT,
22 YOU GET PAID FOR THE TIME THAT YOU PUNCH BACK IN ---

23 A. YEAH.

24 Q. --- BEING CALLED OFF; IS THAT CORRECT?

25 A. YES, SIR.

1 Q. ARE THERE TIMES FOR THE TOWN OF BOWMAN THAT YOU'RE
2 NOT ON CALL AT ALL? YOU ALL HAVE ONLY GOT TWO OR
3 THREE PEOPLE.

4 A. BASICALLY THE ONLY TIME THAT I KNOW OF IS LIKE IF I
5 REQUEST A DAY OFF.

6 Q. FOR EXAMPLE, YOU'RE GOING TO BE OUT OF TOWN?

7 A. YES, SIR.

8 Q. THEY'RE NOT GOING TO BE ABLE TO CALL YOU?

9 A. RIGHT.

10 Q. IF YOU WENT OUT OF TOWN, WHAT WOULD YOU DO WITH
11 RACKS?

12 A. RACKS WOULD COME WITH ME.

13 Q. TAKE A VACATION WITH YOU?

14 A. YEAH.

15 Q. ALL RIGHT.

16 A. I TAKE MY LITTLE DOG.

17 Q. THE CHIHUAHUA?

18 A. YEAH.

19 Q. TELL COMMISSIONER JAMES WHAT HAPPENED BETWEEN RACKS
20 AND THE CHIHUAHUA.

21 BY MR. McCANTS:

22 I KNOW WE'RE NOT SUPPOSED TO MAKE LIGHT OF
23 THIS, COMMISSIONER, BUT...

24 BY THE WITNESS:

25 YEAH.

CROSS EXAMINATION RESUMED BY MR. McCANTS:

Q. THEY DIDN'T GET ALONG, DID THEY?

A. THE CHIHUAHUA FEED ON RACKS.

Q. SET HIM STRAIGHT. OKAY, ALL RIGHT. LET'S GO BACK TO SOME OF THE K-9 POLICIES. ALL RIGHT. IT SAYS, "THE HANDLER WILL BE RESPONSIBLE FOR THE HEALTH AND WELFARE OF THE ASSIGNED K-9." THEN IT SAYS, "ANNUAL MEDICAL EXAMINATIONS WILL BE CONDUCTED YEARLY OR AS NEEDED SHOULD AN INJURY OCCUR BY THE DEPARTMENT-APPROVED VETERINARIAN." ALL RIGHT. NOW, I UNDERSTAND THAT THERE IS SOME MEDICAL CARE PROVIDED BY THE TOWN OF BOWMAN, BUT YOU ARE ALSO RESPONSIBLE FOR SOME MEDICAL CARE; IS THAT FAIR?

A. YES, SIR.

Q. FOR A K-9?

A. RIGHT.

Q. ALL RIGHT. "ILLNESS OR INJURY SHOULD BE REPORTED TO THE HANDLER'S SUPERVISOR." IF IT IS DETERMINED BY THE HANDLER THAT THE K-9 SHOULD BE TAKEN TO THE VETERINARIAN, YOU'VE GOT TO TELL THE CHIEF ABOUT THAT; YOU UNDERSTAND THAT?

A. YES.

Q. ALL RIGHT. THAT TELLS ME THAT YOU'VE GOT SOME DECISION-MAKING AUTHORITY WITH REGARD TO THE K-9, WHETHER OR NOT THE K-9 RECEIVES CERTAIN MEDICAL

1 CARE; DO YOU AGREE WITH THAT?

2 A. IF THAT'S WHAT THE POLICY SAYS, SIR, I AGREE.

3 Q. ALL RIGHT. "THE HANDLER IS RESPONSIBLE TO
4 ADMINISTER ANY MEDICATION." THAT'S YOUR
5 RESPONSIBILITY; YOU AGREE?

6 A. YES, SIR.

7 Q. THIS K-9 IS SUPPOSED TO BE CERTIFIED BY THE SOUTH
8 CAROLINA CRIMINAL JUSTICE ACADEMY. DO WE KNOW IF
9 THAT EVER HAPPENED TO RACKS? DO YOU KNOW IF HE HAD
10 BEEN CERTIFIED?

11 A. I'VE NEVER BEEN -- SAID HE HAD.

12 Q. ALL RIGHT. YOU, THE HANDLER, ARE RESPONSIBLE FOR
13 THE DAILY GROOMING OF THE ASSIGNED K-9, CORRECT?

14 A. YES.

15 Q. OF COURSE, THE K-9'S HOME KENNEL IS SUPPOSED TO BE
16 KEPT CLEAN, AND WHATNOT. SO THOSE ARE SOME OF THE
17 KIND OF DUTIES ASSOCIATED WITH THE WORKING DOGS, AND
18 YOU AGREE WITH ME THAT MOST OF THEM ARE ASSIGNED TO
19 THE HANDLER; THAT IS YOU, CORRECT?

20 A. YES.

21 Q. YOU DIDN'T PAY ANYTHING FOR RACKS?

22 A. NO, SIR.

23 Q. NO MONEY EXCHANGED HANDS?

24 A. NO, SIR.

25 Q. SO, IN THAT CONTEXT DON'T YOU AGREE THAT YOU

1 EXERCISE A LOT OF THE COMPONENTS OF OWNERSHIP WITH
2 REGARD TO RACKS, OFFICER THORPE? DO YOU UNDERSTAND
3 MY QUESTION?

4 A. I UNDERSTAND WHAT YOU'RE SAYING, BUT WITH -- MY PART
5 OF THE UNDERSTANDING, WITH THE OKAY FROM THE CHIEF.

6 Q. ALL RIGHT. WELL, LET'S SHIFT TO THAT, THEN. LET'S
7 TALK ABOUT THAT, BECAUSE I LISTENED TO YOU. OF
8 COURSE, WE DID SOME DISCOVERY. WE KNOW WHAT CHIEF
9 PENDARVIS SAID. CHIEF PENDARVIS NEVER TOLD YOU THAT
10 YOU COULDN'T OWN A K-9, CORRECT?

11 A. NO.

12 Q. HE NEVER TOLD YOU THAT?

13 A. NO.

14 Q. IN FACT, TO SOME DEGREE HE SAID IF YOU WANT TO USE A
15 K-9 AS FAR AS YOUR JOB, THAT'S FINE; GO FIND ONE,
16 CORRECT?

17 A. YES.

18 Q. AND THAT'S WHAT YOU WANTED TO DO?

19 A. YES.

20 Q. AND, AGAIN, HE NEVER TOLD YOU YOU HAVE TO HAVE A K-9
21 IN ORDER TO WORK FOR THE TOWN OF BOWMAN, DID HE?

22 A. YES.

23 Q. HE DID NOT?

24 A. HE DIDN'T.

25 Q. ALL RIGHT. BUT YOU SAW THE EQUIPMENT LIST WE HAD AT

1 THE DEPOSITION, THE THINGS YOU HAD TO HAVE?

2 A. YES.

3 Q. WHAT WERE SOME OF THE THINGS THAT THE TOWN OF BOWMAN
4 MADE YOU HAVE?

5 A. OF COURSE, YOUR GUN, HANDCUFFS, TASER, A VEST,
6 TICKET BOOKS, TRAFFIC COLLISION BOOKS.

7 Q. YOU ALSO HAD TO HAVE CREDENTIALS? YOU HAD TO BE
8 TRAINED, AND YOU HAD TO GRADUATE FROM THE SLED
9 ACADEMY, RIGHT?

10 A. YES.

11 Q. ALL RIGHT. THE DOG IS NOT ON THAT LIST, IS IT?

12 A. NO, SIR.

13 Q. ALL RIGHT. WHAT CHIEF PENDARVIS, DON'T YOU AGREE,
14 TOLD ME IS THAT IF YOU WANT TO HAVE A DOG, THAT'S
15 FINE, BUT YOU CAN'T HAVE OR USE A DOG THAT'S TRAINED
16 TO APPREHEND, CORRECT? THAT'S PRETTY MUCH THE
17 CONVERSATION HE HAD WITH YOU?

18 A. PRETTY MUCH.

19 Q. ALL RIGHT. AND YOUR INTERPRETATION OF THAT IS THIS.
20 HE SAID, "ALL RIGHT, I'VE LEARNED THAT RACK IS
21 TRAINED IN APPREHENSION"?

22 A. RIGHT.

23 Q. "NOW I KNOW THAT BECAUSE YOU TOLD ME THAT." THAT
24 IS, OFFICE THORPE, YOU TOLD THE CHIEF THE DOG IS
25 TRAINED IN APPREHENSION. HE SAYS, "ALL RIGHT. YOU

1 KEEP THE DOG..." -- THIS IS YOUR VERSION. "YOU KEEP
2 THE DOG, BUT JUST DON'T USE ANY OF THE COMMANDS THAT
3 WILL CAUSE THAT DOG TO SPRING INTO THAT APPREHENSION
4 MODE," CORRECT?

5 A. RIGHT.

6 Q. COMMISSIONER JAMES MAY KNOW ALL THE CIRCUMSTANCES
7 HERE, AND MR. JOHNSON HAS TOUCHED ON THESE. THESE
8 DOGS ARE HIGHLY TRAINED IN CERTAIN AREAS, CORRECT?

9 A. RIGHT.

10 Q. RACKS, IN FACT, WAS TRAINED IN DRUG DETECTION, TO
11 SEARCH FOR PEOPLE OR PROPERTY, AND ALSO WAS TRAINED
12 IN APPREHENSION, CORRECT?

13 A. YES.

14 Q. AND I THINK WE KNOW WHAT ALL OF THAT MEANS, BUT
15 FOCUS ON APPREHENSION FOR A SECOND. THAT MEANS
16 WHAT? DESCRIBE IN YOUR OWN WORDS WHAT THAT MEANS
17 WHEN A K-9 WORKING DOG IS TRAINED IN APPREHENSION.

18 A. THAT WOULD ACTUALLY MEAN TAKE A PERPETRATOR DOWN.

19 Q. ALL RIGHT. AND HOW DOES A DOG TAKE A PERPETRATOR
20 DOWN?

21 A. WE GIVE HIM A COMMAND.

22 Q. TO DO WHAT?

23 A. BITE HIM.

24 Q. ALL RIGHT. IN OTHER WORDS, A DOG USES HIS OR HER
25 TEETH OR JAW TO APPREHEND SOMEBODY?

1 A. RIGHT.

2 Q. ALL RIGHT. CAN'T WRESTLE WITH THE PAWS, USES THE
3 MOUTH. ALL RIGHT. AND RACKS WAS TRYING TO DO THAT,
4 CORRECT?

5 A. NEVER SEEN THE PAPERWORK, BUT I WAS TOLD THAT.

6 Q. SERGEANT THOMPSON TOLD YOU THAT?

7 A. YEAH.

8 Q. THAT MAKES RACKS A RIGHT DEADLY WEAPON IF THE
9 TRIGGER, THAT IS THE COMMAND, IS USED, CORRECT?

10 A. RIGHT.

11 Q. SO YOU WOULD UNDERSTAND WHY THE TOWN OF BOWMAN WANTS
12 TO BE VERY SENSITIVE WITH WHETHER OR NOT
13 APPREHENSION DOGS ARE USED, CORRECT?

14 A. RIGHT.

15 Q. WE'LL TALK ABOUT THIS IN A SECOND, ABOUT HOW RACKS
16 BIT YOU, AND WHATNOT. BUT YOU WERE AWARE AT LEAST
17 THAT CHIEF PENDARVIS EXPRESSED AT LEAST A CONCERN
18 OVER THE USE OF AN APPREHENSION DOG? DO YOU AT
19 LEAST AGREE WITH ME ON THAT? BECAUSE HE SAID DON'T
20 USE THE COMMAND, ACCORDING TO YOU?

21 A. IT CAN GO BOTH WAYS.

22 Q. ALL RIGHT. THAT'S FAIR, AND HE'LL TESTIFY. SHE'LL
23 HEAR HIS VERSION OF THAT. BUT IT WASN'T A
24 CIRCUMSTANCE WHERE YOU WENT TO HIM AND SAID, "I GOT
25 THIS DOG FROM THOMPSON; HE'S TRAINED IN THE THREE

1 PRINCIPLE AREAS," AND HE SAID, "THAT'S FINE; YOU CAN
2 USE HIM." HE AT LEAST EXPRESSED SOME CONCERN ABOUT
3 THE APPREHENSION COMPONENT, ---

4 A. YES.

5 Q. --- 'CAUSE HE SAID DON'T USE THAT COMMAND?

6 A. YEAH.

7 Q. ALL RIGHT. NOW, LET'S TALK ABOUT THE INCIDENT.
8 IT'S ON A FRIDAY. WE'VE ALREADY POINTED OUT YOU HAD
9 NOT CHECK INTO WORK YET. THIS WAS DURING THE
10 MORNING. YOU WERE NOT ON THE CLOCK, SO TO SPEAK,
11 CORRECT?

12 A. RIGHT.

13 Q. YOU WERE NOT IN UNIFORM?

14 A. NO, SIR.

15 Q. YOU WERE AT YOUR HOUSE ---

16 A. RIGHT.

17 Q. --- WORKING WITH RACKS?

18 A. YES, SIR.

19 Q. NOW, YOU WERE WORKING WITH RACKS IN A TRAINING
20 COMPONENT, BUT IT WAS NOT AN APPREHENSION COMPONENT,
21 WAS IT?

22 A. NO, SIR.

23 Q. BECAUSE YOU HAD BEEN TOLD THE DAY BEFORE, AT LEAST
24 YOU SAY, THE DOG IS NOT GOING TO BE USED FOR
25 APPREHENSION, OKAY?

1 A. RIGHT.

2 Q. BY THE WAY, THIS DOG WAS PRETTY TRAINED WELL. HE --
3 THESE DOGS ARE RECOGNIZED OR IF THEY DO SOMETHING, I
4 WON'T SAY IT'S AN AWARD, BUT THEY'RE NOTED -- THIS
5 DOG HAD HOW MANY DOCUMENTED BITES BEFORE YOU CAME
6 INTO POSSESSION OF IT? DIDN'T WE TALK ABOUT HOW IT
7 WAS EIGHT OR SO?

8 A. IT WAS SIX. I'M NOT ---

9 Q. SIX?

10 A. I'M NOT SURE AT THE TIME.

11 Q. DID YOU KNOW THAT BEFORE YOU CAME INTO POSSESSION OF
12 RACKS, THAT HE HAD EIGHT DOCUMENTED BITES?

13 A. WELL, MY UNDERSTANDING WAS THAT HE -- THERE WERE --
14 THERE WERE SIX. THERE WAS EITHER SIX OR MAYBE
15 EIGHT.

16 Q. SIX. LET'S GO WITH SIX; THAT'S FINE.

17 A. SIX APPREHENSIONS.

18 Q. APPREHENSIONS?

19 A. THAT'S WHAT MY UNDERSTANDING WAS WITH RACKS.

20 Q. ALL RIGHT. BUT AN APPREHENSION BY A DOG IS A BITE?

21 A. YES.

22 Q. AND THAT'S HOW WE KIND OF RECOGNIZE THESE DOGS?

23 A. AN APPREHENSION IS IF YOU GIVE THAT DOG A COMMAND TO
24 TAKE -- TO ATTACK THAT FELLOW. A REGULAR BITE IS
25 JUST A BITE, BUT AN APPREHENSION IS WHERE YOU

1 ACTUALLY GIVE THE DOG THE COMMAND TO BITE. THERE'S
2 A DIFFERENCE.

3 Q. ALL RIGHT. DID THOMPSON TELL YOU HOW MANY TIMES HE
4 HAD BEEN INSTRUCTED TO APPREHEND AND HOW MANY TIMES
5 HE HAD RESPONDED AND WAS SUCCESSFUL?

6 A. NO.

7 Q. ALL RIGHT. IN ANY EVENT, THAT FRIDAY MORNING YOU
8 WERE AT YOUR HOUSE; YOU WERE OUT OF UNIFORM; YOU
9 WERE WORKING WITH RACKS A LITTLE BIT. AND AS YOU
10 DESCRIBED ON YOUR DIRECT EXAMINATION, WHAT HAPPENED
11 HERE IS THAT RACKS GOT OUTSIDE OF YOUR FENCED
12 BACKYARD ---

13 A. YES, SIR.

14 Q. --- THROUGH AN OPEN GATE ---

15 A. YES, SIR.

16 Q. --- THAT LIKELY YOU HAD LEFT OPEN?

17 A. THE LATCH DIDN'T LATCH OR SOMETHING, YEAH.

18 Q. ALL RIGHT. BUT HE GOT OUT. NOW, HE GOT OUT OF YOUR
19 YARD AND WENT INTO THE NEIGHBOR'S YARD AND INTO THE
20 NEIGHBOR'S SCREENED PORCH; IS THAT FAIR?

21 A. YES, SIR.

22 Q. I CAN'T REMEMBER IF YOU SAID THIS, BUT YOUR NEIGHBOR
23 IS A VERY ELDERLY BEDRIDDEN LADY; IS THAT CORRECT?

24 A. YES, SIR.

25 Q. SO NATURALLY YOU WERE CONCERNED ABOUT A K-9 WORKING

1 DOG LEAVING THE PENNED AREA AND FINDING ITSELF IN
2 SOMEBODY ELSE'S PROPERTY; IS THAT FAIR?

3 A. NOT JUST A K-9, ANY DOG.

4 Q. THAT'S RIGHT, AND THAT'S WHAT I WAS GETTING READY TO
5 SAY. THIS IS BASICALLY YOUR DOG, AND YOUR DOG IS ON
6 THE LAMB, SO TO SPEAK, AND YOU WANT YOUR DOG BACK?

7 A. ANY DOG.

8 Q. ALL RIGHT. IF THE CHIHUAHUA HAD LEFT ---

9 A. IF IT WAS MY DAD'S DOG I WAS WATCHING, YES, IT WOULD
10 BE THE SAME.

11 Q. YOU'RE GOING TO LEAVE BECAUSE THE DOG IS YOUR DOG
12 AND YOU'RE GOING TO GO GET THE DOG, CORRECT? AND IT
13 WASN'T RESPONDING, WAS IT?

14 A. NO.

15 Q. AND THAT'S BECAUSE HE WAS RELATIVELY NEW TO THE
16 FAMILY?

17 A. RIGHT.

18 Q. YOU WERE STILL TRYING TO GET TO KNOW HIM? OKAY.
19 BUT WHEN HE LEFT THE YARD -- AND I HATE TO REDUCE
20 THIS TO THESE TERMS, OFFICER THORPE, BUT WHEN HE RAN
21 FROM THE YARD, LEFT YOUR PEN, OR WHATNOT, HE WASN'T
22 PERFORMING ANY SERVICE FOR THE TOWN OF BOWMAN, WAS
23 HE?

24 A. HE WAS SUPPOSED TO BE.

25 Q. BY LEAVING THE YARD?

1 A. HE WAS SUPPOSED TO STOP ON COMMAND.

2 Q. BUT HE DIDN'T?

3 A. I WAS GIVING COMMANDS.

4 Q. OKAY. WELL, HE DISOBEYED YOUR COMMANDS THEN, DIDN'T
5 HE? HE'S NOT BEING A VERY GOOD EMPLOYEE AT THAT
6 POINT, IS HE? ALL RIGHT.

7 A. I SHOULD HAVE WROTE HIM UP.

8 Q. OKAY. THAT'S KIND OF THE POINT I'M TRYING TO GET
9 AT. AT THE TIME RACKS DID THIS HE WASN'T IN
10 FURTHERANCE OF ANY COMMAND OF YOURS OF BEHALF OF THE
11 TOWN OF BOWMAN; THAT IS, GO SEARCH FOR SOMETHING, GO
12 LOCATE SOMETHING; IS THAT TRUE?

13 A. THAT'S TRUE.

14 Q. HE'S JUST RUNNING AWAY, ISN'T HE?

15 A. YES.

16 Q. ALL RIGHT, FOR WHATEVER REASON, AND WE DON'T KNOW
17 WHY. BUT IN ANY EVENT YOU GAVE CHASE, WENT ONTO THE
18 SCREENED PORCH, AND AS YOU DESCRIBED YOU TRIED TO
19 SECURE HIM BY GRABBING HIM AROUND THE CHOKE CHAIN;
20 IS THAT CORRECT?

21 A. (WITNESS NODS AFFIRMATIVE RESPONSE)

22 Q. AND YOU MIGHT HAVE TO SAY YES OR NO FOR THE COURT
23 REPORTER HERE LIKE YOU DID AT YOUR DISCOVERY
24 DEPOSITION. I SEE HER OVER THERE, BUT WE'LL HELP
25 YOU WITH THAT. YOU'RE DOING -- I THINK YOU'RE DOING

1 OKAY. NOW, I CAN'T REMEMBER THIS. I KNOW THAT IN
2 DISCOVERY WE LEARNED THAT RACKS HAD A PARTICULAR
3 DISTASTE FOR BEING GRABBED IN THE NECK AREA?

4 A. YES, SIR.

5 Q. DO YOU REMEMBER THAT?

6 A. YES, SIR.

7 Q. AND WE ALL SUSPECT, DO WE NOT, THAT THAT'S WHAT --
8 WHEN YOU GRABBED HIM BY THE NECK AREA BY THE CHAIN
9 AND TRIED TO SECURE HIM, PROBABLY IN SOMEWHAT OF A
10 HASTE MOMENT, THAT RACKS CAME AROUND AND GRABBED
11 YOUR HAND IN A DEFENSIVE OR A REACTIVE WAY; IS THAT
12 FAIR, OFFICER THORPE?

13 A. IN THIS CASE, YES.

14 Q. DID -- HAD THOMPSON TOLD YOU THAT RACKS DIDN'T LIKE
15 TO BE GRABBED THAT WAY BEFORE YOU CAME INTO
16 POSSESSION OF RACKS?

17 A. YES, SIR.

18 Q. SO, DID YOU KNOW THAT?

19 A. YES, SIR.

20 Q. ALL RIGHT. SO WHEN YOU GRABBED RACKS THAT FRIDAY
21 MORNING, YOU AT LEAST HAD BEEN TOLD THAT HE DIDN'T
22 LIKE TO BE GRABBED THAT WAY, CORRECT?

23 A. RIGHT.

24 Q. DID YOU FORGET THAT?

25 A. HE DOESN'T LIKE TO BE STARTLED WHEN YOU GRAB AROUND

1 THE NECK.

2 Q. ALL RIGHT. IS THAT SOMETHING YOU FORGOT ABOUT, OR
3 WHY DID YOU DO IT IF YOU KNEW THAT THAT MAY SET
4 RACKS OFF A LITTLE BIT?

5 A. BECAUSE I DIDN'T WANT HIM TO KEEP RUNNING OFF.

6 Q. ALL RIGHT, OKAY. AND I'M NOT NECESSARILY BEING
7 CRITICAL AS MUCH AS I AM BEING DIRECT. YOU DID GRAB
8 THE DOG IN A MANNER IN WHICH YOU KNEW THE DOG DID
9 NOT LIKE; IS THAT FAIR?

10 A. YEAH.

11 Q. ALL RIGHT. AND, OF COURSE, HE BIT YOU, AND HE BIT
12 YOU HARD?

13 A. RIGHT.

14 Q. THAT KIND OF SPEAKS FOR ITSELF. BUT TO GET RACKS
15 OFF OF YOUR HAND YOU HAD TO CHOKE HIM AND PUT HIM
16 DOWN, CORRECT?

17 A. YES.

18 Q. WHICH YOU DID. OF COURSE, RACKS REVIVED AND CAME
19 TO, CORRECT?

20 A. YES, SIR.

21 Q. AND I DON'T KNOW IF THIS TESTIMONY IS IN HERE.
22 WHERE IS RACKS? RACKS HAD TO LEAVE YOUR CARE AND
23 CUSTODY, RIGHT?

24 A. YES, SIR.

25 Q. YOUR WIFE PROBABLY WANTED TO MAKE SURE THE DOG

1 DIDN'T HANG AROUND; PROBABLY YOU, TOO. I DON'T
2 KNOW. BUT THE DOG IS OKAY TODAY, TO THE BEST OF
3 YOUR KNOWLEDGE? IS THAT FAIR?

4 A. I COULDN'T TELL YOU, SIR.

5 Q. ALL RIGHT. HERE IS ULTIMATELY GOING TO BE MY POINT.
6 RACKS BIT YOU BECAUSE OF THE MANNER IN WHICH YOU GOT
7 A HOLD OF HIM, NOT BECAUSE YOU GAVE HIM ANY TYPE OF
8 COMMAND OR WORK INSTRUCTION TO DO THAT; IS THAT
9 FAIR?

10 A. FAIR.

11 Q. ALL RIGHT. IN OTHER WORDS -- AND WE CAN SAY IT NOW;
12 THE DOG'S NOT HERE. WHAT IS -- TELL COMMISSIONER
13 JAMES, WHAT IS THE COMMAND FOR RACKS TO APPREHEND,
14 ATTACK, OR BITE? WHAT IS IT?

15 A. LIKE I SAID EARLIER IN MY DEPOSITION, I THINK IT'S
16 SUKIE (PHONETIC). I'M NOT SURE.

17 Q. SUKIE?

18 A. YEAH, SUKIE.

19 BY MR. McCANTS:

20 AND WE'LL HELP YOU WITH THE PRONUNCIATION OF
21 THAT -- I MEAN, THE SPELLING OF THAT.

22 CROSS EXAMINATION RESUMED BY MR. McCANTS:

23 Q. AND THAT'S A FOREIGN LANGUAGE TERM, CORRECT?

24 A. YES.

25 Q. YOU MENTIONED ABOUT TRAINING IN A PARTICULAR

1 LANGUAGE?

2 A. LIKE I SAID -- I SAID THAT IT MIGHT BE IT. I DON'T
3 KNOW. I WAS WORKING WITH HIM. I DON'T KNOW, SIR.

4 Q. THAT DAY THAT RACKS BIT YOU, YOU HAD NOT USED THAT
5 COMMAND AT ANY POINT; IS THAT FAIR?

6 A. THAT'S FAIR.

7 Q. ALL RIGHT. IS IT FAIR, THEN, TO SAY THAT NOTHING
8 ABOUT RACKS' TRAINING TO THE EXTENT YOU HAD TRAINED
9 HIM OR THE WAY THAT YOU UNDERSTAND HE HAD BEEN
10 TRAINED, ANYTHING ABOUT THAT -- DID ANYTHING ABOUT
11 THAT LEAD TO HIM BITING YOU THAT DAY, OFFICER
12 THORPE?

13 A. I'M NOT UNDERSTANDING THE QUESTION.

14 Q. ALL RIGHT. I'M GOING TO TRY AND REPHRASE IT.

15 'CAUSE WE KIND OF GOT UP IN THIS NOTION THAT MAYBE
16 RACK BIT YOU BECAUSE OF HIS NATURE AS A TRAINED
17 APPREHENSION DOG. THAT'S NOT WHY HE BIT YOU, IS IT?

18 A. NO.

19 Q. HE BIT YOU ---

20 A. NOT TO MY KNOWLEDGE.

21 Q. YOU DIDN'T GIVE HIM A COMMAND?

22 A. NO.

23 Q. YOU DIDN'T HEAR ANYBODY ELSE GIVE HIM A COMMAND?

24 A. NO.

25 Q. YOU GRABBED HIM BY AN AREA HE DIDN'T LIKE TO BE

1 GRABBED, AND THAT'S WHAT CAUSED THIS DOG TO BITE
2 YOU, IN YOUR MIND; IS THAT FAIR?

3 A. YES, SIR.

4 Q. SO, WAS IT, AGAIN, ANYTHING ABOUT HIS TRAINING,
5 RACKS' TRAINING AS A K-9 WORKING DOG, WHETHER WHAT
6 THOMPSON HAD TOLD YOU OR WHAT YOU HAD DONE TO TRAIN
7 RACKS, ANYTHING ABOUT THAT TRAINING OF RACKS WHICH
8 YOU THINK LED TO HIM BITING YOU ON THE DAY OF THE
9 INCIDENT INVOLVED HERE?

10 A. NO, SIR.

11 Q. ALL RIGHT. DO YOU UNDERSTAND MY QUESTION?

12 A. SOMEWHAT.

13 Q. HE WASN'T DOING HIS JOB, WAS HE, WHEN HE BIT YOU,
14 WAS HE?

15 A. HE WASN'T LISTENING; NO, SIR.

16 Q. WELL, IF YOU HAD GIVEN HIM A COMMAND TO BITE AND HE
17 BIT YOU, I UNDERSTAND THAT. IF YOU HAD GIVEN HIM A
18 COMMAND TO BITE AND HE DIDN'T BITE YOU, HE'S
19 DISOBEYING.

20 A. BUT I WAS ALSO GIVING HIM A COMMAND TO STOP WHEN HE
21 WAS RUNNING OUT THE DOOR, AND HE WOULDN'T.

22 Q. ALL RIGHT. WELL, BUT THE INJURY HERE IS THE BITE.

23 A. RIGHT.

24 Q. AND YOU DIDN'T TELL HIM TO BITE YOU, DID YOU?

25 A. NO.

1 Q. ALL RIGHT. AND YOU RAN OVER THERE BECAUSE YOU WERE
2 CONCERNED ABOUT RACKS BEING OUT. IF RACKS FOR SOME
3 REASON HAD BITTEN YOUR 91-YEAR-OLD NEIGHBOR, WOULD
4 HE HAVE BEEN WORKING AT THE TIME?

5 A. WOULD HE HAVE BEEN WORKING?

6 Q. YEAH.

7 A. BASICALLY, YEAH.

8 Q. HOW? IF HE HAD BITTEN THE NEIGHBOR WITHOUT YOU
9 COMMANDING HIM TO DO SO, HOW WOULD THAT HAPPEN?

10 A. I WAS WORKING WITH THE DOG LIKE CHIEF PENDARVIS TOLD
11 ME TO DO TO GET USED TO HIM, TAKE HIM OUT AND GIVE
12 HIM COMMANDS AND WORK WITH HIM, AND THAT'S WHAT I
13 WAS DOING IN THAT CAPACITY.

14 Q. ALL RIGHT. WELL, THE DOG'S KIND OF LIKE A WORKER,
15 KIND OF LIKE AN EMPLOYEE, OKAY?

16 A. YES, SIR.

17 Q. THEY'RE EXPECTED TO FOLLOW DIRECTIONS, CORRECT?

18 A. YES, SIR.

19 Q. IF AN EMPLOYEE DOESN'T FOLLOW DIRECTIONS AND GETS
20 HURT OR FOLLOWS -- IS TOLD NOT TO DO SOMETHING AND
21 GETS HURT, THAT'S KIND OF STEPPING OUT OF THEIR
22 SERVICE OR THEIR WORK; DON'T YOU AGREE?

23 A. YES.

24 Q. ALL RIGHT.

25 BY MR. JOHNSON:

1 COMMISSIONER, I'M GOING TO OBJECT. I DON'T
2 THINK YOU CAN COMPARE A K-9, NO MATTER HOW WELL
3 TRAINED IT IS, TO A HUMAN BASICALLY BECAUSE ANIMALS
4 BY THEIR VERY NATURE AREN'T ALWAYS GOING TO LISTEN
5 TO YOU. I'M JUST ---

6 BY THE COMMISSIONER:

7 AND THAT'S FOR ME TO FORM WITH THE APPLICATION.
8 I'M NOT GOING TO STOP EITHER ONE OF YOU FROM CROSS
9 EXAMINING. I UNDERSTAND WHAT YOU'RE SAYING, MR.
10 JOHNSON.

11 CROSS EXAMINATION RESUMED BY MR. McCANTS:

12 Q. AND FINALLY, OFFICER THORPE, WHEN YOU WENT TO THE
13 HOSPITAL TO GET YOUR TREATMENT, YOU DIDN'T TELL THE
14 FOLKS AT THE HOSPITAL THIS WAS WORK RELATED, DID
15 YOU?

16 A. YES, SIR.

17 Q. YOU TOLD THEM?

18 A. YES, SIR.

19 Q. ALL RIGHT. IS THAT WHY YOU YOUR PRIVATE HEALTH, YOU
20 THINK, IS NOT COVERING YOUR BILLS?

21 A. YES, SIR.

22 BY MR. McCANTS:

23 ALL RIGHT. THAT'S ALL I'VE GOT. THANK YOU,
24 OFFICER THORPE. THANK YOU, COMMISSIONER.

25 BY THE COMMISSIONER:

1 MAY I ASK ONE QUESTION, SIR?

2 BY THE WITNESS:

3 YES, MA'AM.

4 BY THE COMMISSIONER:

5 WHAT HAPPENED TO THE DOG?

6 BY THE WITNESS:

7 THE DOG -- CHIEF PENDARVIS CAME TO MY HOUSE. I
8 PUT THE DOG IN THE KENNEL IN THE CAR THAT WAS IN MY
9 YARD. MY WIFE CALLED CHIEF PENDARVIS. CHIEF
10 PENDARVIS CAME AND TOOK POSSESSION OF RACKS. THEN
11 FROM WHAT I UNDERSTOOD, 48 HOURS OR SO LATER THE DOG
12 WAS TURNED -- THE DOG WAS TURNED BACK OVER TO ANIMAL
13 CONTROL IN ORANGEBURG, AND THEY QUARANTINED HIM FOR
14 A CERTAIN AMOUNT OF TIME. THEN AFTER THAT I DON'T
15 KNOW WHERE HE WENT OR WHERE HE'S AT NOW.

16 BY THE COMMISSIONER:

17 OKAY. SO YOU DIDN'T DECIDE WHERE HE WAS GOING
18 TO GO AFTER HE WAS QUARANTINED? YOU DID NOT MAKE
19 THE DETERMINATION OF WHERE HE WAS GOING TO GO AFTER
20 HE FINISHED HIS QUARANTINE?

21 BY THE WITNESS:

22 I CALLED STEVEN AND I TOLD STEVEN, I SAID,
23 "STEVEN, YOU CAN -- THE DOG IS AT ANIMAL CONTROL IF
24 YOU WANT TO GO BACK AND GET HIM." STEVEN SAID HE
25 DID NOT WANT THE DOG BACK, THAT HE WAS GOING TO CALL

1 MARIO.

2 BY THE COMMISSIONER:

3 CALL WHAT?

4 BY THE WITNESS:

5 MARIO.

6 BY MR. McCANTS:

7 THAT'S ANOTHER PART OF ---

8 BY THE WITNESS:

9 THAT'S ANOTHER --

10 BY MR. JOHNSON:

11 TELL HER WHO MARIO IS.

12 BY THE WITNESS:

13 MARIO IS ACTUALLY THE FELLOW THAT HAD THE DOG
14 THAT GAVE IT TO SERGEANT THOMPSON.

15 BY MR. JOHNSON:

16 WHO THEN GAVE IT ---

17 BY THE WITNESS:

18 THEN SERGEANT THOMPSON GAVE IT TO ME.

19 BY MR. JOHNSON:

20 --- TO OFFICER THORPE.

21 BY MR. McCANTS:

22 HE'S WITH ORANGEBURG COUNTY, TOO, COMMISSIONER.

23 BY THE COMMISSIONER:

24 OKAY. THANK YOU ALL.

25 REDIRECT EXAMINATION BY MR. JOHNSON:

1 Q. JUST SOME QUICK FOLLOW-UP QUESTIONS. JIM, A LOT HAS
2 BEEN MADE HERE ABOUT YOU GRABBING THIS COLLAR.

3 A. YEAH.

4 Q. IS IT SAFE TO SAY THAT YOU GRABBED THIS COLLAR
5 BECAUSE THE DOG WAS NOT OBEYING YOUR COMMANDS?

6 A. YES, SIR.

7 Q. HAD RACKS OBEYED YOUR COMMANDS TO STOP, SIT, WOULD
8 YOU HAVE GRABBED HIS COLLAR?

9 A. NO, SIR.

10 Q. IS IT SAFE TO SAY THAT IN YOUR OPINION -- LET ME ASK
11 YOU THIS. ARE YOU RESPONSIBLE FOR THE CARE AND
12 SUPERVISION OF YOUR K-9?

13 A. YES, SIR.

14 Q. BECAUSE THAT'S ACTUALLY WRITTEN IN THE POLICY FOR
15 THE TOWN, CORRECT?

16 A. YES, SIR.

17 Q. LET ME ASK YOU THIS. WE TALK ABOUT THIS POLICY. AT
18 THE TIME ON THE DAY YOU WERE BITTEN, HAD YOU EVER
19 SEEN THIS K-9 POLICY?

20 A. NO, SIR.

21 Q. THIS IS SOMETHING YOU'VE ACTUALLY JUST FOUND OUT
22 ABOUT IN THE LAST FEW MONTHS?

23 A. YES, SIR.

24 Q. OKAY. WERE YOU AWARE THAT IT WAS YOUR
25 RESPONSIBILITY, THOUGH, PER THIS POLICY TO DO A

1 MINIMUM OF FOUR HOURS OF TRAINING A WEEK WITH THE
2 K-9?

3 A. I WAS TOLD THAT I NEEDED TO WORK WITH HIM AS MUCH AS
4 POSSIBLE.

5 Q. OKAY. AND THAT'S WHAT YOU WERE DOING THAT MORNING?

6 A. YES.

7 Q. AND WHEN RACKS DID NOT RESPOND, YOU WENT TO GET HIM?

8 A. YES, SIR.

9 Q. WHAT DO YOU THINK COULD -- DO YOU HAVE ANY IDEA WHAT
10 RACKS WOULD HAVE DONE IF YOU HAD JUST LEFT HIM ON
11 THE FRONT PORCH?

12 BY MR. McCANTS:

13 YOUR HONOR, THAT'S KIND OF ---

14 BY MR. JOHNSON:

15 I'LL WITHDRAW THE QUESTION.

16 REDIRECT EXAMINATION RESUMED BY MR. JOHNSON:

17 Q. DO YOU THINK -- YOU TESTIFIED A MINUTE AGO THAT YOU
18 WERE BIT BECAUSE YOU GRABBED THAT COLLAR, CORRECT?

19 A. YES, SIR.

20 Q. IS IT SAFE TO SAY YOU GRABBED THAT COLLAR BECAUSE
21 YOU WERE HAVING TO FORCE THE K-9 TO OBEY?

22 A. YES, SIR.

23 Q. AND THAT IS THE K-9 THAT IS INTRUSTED TO YOUR CARE?

24 A. YES, SIR.

25 BY MR. JOHNSON:

1 THAT'S ALL THE QUESTIONS I HAVE. THANK YOU.

2 BY THE COMMISSIONER:

3 ANYTHING ---

4 BY MR. McCANTS:

5 MAY I ASK JUST TWO MORE?

6 BY THE COMMISSIONER:

7 CERTAINLY.

8 RE CROSS EXAMINATION BY MR. McCANTS:

9 Q. I WANT TO CLARIFY THE ISSUE OF WHAT HAPPENED TO
10 RACKS. YOU HAD NO INTENTION OF TAKING RACKS BACK
11 AFTER THIS INCIDENT, DID YOU?

12 A. I DID.

13 Q. YOU DID? WERE YOU GOING TO TRY AND TAKE THE DOG
14 BACK AFTERWARDS?

15 A. I WAS GOING TO TAKE HIM BACK TO MARIO.

16 Q. I'M TALKING ABOUT TAKE HIM BACK WITH YOU, JIM, TO BE
17 YOUR WORKING DOG ---

18 A. NO, SIR.

19 Q. --- AFTER HE BIT YOU. I THOUGHT THAT'S WHAT YOU
20 TOLD ME.

21 A. NO.

22 Q. TO PUT IT PLAINLY, YOU JUST DIDN'T WANT ANYTHING
23 ELSE TO DO WITH RACKS; IS THAT FAIR?

24 A. THAT IS FAIR.

25 Q. YOU'VE GOT TO SAY YES.

1 A. YES.

2 Q. ALL RIGHT. AND YOU TRIED TO CALL THOMPSON TO TAKE
3 HIM BACK, CORRECT?

4 A. YES.

5 Q. AND HE WASN'T GOING TO TAKE HIM?

6 A. RIGHT.

7 Q. AND SO IT WOUND UP THE CHIEF HERE GOT A HOLD OF HIM
8 AND PLACED THE DOG SOMEWHERE, CORRECT?

9 A. THE DOG -- HE TOOK HIM AND THEN ANIMAL CONTROL CAME
10 AND GOT THE DOG, FROM WHAT I UNDERSTOOD.

11 BY MR. McCANTS:

12 OKAY. I THINK THAT'S ALL I HAVE. THANK YOU,
13 COMMISSIONER.

14 BY MR. JOHNSON:

15 COMMISSIONER, WE'RE GOING TO CALL KEVIN
16 PENDARVIS AS OUR NEXT WITNESS.

17 BY MR. McCANTS:

18 BE MINDFUL BECAUSE HE HAS THE FLU AND BE
19 GENTLE.

20 BY MR. PENDARVIS:

21 DON'T GET TOO CLOSE.

22 BY MR. JOHNSON:

23 THAT IS NOT A PROBLEM. I'M GOING TO STAY NICE
24 AND FAR FROM YOU. HAVE A SEAT.

25 BY THE COMMISSIONER:

1 SIR, IF YOU WILL RAISE YOUR RIGHT HAND.

2 * * * * *

3 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
4 WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE
5 MATTER HEREIN:

6 KEVIN LEE PENDARVIS.

7 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS
8 FOLLOWS:

9 DIRECT EXAMINATION BY MR. JOHNSON:

10 Q. CHIEF PENDARVIS, MY NAME IS MICHAEL JOHNSON. WE MET
11 A FEW WEEKS AGO. IF YOU WOULD, STATE YOUR FULL
12 NAME.

13 A. KEVIN LEE PENDARVIS.

14 Q. ALL RIGHT. AND YOU ARE -- WHAT'S YOUR JOB POSITION
15 WITH THE TOWN OF BOWMAN?

16 A. CHIEF OF POLICE.

17 Q. HOW LONG HAVE YOU BEEN CHIEF OF POLICE?

18 A. SINCE 2009.

19 Q. OKAY. ON WEDNESDAY, FEBRUARY 26TH, WHAT TIME DID
20 YOU REPORT TO WORK THAT MORNING; DO YOU KNOW?

21 A. THAT WEDNESDAY?

22 Q. I'M SORRY; EXCUSE ME. THURSDAY, FEBRUARY 26TH.

23 A. ACCORDING TO THE TIME SHEETS, IT WAS BEFORE 6:00 IN
24 THE MORNING.

25 Q. IN FACT, IT WAS AT 5:21 IN THE MORNING?

1 A. YES, SIR.

2 Q. OKAY. YOU'VE SEEN THIS TIME SHEET?

3 A. YES, SIR.

4 BY MR. JOHNSON:

5 COMMISSIONER, I'M GOING TO INTRODUCE THIS TIME
6 SHEET AS -- DID THE OTHER ONE GO IN AS CLAIMANT'S
7 ONE?

8 BY THE COMMISSIONER:

9 IT WENT IN AS DEFENDANTS' ...

10 BY MR. JOHNSON:

11 I'LL ADMIT THAT AS CLAIMANT'S ONE, THEN.

12 BY THE COMMISSIONER:

13 ANY OBJECTION?

14 BY MR. McCANTS:

15 NO OBJECTION.

16 (COURT REPORTER MARKS CHIEF PENDARVIS' TIME SHEET
17 CLAIMANT'S EXHIBIT NUMBER ONE.)

18 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

19 Q. THE NIGHT BEFORE THIS THURSDAY -- AND I'M KIND OF
20 JUMPING AHEAD A LITTLE TOO MUCH. THE NIGHT BEFORE
21 DID YOU RECEIVE A PHONE CALL FROM OFFICER THORPE
22 ASKING YOU TO USE A DOG CRATE?

23 A. YES, SIR.

24 Q. ALL RIGHT. DID YOU TELL HIM TO GO GET ONE FROM THE
25 POLICE DEPARTMENT?

1 A. HE CALLED ME FROM THE POLICE DEPARTMENT, YES, SIR,
2 AND ASKED IF HE COULD USE A CRATE, AND I TOLD HIM
3 THERE SHOULD BE ONE IN THE K-9 ROOM.

4 Q. OKAY. AND YOU ALL HAVE A DEDICATED ROOM THAT YOU
5 STORE K-9 EQUIPMENT?

6 A. YES, SIR. IT'S GOT -- IT'S NO EQUIPMENT. IT'S JUST
7 CRATES, CAGES, AND DOG FOOD. YES, SIR.

8 Q. OKAY, ALL RIGHT. AND YOU ALL ACTUALLY CALL IT THE
9 K-9 ROOM?

10 A. YES, SIR.

11 Q. OKAY. DID OFFICE THORPE TELL YOU WHY HE NEEDED A
12 CARRIER, A CRATE?

13 A. HE SAID SOMEBODY WAS GIVING HIM A DOG.

14 Q. OKAY. DID HE TELL YOU AT THAT POINT WHO WAS GIVING
15 HIM A DOG?

16 A. NO, SIR.

17 Q. SO IT'S YOUR TESTIMONY THAT HE DID NOT TELL YOU THAT
18 OFFICE THOMPSON WAS GIVING HIM A DOG?

19 A. YES, SIR.

20 Q. DID HE TELL YOU WHAT HE WAS GOING TO USE THE DOG
21 FOR?

22 A. NO, SIR.

23 Q. DID YOU ASK?

24 A. NO, SIR.

25 Q. ALL RIGHT. WOULD YOU AGREE WITH ME THAT PRIOR TO

1 THAT WEDNESDAY NIGHT YOU ALL HAD HAD -- THAT YOU AND
2 OFFICER THORPE HAD HAD DISCUSSIONS ABOUT HIM GETTING
3 A K-9?

4 A. YES, SIR.

5 Q. OKAY. AND HAD YOU ENCOURAGED HIM TO USE A K-9?

6 A. NO, SIR.

7 Q. HAD YOU DISCOURAGED HIM FROM USING A K-9?

8 A. NO, SIR.

9 Q. DID YOU OFFER TO TRAIN A K-9 FOR HIM?

10 A. YES, SIR; A PUPPY.

11 Q. OKAY. DID YOU EVER HAVE ANY DISCUSSIONS WITH HIM
12 ABOUT HIM OBTAINING A K-9 AND USING IT IN HIS ROLE
13 AS A POLICE DEPUTY?

14 A. NO, SIR.

15 Q. OKAY. WHEN IS THE FIRST TIME YOU SAW RACKS, THE
16 K-9?

17 A. THURSDAY.

18 Q. THURSDAY. WHAT TIME DO YOU THINK IT WAS WHEN YOU
19 SAW RACKS?

20 A. I'M WANTING TO SAY IT WAS MIDDAY.

21 Q. OKAY. DID YOU ALL DO DRILLS, TRAINING WITH THE K-9
22 AT THAT TIME?

23 A. ON THAT THURSDAY?

24 Q. ON THAT THURSDAY.

25 A. YES, SIR.

1 Q. OKAY. DID YOU PLANT NARCOTICS THROUGH VARIOUS PARTS
2 OF THE POLICE DEPARTMENT AND RACKS FOUND THEM?

3 A. YES, SIR.

4 Q. DID HE PASS ALL OF THOSE TESTS?

5 A. YES, SIR.

6 Q. OKAY. DID OFFICER THORPE TELL YOU THAT RACKS COULD
7 BE USED FOR TRACKING?

8 A. YES, SIR.

9 Q. DID HE TELL YOU HE COULD BE USED FOR SEARCHING FOR
10 NARCOTICS?

11 A. YES, SIR.

12 Q. DID HE TELL YOU HE ALSO COULD BE USED FOR
13 APPREHENSION?

14 A. YES, SIR. AND WHEN HE DID I TOLD HIM HE COULDN'T
15 USE HIM. IT VIOLATED THE TOWN POLICY.

16 Q. OKAY. ALL RIGHT. WHAT -- AND THE TOWN POLICY ---
17 BY THE COMMISSIONER:

18 COMMISSIONER, AGAIN, THIS IS UNDER THE APAs
19 NUMBER ONE FOR THE DEFENDANTS.

20 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

21 Q. THE TOWN POLICY SAYS, "K-9 APPREHENSION OF A SUSPECT
22 IS NOT ALLOWED"?

23 A. YES, SIR.

24 Q. "K-9s SHOULD ONLY BE USED AS OFFICER PROTECTION
25 DURING VIOLENT ENCOUNTERS"?

1 A. YES, SIR.

2 Q. "AT NO TIME SHOULD BE POLICE K-9 BE ORDERED TO
3 APPREHEND (BITE)"?

4 A. YES, SIR.

5 Q. "K-9s OF BOWMAN POLICE DEPARTMENT WILL NOT BE TAUGHT
6 APPREHENSION"?

7 A. YES, SIR.

8 Q. YOU HELPED WRITE THIS?

9 A. YES, SIR.

10 Q. OKAY. WHERE IN YOUR POLICY DOES IT SAY AN OFFICER
11 MAY NOT HAVE A DOG THAT'S TRAINED TO DO
12 APPREHENSION?

13 A. IT SAYS THAT THE DOG IS NOT SUPPOSED TO BE TRAINED
14 IN APPREHENSION IF IT BELONGS TO THE TOWN.

15 Q. WHAT IT SAYS IS, "K-9s OF BOWMAN POLICE DEPARTMENT
16 WILL NOT BE TAUGHT APPREHENSION"?

17 A. YES, SIR.

18 Q. OKAY. DO YOU HAVE A POLICY WHERE IF A DOG HAS EVER
19 BEEN TRAINED IN APPREHENSION THAT YOU CAN'T USE IT?

20 A. NO, SIR. IT JUST VIOLATES OUR POLICY OF HAVING AN
21 APPREHENSION DOG.

22 Q. BUT I'M CURIOUS, IF IT'S TRUE THAT YOU'RE NOT
23 SUPPOSED TO HAVE APPREHENSION DOGS AT ALL, WHY IT
24 ALSO SAYS, "AT NO TIME SHOULD A POLICE K-9 BE
25 ORDERED TO APPREHEND"? WHY WOULD I NOT ORDER A DOG

1 -- IF A DOG HAS NEVER BEEN TRAINED TO APPREHEND AND
2 I GIVE IT THE COMMAND TO APPREHEND, IT SHOULDN'T DO
3 ANYTHING, CORRECT?

4 A. YOU'RE RIGHT. YES, SIR.

5 Q. THEN WHY WOULD YOU HAVE PART OF YOUR POLICY THAT YOU
6 SHOULD NEVER SAY -- THAT YOU SHOULD NEVER TELL IT
7 TO? IT WOULDN'T MATTER. OBVIOUSLY -- IT GOES ---

8 BY MR. McCANTS:

9 HE'S GOT A CHANCE TO ANSWER THAT.

10 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

11 Q. I'M CURIOUS WHY THE POLICY ---

12 A. I WROTE THAT POLICY IN 2013. A BUNCH OF STUFF
13 NEEDED TO BE UPDATED. THAT PROBABLY NEEDED TO BE
14 UPDATED. BUT THAT'S THE POLICY THAT HAS BEEN IN
15 EFFECT SINCE 2013 WHEN I FIRST STARTED WORKING WITH
16 K-9s WITH BOWMAN.

17 Q. YOU WROTE THIS POLICY?

18 A. YES, SIR. THAT'S ACTUALLY BASED OFF OF NATIONAL
19 STANDARDS.

20 Q. ALL RIGHT. SO YOU WENT TO WORK ON THURSDAY, THE
21 26TH, AT ABOUT 5:21 A.M. ON YOUR TIME CARD AND
22 CLOCKED OUT AT 4:29 P.M.?

23 A. YES, SIR.

24 Q. BETWEEN THE HOURS OF THE TIME THAT YOU -- LET ME ASK
25 YOU THIS. DID YOU HAVE A DISCUSSION WITH OFFICER

1 THORPE IN WHICH YOU TOLD HIM HE COULD USE THE K-9?

2 A. NO, SIR. ONCE I FOUND OUT THE DOG WAS APPREHENSION
3 I TOLD HIM THAT HE COULDN'T USE THE K-9.

4 Q. OKAY. DID YOU TELL OFFICER THORPE TO REMOVE THE
5 BACKSEAT OF THE OLD SQUAD CAR AND USE IT?

6 A. NO, SIR.

7 Q. OKAY. ARE YOU AWARE THAT OFFICER THORPE REMOVED THE
8 BACKSEAT?

9 A. AFTER THE FACT, YES, SIR.

10 Q. OKAY. IS IT YOUR TESTIMONY THAT OFFICER THORPE
11 DISOBEYED YOUR ORDER BY USING THE DOG?

12 A. I TOLD OFFICER THORPE ON THURSDAY THE DOG WASN'T
13 ALLOWED TO BE USED. SO AFTER THURSDAY THE DOG NEVER
14 CAME BACK TO BOWMAN.

15 Q. OKAY. IF HE REMOVED THE BACKSEAT OF A CAR, ACTUALLY
16 SWITCHED CARS, WHICH HE DID, CORRECT? YOU AGREE
17 WITH THAT?

18 A. YES, SIR. THE REASON HE SWITCHED THE CARS WAS
19 BECAUSE HE WAS SUPPOSED TO BE CHANGING THE BEARINGS
20 ON THE FRONT OF THE OLD CAR, WHICH HE AGREED TO.

21 Q. OKAY. HE REMOVED THE BACKSEAT OF THE OLD CAR?

22 A. YES, SIR.

23 Q. OKAY. WOULD YOU AGREE WITH ME THAT IF HE REMOVED --
24 IF YOU TOLD HIM, "YOU'RE NEVER ALLOWED TO USE THIS
25 DOG AT THIS POLICE DEPARTMENT," AND HE REMOVED THE

1 BACKSEAT OF A SQUAD CAR SO HE COULD USE THAT DOG AND
2 CONTINUED TO USE THAT DOG UNTIL 10:01 THAT NIGHT,
3 THAT THAT IS A -- HE HAS DISOBEYED A DIRECT ORDER
4 FROM YOU?

5 A. TECHNICALLY, YES, SIR.

6 Q. ALL RIGHT. DID YOU EVER WRITE HIM UP FOR THAT?

7 A. NO, SIR.

8 Q. DID YOU EVER PUT ANYTHING IN HIS EMPLOYEE FILE ABOUT
9 THAT?

10 A. NO, SIR.

11 Q. DID YOU EVER -- DID YOU GIVE HIM A VERBAL WARNING, A
12 WRITTEN WARNING, ANY TYPE OF THING?

13 A. NO, SIR, JUST TOLD HIM NOT TO USE THE DOG.

14 Q. ALL RIGHT. SO HE -- SO IT'S YOUR TESTIMONY HE
15 DIRECTLY DISOBEYED YOU, YET THERE IS NOTHING THAT
16 YOU EVER DID ABOUT HIM DIRECTLY DISOBEYING YOU? YOU
17 DIDN'T FIRE HIM?

18 A. NO, SIR.

19 Q. YOU DIDN'T WRITE HIM UP? YOU DIDN'T DO ANYTHING; AM
20 I CORRECT?

21 A. YES, SIR.

22 Q. YOU WENT HOME, BASED ON YOUR TIME CARDS, ABOUT -- ON
23 THURSDAY AT 4:29. ON FRIDAY MORNING YOUR TIME CARD
24 SAYS YOU WERE UP AT 5:15 AT WORK AND WORKED UNTIL
25 10:26 THAT EVENING. DID YOU -- WHEN DID YOU RECEIVE

1 -- DID YOU RECEIVE A PHONE CALL FROM OFFICER THORPE
2 TELLING YOU HE HAD BEEN BITTEN?

3 A. YES, SIR, ABOUT 8:00, 8:30 THAT MORNING.

4 Q. OKAY. DID HE TELL YOU WHAT HAPPENED?

5 A. NO, SIR. AT THE TIME HE JUST TOLD ME THAT THE DOG
6 BIT HIM AND THAT HE WAS ON THE WAY TO THE HOSPITAL
7 AND HE PROBABLY WOULDN'T BE IN TO WORK THAT DAY.

8 Q. DID YOU ASK HIM HOW IT HAPPENED?

9 A. NO, SIR. AT THE TIME I WASN'T THINKING ABOUT IT.

10 Q. OKAY. WHEN DID -- AT SOME POINT, MY UNDERSTANDING
11 IS, YOU TOOK CUSTODY OF RACKS, THE DOG?

12 A. YES, SIR. I RECEIVED A CALL THAT -- WELL, AROUND
13 LUNCHTIME FROM HIS WIFE ASKING IF I WOULD GO GET THE
14 DOG. I ASKED HER WHAT THEY WANTED ME TO DO WITH THE
15 DOG, AND SHE SAID SHE DIDN'T CARE. AT THAT POINT I
16 PICKED THE DOG UP AND PLACED HIM IN MY KENNEL UNTIL
17 DHEC TOOK POSSESSION OF HIM.

18 Q. OKAY. AND WHEN YOU SAY YOU PUT HIM IN YOUR KENNEL,
19 DO YOU RAISE DOGS?

20 A. YES, SIR.

21 Q. OKAY. DO YOU RAISE DOGS TO BE USED AS K-9s?

22 A. I RECKON THEY COULD BE; YES, SIR.

23 Q. OKAY. DO YOU -- ARE THE -- WELL, LET ME ASK YOU.
24 DO YOU SELL -- I ASSUME YOU RAISE DOGS AND SELL
25 THEM, CORRECT?

1 A. YES.

2 Q. DO YOU SELL THOSE DOGS PRIMARILY TO POLICE OFFICERS,
3 OR DO YOU JUST SELL THEM TO THE GENERAL PUBLIC?

4 A. ANYBODY THAT WANTS ONE.

5 Q. OKAY. WHAT TYPES OF DOGS DO YOU RAISE?

6 A. USED TO BE MALINOIS AND GERMAN SHEPHERDS.

7 Q. ARE THOSE BOTH BREEDS THAT ARE USED PRIMARILY -- IF
8 THEY'RE GOING TO HAVE A K-9, THOSE ARE THE TYPES OF
9 BREEDS THEY'RE GOING TO USE?

10 A. YES, SIR, THAT AND DUTCH SHEPHERD.

11 Q. OKAY. SO YOU TOOK THE K-9 OUT OF OFFICER THORPE'S
12 PATROL CAR AND TOOK IT TO YOUR HOUSE?

13 A. YES, SIR.

14 Q. AND THAT HAPPENED ON FRIDAY?

15 A. YES, SIR.

16 Q. WHEN WAS RACKS REMOVED FROM YOUR CUSTODY?

17 A. DHEC TOOK POSSESSION OF HIM MONDAY, THE FOLLOWING
18 MONDAY.

19 Q. ALL RIGHT. DO YOU KNOW WHAT HAPPENED TO RACKS AFTER
20 HE LEFT YOUR CUSTODY ON MONDAY?

21 A. DHEC ASKED IF I WOULD TAKE HIM TO ANIMAL CONTROL AND
22 DROP HIM OFF BECAUSE HE DIDN'T HAVE A WAY TO
23 TRANSPORT. ONCE I DROPPED HIM OFF AT ANIMAL
24 CONTROL, OFFICIALLY, NO, SIR, I DON'T KNOW WHAT
25 HAPPENED TO HIM.

1 Q. DO YOU TRAIN DOGS?

2 A. MAINTENANCE TRAINING; YES, SIR.

3 Q. OKAY. HAVE YOU EVER TAKEN A DOG, THOUGH, THROUGH
4 THE ENTIRE TRAINING CLASS? I THINK THERE'S A
5 CERTIFICATION PROCESS FOR A DOG, CORRECT?

6 A. NO, SIR.

7 Q. OKAY. YOU JUST DO MAINTENANCE TRAINING?

8 A. YES, SIR.

9 Q. OKAY. DO DOGS DO EXACTLY WHAT YOU SAY A HUNDRED
10 PERCENT OF THE TIME?

11 A. NO, SIR.

12 Q. SO YOU WOULD AGREE WITH ME THAT SOMETIMES YOU TELL A
13 DOG TO SIT AND IT DOESN'T SIT? IT MAY CONTINUE
14 DOING SOMETHING ELSE? THAT'S WHY YOU DO MAINTENANCE
15 TRAINING AND CONSTANT TRAINING WITH THE ANIMAL,
16 CORRECT?

17 A. YES, SIR.

18 Q. ALL RIGHT. THAT'S WHY YOUR OWN POLICY SAYS YOU HAVE
19 TO DO CONSTANT TRAINING WITH THE ANIMAL, FOUR HOURS
20 A WEEK?

21 A. YES, SIR. FOR THE NARCOTICS, YES, SIR.

22 Q. ALL RIGHT. THE TRAINING PROCEDURE THAT I HAVE SAYS,
23 "ALL K-9s MUST COMPLETE AT LEAST FOUR HOURS OF
24 MAINTENANCE TRAINING A WEEK." IT DOESN'T SAY -- IT
25 DOESN'T SAY ANYTHING ABOUT NARCOTICS. IT JUST SAYS

1 MAINTENANCE TRAINING.

2 A. IT DOESN'T SAY WHAT IT IS. IT'S JUST THAT'S WHAT IT
3 IS.

4 Q. BUT IT WOULD BE -- BUT, AGAIN, YOU WROTE THE POLICY,
5 AND YOU DIDN'T USE THE WORD NARCOTICS, CORRECT?

6 A. YES, SIR.

7 Q. OKAY. SO IT'S MAINTENANCE TRAINING, AND THE
8 MAINTENANCE TRAINING WOULD INCLUDE JUST SIMPLE
9 COMMANDS: SIT, STAY, WHATEVER THE COMMAND IS TO GO
10 FIND THE MARIJUANA? I MEAN, THOSE ARE THE COMMANDS
11 YOU'RE GOING THROUGH, CORRECT?

12 A. YES, SIR.

13 Q. DID YOU KNOW ANYTHING -- OTHER THAN WHAT YOU WERE
14 TOLD ON THURSDAY AND ON WEDNESDAY NIGHT ABOUT THIS
15 DOG, DID YOU KNOW ANYTHING ELSE ABOUT THIS DOG?

16 A. HONESTLY I CAN'T ANSWER THAT. IF THIS IS A
17 DIFFERENT DOG, YES, SIR, I KNEW OF THE DOG. AS FAR
18 AS TRAINING, NO, SIR.

19 Q. OKAY. YOU HAVE TESTIFIED IN YOUR DEPOSITION THAT
20 YOU BELIEVE THAT THIS DOG MIGHT HAVE ACTUALLY BEEN A
21 DOG CALLED REX?

22 A. REX, YES, SIR.

23 Q. R-E-X. ALL RIGHT. WHY DO YOU THINK THIS DOG WAS
24 REX?

25 A. BECAUSE I HAD A DOG ABOUT A YEAR -- YEAR, YEAR AND A

1 HALF PRIOR TO THIS INCIDENT COME THROUGH MY KENNELS
2 THAT LOOKED SIMILAR TO THIS DOG, BUT THE DOG'S NAME
3 WAS REX, NOT RACKS.

4 Q. OKAY. SO IT'S YOUR -- WELL, DO YOU BELIEVE THAT THE
5 DOG WE'RE ALL REFERRING TO AS RACKS WAS ACTUALLY THE
6 DOG THAT YOU RAISED AS REX?

7 A. WELL, I DIDN'T RAISE HIM. I HAD HIM IN MY KENNEL
8 FOR ABOUT A WEEK. YES, SIR; I DO BELIEVE THAT WAS
9 THE DOG.

10 Q. ALL RIGHT. AND HOW OLD WAS REX, R-E-X, WHEN YOU HAD
11 HIM FOR THAT WEEK?

12 A. I CAN'T TELL YOU. HE WAS GROWN WHEN HE SHOWED UP AT
13 THE KENNELS.

14 Q. OKAY. AND WHAT DID YOU DO WITH REX?

15 A. I KEPT HIM FOR ABOUT A WEEK, FED HIM, CLEANED OUT
16 HIS DOG PEN, AND THEN HE WENT TO WHOEVER WAS GETTING
17 HIM.

18 Q. WHO DID YOU KEEP REX FOR?

19 A. MARIO FONSECA (PHONETIC).

20 Q. OKAY. WHEN YOU SAW THE K-9 ON THURSDAY, THE DAY
21 BEFORE OFFICER THORPE WAS BITTEN, DID YOU BELIEVE
22 THAT THIS WAS THE SAME DOG THAT YOU HAD KEPT AT YOUR
23 KENNEL BEFORE?

24 A. YES, SIR.

25 Q. NOW, YOU TESTIFIED THAT YOU WERE VERY SPECIFIC,

1 "YOU'RE NOT ALLOWED TO USE THIS DOG," CORRECT?

2 A. YES, SIR.

3 Q. ALL RIGHT. DID YOU TELL OFFICER THORPE TO USE -- TO
4 GET ANY DOG FOOD FOR THE DOG?

5 A. NO, SIR.

6 Q. AND IT'S YOUR TESTIMONY THAT YOU WERE -- AND YOU
7 WERE VERY SPECIFIC, AND YOU SAID, "YOU MAY NOT USE
8 THIS DOG," CORRECT?

9 A. YES, SIR.

10 Q. WHEN YOU LEARNED THAT HE WAS -- THAT THE DOG WAS AN
11 APPREHENSION DOG, THAT IS -- WOULD YOU AGREE WITH ME
12 THAT THE SOLE REASON YOU TOLD HIM TO TAKE THAT DOG
13 HOME, THAT HE COULDN'T WORK WITH HIM, BECAUSE HE WAS
14 AN APPREHENSION DOG?

15 A. YES, SIR.

16 Q. OKAY. WHY DIDN'T YOU MAKE SURE HE TOOK THAT DOG
17 HOME IMMEDIATELY? DID YOU TELL HIM TO TAKE IT HOME
18 IMMEDIATELY?

19 A. I TOLD HIM TO TAKE THE DOG HOME, AND THAT'S WHEN I
20 CLOCKED OUT AND WENT HOME.

21 Q. HOW LONG DID YOU ALL SPEND TRAINING OR WORKING WITH
22 THE K-9 THAT DAY?

23 A. I CAN'T TELL YOU. I DO KNOW -- 'CAUSE WHEN YOU PUT
24 DRUGS OUT, PUT THE DOPE OUT, IT HAS TO SIT FOR 20
25 MINUTES BEFORE YOU CAN EVEN WORK THE DOG.

1 Q. OKAY. IF YOU GOT THERE AT NOON -- YOUR TESTIMONY IS
2 YOU GOT THERE ABOUT MIDDAY. MIDDAY TO ME IS NOON.
3 SO IF IT'S ANOTHER TIME, DON'T LET ME PUT WORDS IN
4 YOUR MOUTH. I'M NOT TRYING TO. AND YOU LEFT AT
5 4:29, THAT MEANS YOU WERE THERE FOR ABOUT FOUR AND A
6 HALF HOURS. THE DOG WAS THERE WITH YOU THE ENTIRE
7 FOUR AND A HALF HOURS; DO YOU AGREE?

8 A. YES, SIR.

9 Q. AND YOU WERE CRYSTAL CLEAR THAT THIS DOG CANNOT BE
10 HERE, TAKE HIM HOME?

11 A. AT THE END, YES, SIR.

12 Q. I'M CURIOUS WHY YOU DIDN'T -- AS THE CHIEF FOR THE
13 POLICE FOR THE TOWN OF BOWMAN, WHY YOU DIDN'T ENSURE
14 THAT THAT DOG HAD BEEN TAKEN HOME.

15 A. I ASSUMED OFFICER THORPE WAS GOING TO LISTEN.

16 Q. AND, AGAIN, EVEN AFTER YOU FOUND OUT -- IF WE ASSUME
17 YOUR TESTIMONY IS TRUE, EVEN AFTER YOU FOUND OUT
18 THAT HE DID NOT FOLLOW YOUR COMMANDS YOU DID NOT
19 REPRIMAND OFFICER THORPE IN ANY WAY FOR THAT?

20 A. NO, SIR. CAN I ADD THAT I OFFICIALLY DIDN'T FIND
21 OUT THAT HE KEPT THE DOG UNTIL HE GOT OFF THAT
22 NIGHT, UNTIL AFTER ALL OF THIS AND HE WAS NO LONGER
23 EMPLOYED WITH BOWMAN?

24 Q. AND THAT'S FINE, BUT I GUESS THAT GOES TO MY
25 QUESTION OF, IF YOU TOLD HIM PRIOR TO 4:30 TAKE THIS

1 DOG HOME -- HOW LONG -- HOW FAR DOES OFFICER BOWMAN
2 LIVE FROM WORK?

3 A. OFFICER THORPE?

4 Q. EXCUSE ME; OFFICER THORPE.

5 A. THE OTHER END OF THE COUNTY, 45-MINUTE RIDE.

6 Q. 45-MINUTE RIDE?

7 A. YES, SIR.

8 Q. ALL RIGHT. BUT YOU DID NOT -- I GUESS MY QUESTION
9 IS, WHY DIDN'T YOU ENSURE -- IF YOU WERE ADAMANT
10 THIS DOG CANNOT BE HERE, YOU CAN NEVER WORK WITH
11 HIM, WHY WEREN'T YOU SURE THAT HE TOOK THAT DOG
12 HOME?

13 A. I CAN'T ANSWER THAT.

14 Q. YOU HAVE A K-9?

15 A. YES, SIR.

16 Q. HAS YOUR K-9 EVER BITTEN YOU?

17 A. MY K-9?

18 Q. YOUR K-9.

19 A. NO, SIR.

20 Q. DO YOU KNOW OF K-9s THAT, NOT BECAUSE THEY'RE TOLD
21 TO BITE SOMEONE, THEY'LL BITE -- THEY'LL BITE THEIR
22 HANDLER FROM TIME TO TIME?

23 A. I'VE HEARD OF IT; YES, SIR.

24 Q. OKAY. WOULD YOU AGREE WITH ME THAT IF YOUR K-9 BIT
25 YOU THAT THAT WOULD BE -- SINCE HE IS YOUR K-9, HE

1 IS YOUR DOG FOR USE, IF HE BIT YOU -- NEVER MIND. I
2 CAN'T ASK THAT QUESTION.

3 BY MR. McCANTS:

4 NO, YOU CAN'T ASK THAT QUESTION.

5 BY MR. JOHNSON:

6 THAT'S ALL THE QUESTIONS I HAVE. THANK YOU,
7 CHIEF.

8 BY THE COMMISSIONER:

9 I HAVE ONE QUESTION JUST TO MAKE SURE I HEARD
10 YOU.

11 BY THE WITNESS:

12 YES, MA'AM.

13 BY THE COMMISSIONER:

14 YOU WERE TALKING ABOUT NOT FINDING OUT THAT
15 OFFICER THORPE KEPT THE DOG UNTIL SOMEBODY WAS
16 EMPLOYED OR UNEMPLOYED. WHAT DID YOU SAY?

17 BY THE WITNESS:

18 I DIDN'T REALIZE THAT HE HAD KEPT THE DOG EVEN
19 UNTIL 10:00 AFTER THAT PARTICULAR NIGHT AT THE
20 POLICE DEPARTMENT UNTIL AFTER WE STARTED DEALING
21 WITH THE LAWSUIT HERE. SO, UP UNTIL -- WHILE HE WAS
22 STILL EMPLOYED I DIDN'T KNOW THE DOG STAYED IN
23 BOWMAN UNTIL HE GOT OFF THAT NIGHT.

24 BY THE COMMISSIONER:

25 WHEN YOU SAY EMPLOYED, DO YOU MEAN FOR THE DAY,

1 OR ARE YOU TALKING ABOUT ---

2 BY THE WITNESS:

3 NO, I'M TALKING ABOUT THE WHOLE TIME HE --
4 OFFICER THORPE WAS EMPLOYED FOR THE TOWN OF BOWMAN,
5 EVEN AFTER THE DOG BITE INCIDENT, 'CAUSE HE STILL
6 WORKED FOR BOWMAN A COUPLE MONTHS AFTER THE DOG BITE
7 BEFORE HE QUIT.

8 BY THE COMMISSIONER:

9 OKAY. AND I'M NOT TRYING TO BE FUNNY. I KNOW
10 WE'RE ALL REFERRING TO THE DOG AS A WORKING DOG. SO
11 I WANTED TO MAKE SURE WHO YOU WERE -- WHO YOU WERE
12 ---

13 BY THE WITNESS:

14 THE EMPLOYEE PART I'M REFERRING TO OFFICER
15 THORPE, NOT THE DOG.

16 BY THE COMMISSIONER:

17 OKAY, OKAY. ALL RIGHT.

18 CROSS EXAMINATION BY MR. McCANTS:

19 Q. WHAT YOU'RE SAYING IS THAT THAT AFTERNOON, THAT
20 THURSDAY AFTERNOON, AT SOME POINT YOU DISCOVERED
21 THIS DOG HAD BEEN TRAINED IN APPREHENSION, RACKS; IS
22 THAT CORRECT?

23 A. YES, SIR.

24 Q. AND YOUR TESTIMONY IS YOU TOLD OFFICER THORPE AT
25 THAT PARTICULAR POINT, "THIS DOG CANNOT WORK FOR THE

1 TOWN OF BOWMAN"; THAT'S YOUR TESTIMONY, CORRECT?

2 A. YES, SIR.

3 Q. WHETHER OR NOT YOU SAID THE DOG'S GOT TO GO RIGHT
4 NOW OR LATER, WHAT YOU WERE SAYING EARLIER IS YOU
5 DIDN'T DISCOVER THAT THE DOG HAD STAYED THAT DAY
6 UNTIL WE GOT INVOLVED IN THIS CASE, CORRECT?

7 A. YES, SIR.

8 Q. THE DOG, RACKS, BIT JIM THORPE THE NEXT DAY, FRIDAY,
9 CORRECT?

10 A. YES, SIR.

11 Q. AND THIS ISN'T ABOUT WRITING PEOPLE UP OR FIRING
12 PEOPLE. I MEAN, YOU DIDN'T THINK THE DOG WAS
13 WORKING THAT DAY, CORRECT?

14 A. YES, SIR.

15 Q. THAT'S TRUE, ISN'T IT?

16 A. YES, SIR.

17 Q. AND YOU ASSISTED HIM WITH MEDICAL TREATMENT, TOLD
18 HIM TO GO TO THE HOSPITAL AND EVERYTHING, AND
19 ASSISTED WITH GETTING RACKS SOME DEGREE OF CARE,
20 CORRECT?

21 A. YES, SIR.

22 Q. ALL RIGHT. YOUR OFFICERS ARE NOT REQUIRED TO USE
23 WORKING DOGS, ARE THEY?

24 A. NO, SIR.

25 Q. IT'S AN OPTION FOR THEM; IT'S AN ACCESSORY IF THEY

1 WANT IT, CORRECT?

2 A. YES, SIR.

3 Q. THE FOOD IS DONATED BY ---

4 A. MORRIS PET CARE; YES, SIR.

5 Q. ALL RIGHT. A PRIVATE BUSINESS IN TOWN, CORRECT?

6 A. YES, SIR.

7 Q. DOES THE TOWN PAY FOR ANY FOOD FOR THE DOGS?

8 A. NO, SIR.

9 Q. THE KENNEL THAT YOU LET JIM USE, IS THAT ONE OF YOUR
10 PERSONAL KENNELS?

11 A. THAT'S MY PERSONAL; YES, SIR.

12 Q. ALL RIGHT. THE TOWN DOESN'T HAVE KENNELS OR
13 EQUIPMENT LIKE THAT?

14 A. WE DO HAVE ONE IN THE POLICE DEPARTMENT, BUT IT'S A
15 METAL ONE.

16 BY MR. McCANTS:

17 ALL RIGHT. THAT'S ALL I'VE GOT.

18 REDIRECT EXAMINATION BY MR. JOHNSON:

19 Q. WAS THE KENNEL IN THE CAR YOURS OR WAS IT THE
20 TOWN'S?

21 A. IT WAS MINE.

22 Q. IT WAS YOURS?

23 A. YES, SIR.

24 BY MR. McCANTS:

25 YOUR PERSONAL PROPERTY?

1 BY THE WITNESS:

2 MY PERSONAL PROPERTY.

3 BY MR. McCANTS:

4 I'M SORRY.

5 REDIRECT EXAMINATION RESUMED BY MR. JOHNSON:

6 Q. SO YOUR TESTIMONY IS THAT HE WAS USING YOUR KENNEL
7 IN THE BACK OF HIS SQUAD CAR, CORRECT?

8 A. YES, SIR.

9 Q. DID YOU TELL HIM THAT YOU NEEDED THAT KENNEL BACK?

10 A. THURSDAY; YES, SIR. THAT'S WHAT I TOLD HIM, TO
11 BRING BACK THURSDAY.

12 Q. ALL RIGHT. HE DIDN'T BRING IT BACK THURSDAY,
13 THOUGH, DID HE?

14 A. WELL, HE DID, BUT IT HAD A DOG IN IT.

15 Q. DID YOU TELL HIM TO BRING THE DOG WITH HIM ---

16 A. NO, SIR.

17 Q. --- TO WORK ON THURSDAY MORNING?

18 A. NO, SIR.

19 Q. SO WHAT YOU'RE SAYING IS YOU LENT HIM A KENNEL FROM
20 THURSDAY TO FRIDAY?

21 A. TECHNICALLY, YES, SIR.

22 Q. AND THAT'S THE SAME KENNEL THAT HE REMOVED THE
23 BACKSEAT OF A SQUAD CAR FOR TO PUT IN THERE?

24 A. YES, SIR.

25 Q. HOW DID HE GET IT THERE THAT MORNING; DO YOU KNOW?

1 IF HE DIDN'T TAKE THE BACKSEAT OUT OF A CAR, WHY
2 WOULD HE HAVE REMOVED THE BACKSEAT OF A CAR IF YOU
3 TOLD HIM NOT TO USE IT IF HE HAD BEEN ABLE TO
4 TRANSPORT IT ANOTHER WAY THAT MORNING?

5 A. I CAN'T ANSWER THAT. I DON'T KNOW IF IT WAS OUT
6 THAT MORNING OR NOT. I DON'T KNOW WHEN THE SEAT
7 CAME OUT.

8 Q. IF THE TESTIMONY OF OFFICER THORPE IS BELIEVED, HE
9 REMOVED IT THE AFTERNOON OF THURSDAY AFTERNOON. SO
10 I GUESS MY QUESTION TO YOU IS, WHY WOULD HE HAVE
11 REMOVED IT IF YOU TOLD HIM HE WAS NOT ALLOWED TO USE
12 IT? HE HAD ALREADY BEEN ABLE TO BRING THE DOG UP
13 THERE WITHOUT DOING THAT.

14 A. I DON'T KNOW.

15 BY MR. JOHNSON:

16 ALL RIGHT. THAT'S ALL THE QUESTIONS I HAVE.

17 THANK YOU.

18 RE CROSS EXAMINATION BY MR. McCANTS:

19 Q. JUST ONE MORE. DID YOU KNOW HE HAD TAKEN THE SEAT
20 OUT?

21 A. AFTER THE FACT, YEAH.

22 Q. AFTER THE FACT. YOU DIDN'T KNOW IT BEFORE, DID YOU?

23 A. NO, SIR.

24 BY MR. McCANTS:

25 ALL RIGHT. THAT'S ALL I'VE GOT, COMMISSIONER.

1 BY MR. JOHNSON:

2 COMMISSIONER, THE CLAIMANT RESTS.

3 BY MR. McCANTS:

4 AND HE'S TESTIFIED, SO THAT'S OUR CASE.

5 BY THE COMMISSIONER:

6 THAT CONCLUDES THIS HEARING.

7 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS
8 CONCLUDED AT THE HOUR OF 2:21 P.M.)

CERTIFICATE OF NOTARY PUBLIC
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
COLUMBIA, SOUTH CAROLINA
WCC FILE NO. 1503413

EMPLOYEE/CLAIMANT: JAMES THORPE

EMPLOYER: TOWN OF BOWMAN

CARRIER: STATE ACCIDENT FUND

I, TIMMI A. PARRISH, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 86 PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF JAMES THORPE, TAKEN ON THE 2ND DAY OF FEBRUARY, 2016.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL HEARING WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL THE OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CASE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL THIS 4TH DAY OF JULY, 2016.

TIMMI A. PARRISH
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 11-20-2018

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE #1503413

JAMES THORPE)
)
 CLAIMANT,)
)
 VS.)
)
 TOWN OF BOWMAN)
)
 EMPLOYER,)
)
 AND)
)
 STATE ACCIDENT FUND)
)
CARRIER.)

SC WORKERS' COMPENSATION COMMISSION

FULL BOARD HEARING OF

JAMES THORPE

VS

TOWN OF BOWMAN

This is the Transcript of the South Carolina Workers' Compensation Full Board Hearing of James Thorpe versus Town of Bowman, taken before Gloria Davis, a Court Reporter and Notary Public in and for the State of South Carolina, commencing at the hour of 3:25 P.M., Tuesday, February 21, 2017, at South Carolina Workers' Compensation Commission, 1333 Main Street Columbia, South Carolina.

COPY**REPORTED****BY****GLORIA DAVIS**

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APPEARANCES**FOR THE APPELLANT:**

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FOR THE RESPONDENT:

Clarke W. McCants, III, Esquire
Nance, McCants & Massey
218 Newberry Street, S.W.
Aiken, SC 29801

COMMISSIONERS PRESENT:

Avery Wilkerson, Chair
T. Scott Beck
Aisha Taylor

*Reporter's Note: -- Indicates incomplete thought or sentence, trailing off or interruption by speakers.

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1 officers; you had a Chief, you had the Deputy and that
2 was it. The Chief worked the day shift; the Deputy
3 worked the nightshift. From the time he began Officer
4 Thorpe asked continually about having a K9 Unit. The
5 Chief raised K9 puppies and, in fact, told him, yes,
6 you can have a K9 Unit. We'll -- I'll give you one of
7 my puppies; we'll train it. While all of that is
8 happening the Claimant was contacted by a former
9 co-worker, that he had worked with at Orangeburg, who
10 said I have a dog for you; I have a K9 Unit named
11 Racks, R-A-C-K-S. Come get Racks. I'll do it. The
12 Claimant asked the Chief, Chief, I'm going to go pick
13 up a K9 Unit; I have a dog, can I -- can we -- can we
14 do this? He asked him on Wednesday about this; the
15 Claimant testified, on Wednesday, he is bitten on
16 Friday. There's only -- this dog is only in his
17 possession three (3) days. Wednesday the Chief says,
18 yes, go pick up the dog, bring him in tomorrow. Not
19 only did that happen, the Chief came by the station
20 that night, in the pouring rain, and gave him a
21 container to go pick up Racks with. The Claimant goes
22 and picks up Racks, brings Racks back to work with him
23 on Wednesday, Wednesday at 11:42 A.M.; we know that
24 because that's when he clocked in, 11:42. That day he
25 and the Chief would put Racks through his paces to see

1 if he was a drug dog, what he could do; what he could
2 do, what he couldn't do, could he find drugs. They
3 tested him; the testing went well. The Claimant
4 testified that the Chief said, good, this will be your
5 dog. Very importantly, the Claimant said, I told him
6 that the dog was certified in narcotics, tracking,
7 article location and attack. The Chief said, he told
8 me those things. This is where the story divides a
9 little bit. The Claimant says the Chief told him, you
10 can't ever tell that dog to attack; that's against town
11 policy. Don't ever use the command for attack. The
12 Chief's version of that story is, once I found out that
13 he said he was an attack dog, I told him he could never
14 use the dog, he had to take him home; he couldn't be a
15 K9 Unit. Here's the problem though. What did happen
16 is the Claimant testified that the Chief told him, go
17 out to the K9 car, take the backseat out of the old K9
18 car, put your carrier in that and that will be your new
19 K9 Unit. Go get food. They have a dog closet in the
20 Town of Bowman. Two (2) officers and they have an
21 entire closet dedicated full of dog food and dog
22 training. He said go get dog food so you can feed this
23 dog. He told him how to -- how to train the dog and
24 work with the dog. The Claimant removed that backseat
25 of that car. The Claimant stayed on duty from 11:00

1 A.M. till ten o'clock that night. At no time did the
2 Chief -- did the Chief say, you've got to take that dog
3 home; you can't do this. When I asked the Chief,
4 directly, I said, why did you not tell him to go home.
5 He said, I can't answer that. I said, Chief, he's --
6 that -- he had that dog here all day long; why didn't
7 you tell him to take that dog home. I can't answer
8 that, was his response. More -- moreover, when I asked
9 him, I said, Chief, he got bit on a Friday, he
10 continued to work for you for three (3) more months;
11 why didn't you write him up. The Chief said, I didn't
12 write him up. I didn't -- I didn't do anything. I
13 said, he directly disobeyed your orders to take the dog
14 home; he's not supposed to be there; he pulls out the
15 backseat of a truck and you don't do anything about it.
16 And the Chief said, no, I didn't do anything. The
17 Claimant takes the dog home that night. The next
18 morning, Friday morning, he's in the backyard training.
19 He's giving the dog a command, the dog does the
20 command. The dog does well. He takes a rubber hose,
21 he throws the rubber hose, the dog retrieves it; that
22 is his reward. While the dog is in the corner of his
23 yard, the Claimant goes out to his squad car to get the
24 dog food. He believes that the gate has latched behind
25 him; that gate did not latch, unfortunately. The dog

1 comes out of the backyard, runs across his yard to his
2 neighbor's front porch, it has a swinging door, screen
3 door, the door opens in; when the dog went through that
4 door the dog was trapped. The dog began to freak out.
5 This is an elderly woman's home. The Claimant goes
6 into the porch, commands the dog to sit, the dog does
7 not sit. He said the dog was under stress; you could
8 tell the dog was -- was stressed. He reaches down to
9 grab the collar, when he does he is bitten. He had to
10 choke this dog out to get the dog to release his hand;
11 to give you a sense of how bad it was. That is the
12 testimony from all the parties. We believe this is
13 clearly a compensable case and that the injury arises
14 out of and in the course of his employment. The
15 Commissioner made a ruling. She said, I find that the
16 training on the date of the incident had been completed
17 as the Claimant was going to retrieve food for Racks.
18 The testimony of the Claimant was that the dog was in
19 the corner of the fenced backyard and the Claimant went
20 to get his food from the police car. The food was
21 given to him by the Chief from food that was donated to
22 the town. However, this was the Claimant's personal
23 dog and the feeding of his personal dog is not within
24 the course and scope of his employment; that's finding
25 of fact twenty-four (24). The problem is, that flies

1 in the face of finding of fact fourteen (14) in which
2 the Claimant -- the Commissioner found, the Claimant's
3 understanding that the town would be using the dog. He
4 proceeded to take out the backseat of another police
5 vehicle so that it could accommodate the kennel that
6 had been given to him earlier. She further wrote in
7 finding of fact fifteen (15), any misunderstanding or
8 miscommunication between the Claimant and Chief
9 Pendarvis does not prejudice the Claimant in this case.
10 The Claimant proceeded in his employment such that
11 Racks was part of the K9 Unit, part of the K9 Unit.
12 The town policy, Defendant's Exhibit One, attached to
13 their APA, under policy, section B on page 1 says, the
14 police K9 will be considered a member of the Bowman
15 Policy Department. That is in their written policy
16 that the Chief admitted, under oath, he wrote the
17 policy. So, the -- the K9 that the Commissioner found
18 as part of it, is actually per the policy. The
19 Commissioner also found that the Claimant was initially
20 working with Racks in the backyard of his home in a
21 manner that the Chief had told him to do so. This is
22 clearly a compensable claim. The Claimant, per town
23 policy, must -- is responsible for the health and
24 welfare of the assigned K9, both on and off duty;
25 that's page 2 of the Defendant's Exhibit. The K9 will

1 be regularly fed -- regularly -- will be fed regularly
2 by the handler at a time that will allow maximum time
3 between feedings and going on duty. Fresh water must
4 be available at all times. The K9 must be trained
5 weekly. The Claimant was training the dog; the dog
6 escaped the training. He went to retrieve the dog
7 because the dog is his responsibility. The Claimant
8 testified this is -- the -- the dog is like a child, it
9 is my responsibility; I have to go retrieve the dog.
10 Our Court has stated that if you have a reasonable
11 expectation -- if an employee has a reasonable
12 expectation that they are doing the employer's work,
13 then it is covered. The Claimant, by a -- by the
14 Commissioner's own findings of fact, had a reasonable
15 expectation that the K9, that Racks was his K9;
16 therefore, he was a member of the Bowman Police.

17 Commissioner Taylor: But it -- but can
18 you make the argument that he is only a member of
19 the Bowman Police when he is on duty? So then,
20 there is a second part of the argument, right?
21 Because you -- you just read from the policy and
22 it distinguishes between on duty and off duty.
23 But so, is -- is part of your argument that all of
24 this training implies he is on duty and part of
25 the department twenty-four (24) hours a day or is

1 it just when he is on duty?

2 Mr. Johnson: The actual thing says, the
3 handler will be responsible for the health and
4 welfare of the assigned K9, both on and off duty.
5 The K9 is a member of the police department
6 twenty-four/seven (24/7). He is the handler's
7 responsibility twenty-four/seven (24/7).

8 Commissioner Taylor: But does --

9 Mr. Johnson: Now, there is a --

10 Commissioner Taylor: -- but does that
11 mean they're working twenty-four/seven (24/7)?
12 I'm a Workers' Compensation Commissioner
13 twenty-four/seven (24/7) but I'm not always
14 working.

15 Mr. Johnson: -- the Claimant testified
16 at the hearing that he was on call
17 twenty-four/seven (24/7).

18 Commissioner Taylor: Okay. All right,
19 that's fair.

20 Mr. Johnson: Only when he had to -- if
21 he didn't want to be on call, he had to ask for a
22 day off because it's a small town --

23 Commissioner Taylor: Okay.

24 Mr. Johnson: -- there are only two (2)
25 police officers. He -- he has to say, I can't work

1 today or he is working twenty-four/seven (24/7); he has
2 to be able to respond. More importantly, he has to
3 train this dog. He has to go do this. He has to feed
4 the dog at times that allow the dog maximum time
5 between feedings and going on duty; that means you have
6 to do it before you go on duty and he went on duty
7 every day about noon. So, he is trying to feed the dog
8 that morning. He goes to the neighbor's porch; he's
9 retrieving the dog. Mr. McCants made a very good
10 argument in his brief, oh, you're going to -- you can't
11 expand the law; it just can't be any old thing. If the
12 Claimant is on the ground at his house horse playing
13 and rolling around with that dog and that dog bites
14 him, that's not a compensable claim. We're not here
15 today arguing about that. The --

16 Commissioner Wilkerson: Go ahead and
17 finish your thought.

18 Mr. Johnson: -- the difference is, they
19 are actively training. He goes to get the food to --
20 to feed the dog and the dog escapes during that time
21 period. He has to retrieve this dog. He can't allow
22 the Town of Bowman's police property just to wander the
23 streets, especially when it's trapped in a neighbor's
24 screened in porch; an elderly woman's screened in porch
25 next door. He has to retrieve it. While retrieving

1 it, in the furtherance of his employer's interest, he
2 is bitten. This is a compensable claim. Thank you.

3 Commissioner Wilkerson: You've got
4 three (3) minutes in reply. Mr. McCants.

5 **ARGUMENT FOR THE RESPONDENT**

6 **By Mr. McCants:**

7 Thank you and, again, good afternoon. This is an
8 interesting case; it's unfortunate that -- that Officer
9 Thorpe sustained an injury as a result of this incident
10 but it -- it's -- it's similar than treating facts or a
11 legal issue. Let me go back to kind of what we
12 initially argued in this case. We -- we argued before
13 Commissioner James that Officer Thorpe was told he
14 could not use Racks at all as part of his work because
15 when we discovered that he had been trained in
16 apprehension Chief Pendarvis said, you know, we don't
17 have insurance to cover the liability aspect of any
18 working dogs that are trained; you can't use Racks at
19 all. Now, Commissioner James --

20 Commissioner Beck: But -- but didn't he
21 let him do it then?

22 Mr. McCants: -- we haven't appealed
23 that. Commissioner James said, I don't really have to
24 go that far in this case. She did disagree that the
25 evidence -- it supported the proposition that the town

1 took, that Racks should not be considered a working dog
2 at all. My point is, Mr. Chairman, is that we didn't
3 appeal that --

4 Commissioner Beck: Thank you.

5 Mr. McCants: -- because the way she
6 wrote this decision is kind of what, I think,
7 Commissioner Taylor, you're focusing on.

8 Commissioner Taylor: Yes.

9 Mr. McCants: It's the concept of the
10 nexus, the connection between the incident and really
11 whether or not services are being performed for the
12 town at the time the injury occurs.

13 Commissioner Beck: But, Clarke, how do
14 you reconcile the finding -- I mean, I'm trying to
15 pull back up here --

16 Commissioner Wilkerson: Fourteen (14).

17 Commissioner Beck: -- fourteen (14), I
18 think it was that --

19 Commissioner Wilkerson: Fourteen (14).

20 Commissioner Beck: -- where she
21 referenced as his -- as his personal dog; if -- if
22 you set that issue aside, how -- how do you
23 reconcile that finding of fact?

24 Mr. McCants: Because I think this way,
25 if you look at the policy it says an assigned K9.

1 There is no question -- I think the evidence in this
2 case is that Racks had not been assigned to Officer
3 Thorpe as his dog. This dog, at all periods of points
4 in time, was Officer Thorpe's personal property; I
5 don't think there is any question about that in this
6 case and I think Michael would have a hard time
7 supporting the proposition that this -- that the
8 animal, itself, belonged to the Town of Bowman. You
9 know, and I don't mean to reduce this beautiful animal
10 to this, but he's kind of tool -- a tool or a piece of
11 equipment for this officer that he's using as part of
12 work. But this is -- this was just Officer Thorpe's
13 personal property. When we talk about people working
14 and using their personal property as part of their
15 work, that's not that -- that uncommon; I have a lot
16 personal tools and devices I use as part of my work.
17 My vehicle, for example, and if -- and if I'm in an
18 automobile accident on the way over here, I think
19 that's covered; I won't guess in that regard. But if
20 I'm off in -- in a vehicle that's really my company's
21 vehicle off duty, so to speak, that's not covered. I
22 don't think we have to go that far in this case
23 because, again, I don't think that there is any
24 question that Racks was -- was not the property of the
25 town; it was not a piece of equipment or tool that

1 belonged to the town. It was Officer Thorpe's personal
2 dog that he brought into the work fold to use. He
3 wasn't told go get a dog; thou shall have a dog. If
4 you want to have a dog, that's fine. And, again,
5 getting past this idea that we said because he was --
6 he's an apprehension type dog you can't use him;
7 Commissioner James found contrary to us on that point
8 and we haven't appealed it. So, then, let's go to that
9 Friday morning, which you kind of focused on.

10 Commissioner Taylor: Yes.

11 Mr. McCants: I think the timing
12 involved here -- because I'm going -- what I'm going to
13 jump ahead and ask you is, where are we going to draw
14 the line in a circumstance like this? It's clear
15 Officer Thorpe, being in law enforcement, just like
16 lawyers and workers' Compensation Commissioners, are on
17 call twenty-four/seven (24/7); all professionals are,
18 let's face it. And most good workers, if they're
19 called off duty, are going to respond to their
20 employer's call. But he was clearly off the clock. He
21 was not being paid for the time that he was home and
22 there is no question, I don't think, that during the
23 period of time in the backyard he was working with
24 Racks in a training capacity. And I think if Racks had
25 -- had bitten Officer Thorpe during that training in

1 the backyard, then we might not be here today. But
2 clearly -- and this is where Commissioner James, I
3 think, just felt like she had to draw the line -- they
4 had done what they had done for the town that morning
5 and Racks, he escaped. He darted out of the yard and
6 he went into a neighbor's yard. And I can understand
7 perfectly Officer Thorpe's concern about a working dog
8 going into an elderly lady's backyard and onto her
9 porch. But if you really look at what happened here,
10 when he went on the porch, if you'll read in the
11 evidence, he was told Racks does not like to be grabbed
12 around the neck and that's what caused this dog to bite
13 Officer Thorpe. But, you know, that's not a huge issue
14 but -- but the main thing is, at that point in time, I
15 think both Racks, to the extent he was a member of the
16 Bowman Police Force, was off duty. Clearly Officer
17 Thorpe was off duty. And -- and I don't disagree that
18 there is a policy that says, you know, you're
19 responsible for an assigned K9 all of the time; that
20 makes sense. You just can't let the dog roam free
21 while the dog is under your care. But I pose in my
22 brief, how are we going to set parameters here?
23 Because let's say they take -- they can't leave Racks
24 by himself when the family goes off on vacation or
25 somewhere else. What if they're at the beach,

1 Commissioner Wilkerson, and Racks escapes while they're
2 out there and he has to run down and gets injured then?
3 Under -- under Michael's argument, that's covered.
4 However close in time the injury may have occurred to
5 some nexus between Racks, Thorpe and the Town of
6 Bowman, I take the position that -- that the timeline
7 was cut. That's basically our position. I'll be happy
8 to ask -- answer any questions you may have.

9 Commissioner Wilkerson: Okay. I don't
10 have any.

11 Commissioner Taylor: No.

12 Mr. McCants: Thank you.

13 Commissioner Taylor: All right. Thank
14 you.

15 Commissioner Beck: Thank you.

16 Commissioner Wilkerson: In response.

17 **REPLY FROM THE APPELLANT**

18 **By Mr. Johnson:**

19 Using Mr. McCants' analogy that it's property, if
20 Officer Thorpe is cleaning his gun and accidentally
21 shoots himself in the foot, that's a compensable
22 injury. He is training the dog in his backyard. The
23 dog escapes --

24 Commissioner Beck: I'm not sure I -- I
25 agree with your analogy on that.

1 Mr. Johnson: -- well -- well, if you
2 don't, it is -- what is clear, he's training the dog;
3 they are actively engaged in training. He goes to
4 retrieve food from his squad car, which was given to
5 him by the Chief out of the dog closet in the -- in the
6 Police Department. He goes to retrieve this dog, which
7 is trapped on an elder woman's front porch and cannot
8 escape and, which, by his own testimony the dog was
9 acting erratically and was unable to respond to
10 commands. He reaches down to force this dog off the
11 porch because this dog is his responsibility, per the
12 Town policy. It's not -- it's not anybody else's
13 responsibility to retrieve that dog; it's his
14 responsibility. That is --

15 Commissioner Beck: Do you --

16 Mr. Johnson: -- different --

17 Commissioner Beck: -- do you see a --

18 Mr. Johnson: -- from vacationing.

19 Commissioner Beck: -- do you see a
20 distinction between -- and I think if I understood
21 Mr. McCants' position -- a -- a K9 that's assigned
22 by the city as opposed to one that is personally
23 obtained by the officer?

24 Mr. Johnson: Commissioner, the -- but
25 that's -- the problem with that is, there is a

1 finding of fact that says the dog was; it was the
2 K9.

3 Commissioner Wilkerson: Was he --

4 Commissioner Taylor: Well, no --

5 Commissioner Wilkerson: -- was he --

6 Commissioner Taylor: -- it doesn't say
7 it was the property. It says --

8 Mr. Johnson: It said, from the
9 Claimant's understanding the Town would be using
10 the dog; therefore, he proceeded to take out the
11 backseat of the vehicle; it's finding of fact
12 fourteen (14).

13 Commissioner Wilkerson: -- fourteen
14 (14), yes.

15 Mr. Johnson: I -- and -- and then,
16 finding of fact fifteen (15) the Commissioner
17 says, any misunderstanding or miscommunication
18 between the Claimant and Chief Pendarvis does not
19 prejudice the Claimant. The Claimant proceeded in
20 his employment such that Racks was part of the K9
21 Unit. That is an --

22 Commissioner Taylor: But --

23 Mr. Johnson: -- unappealed --

24 Commissioner Taylor: -- but not --

25 Mr. Johnson: -- finding of fact.

1 Commissioner Taylor: -- but that --
2 what she's saying is his -- that's his
3 perspective; that's his -- that's his
4 misunderstand but she says in, like, five (5)
5 other findings of fact he was the personal
6 property of the dog --

7 Mr. Johnson: But -- and, again,
8 Commissioner, if you --

9 Commissioner Taylor: -- I mean, of the
10 -- of the Officer.

11 Mr. Johnson: -- and I -- I understand
12 that and if you go -- and if you read there's a line of
13 cases: Grant v Textile Mills, Howells -- Howell v
14 Cash, Compton verses Town Iva, Porty versus South
15 Carolina State, Johnson versus Merchant. If you --
16 that says an Employer gives -- unless an Employer gives
17 clear and explicit instructions, which was not the
18 finding of the Single Commissioner, an act in violation
19 of the Employer's policy. So, assuming he's not --
20 even if I am in violation of that, it still falls
21 within the scope of employment. Probably the largest
22 case of that is -- is the Grant v. Grant -- excuse me
23 -- Grant v. Grant Textiles where the man goes out to
24 clear the animal out of the road and he says, well, I
25 did that because the people who were coming up-and-down

1 this road were customers. I removed the dog. The
2 Supreme Court found that case compensable. Because
3 there are those four (4) exceptions, you know, acts
4 benefitting co-employees, acts benefitting customers or
5 strangers; that's the neighbor, she is the customer or
6 stranger -- getting a dog off of her thing -- or acts
7 benefitting the Employer privately, which falls into
8 the whole policy of this dog is yours twenty-four/seven
9 (24/7) on and off duty. He is a K9. He is, per the
10 town's policy written, as the Chief said, by himself, a
11 member of the Bowman Police Department. We believe
12 that all -- this injury clearly arises out of and in
13 the course of employment and we ask you to reverse the
14 Single Commissioner and find this case compensable.
15 Thank you.

16 Commissioner Wilkerson: Any questions?

17 Commissioner Beck: No.

18 Commissioner Taylor: No.

19 Commissioner Wilkerson: Thank you all.

20 I appreciate you being here. Thank you.

21 (THERE BEING NO FURTHER DISCUSSION, THE HEARING CONCLUDED

22 AT 3:49 P.M.)
23
24
25

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

CERTIFICATE

Be it known that I took the foregoing South Carolina Workers' Compensation Commission Full Board Hearing of James Thorpe, vs. Town of Bowman;

That I was then and there a Notary Public in and for the State of South Carolina-At-Large;

That by virtue thereof I was duly authorized to administer an oath;

That the witness was first duly sworn to testify the truth, the whole truth, and nothing but the truth, concerning the matter in controversy aforesaid;

The foregoing transcript of 22 typewritten pages represents a true, accurate and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action;

Witness my hand and seal this 24th Day of August, 2017.

Gloria G. Davis
 Gloria G. Davis
 Notary Public for South Carolina
 My Commission Expires 12/21/21

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Descriptor Term:	Descriptor Code:	Issue Date:
Police K-9 Use	K9-01	01 April 2013

Purpose:

To establish procedures and regulations governing the training, use, and administration of police service dog teams employed by the Bowman Police Department. This standard operating procedure shall define the authority and responsibility for their use.

Policy:

- A. Utilization of properly trained police service dogs represents a highly cost effective and reliable asset to law enforcement personnel, by utilizing the canine's olfactory and hearing senses. The police service dog also provides a psychological deterrent by their presence at the scene of potential conflict or disturbance.
- B. The Police K-9 will be considered a member of the Bowman Police Department.
- C. Areas of potential deployment for the K9 teams may include, but not limited to:
 - 1. Building Searches
 - 2. Open area searches
 - 3. Evidence searches / Article recovery
 - 4. Tracking / Trailing
 - 5. Narcotics search / Controlled substance detection
 - 6. Back up for violent / Potentially violent calls
 - 7. Crowd Control
 - 8. Protection of Law Enforcement
 - 9. Public Relations

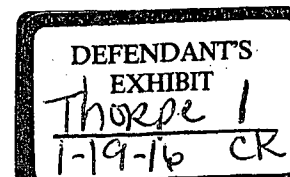
Use of Force:

- A. The canine unit shall be guided by the departmental use of force policies.
- B. K9 apprehension of a suspect is **Not Allowed**. K9's should only be used for Officer Protection during violent encounters. **At no time should a Police Canine be ordered to apprehend (bite). Canines of Bowman Police Department will not be taught Apprehension.**

Dog Bite Procedures:

If a Bowman Police Department Canine bites a person, the following must be completed.

- A. The injured person shall be afforded medical care as soon as possible.
- B. Photographs shall be taken as soon as possible, of the bite by a department supervisor. All photographs before and after cleaning of the wound area so that the photographs accurately reflect the extent of the injury in a non-prejudicial manner. Copies of the photos shall be held in evidence and attached to the incident report.



Employee Conduct:

- A. No member of the department shall touch , handle, or pet the police canine without authorization from the handler.
- B. No personnel shall tease, agitate, or harass any police canine.
- C. All members of the department shall refrain from horseplay when the police canine is present. Do not make aggressive gestures toward the canine's handler.
- D. If a Police service dog approaches an employee, the employee should stand still, so not to startle the K9.

Training and Reporting:

- A. All K9 Unit personnel shall attend weekly maintenance training with their assigned canine.
- B. All canines must complete at least 4 hours of maintenance training a week.
- C. All canine handlers shall maintain a deployment file for their assigned canine.
- D. Monthly K9 activity reports must be turned in to the Chief before the 10th of each month.
- E. While training aids are checked out, and in the possession of the handler, their security will be the sole responsibility of the handler.

Uniforms and Equipment:

- A. All members of the K9 unit will be required to wear the department uniform that is issued to them (tactical uniform, Polo, or T-shirt) with Bowman Police Department Logo.
- B. "Boonie" hats or ball caps approved by the Chief will be allowed in field deployments.
- C. The handler may elect to wear associated gear in lieu of duty belt.
- D. Canine vehicle windows must be kept open at least 2 inches, while actively engaged in patrol duties while the canine is inside. When the handler leaves the vehicle unattended, the vehicle must be secured with adequate ventilation, and with the vehicle running as needed for temperature control.

Canine Care:

- A. The handler will be responsible for the health and welfare of the assigned canine, both on and off duty.
 - 1. Annual medical examinations will be conducted yearly or as needed should an injury occur by the department approved veterinarian.
 - 2. Any illness or injury of a non-emergency nature shall be reported to the handler's supervisor. If it is determined by the handler that the canine should be taken to the veterinarian, the Chief will be notified as soon as practical.
 - 3. In an emergency situation, the handler shall insure that the canine receives immediate medical attention. The handler shall submit a supplemental report to the Chief describing the entire incident.
 - 4. the handler will be responsible to administer any medication as prescribed by the veterinarian.
- B. The canine will be certified by a K9 association approved by the South Carolina Criminal Justice Academy.
- C. The handler will be responsible for the daily grooming of their assigned canine.
- D. The canine will be fed regularly by the handler at a time that will allow maximum time between feedings and going on duty. Fresh water must be available at all times.
- E. The canine's home kennel will be kept clean and sanitary.

Bowman Police Department

Post Office Box 37

100 Reevesville Rd.

Bowman, SC 29018

(803) 829-2511 Fax: (803) 829-5061

Karin L. Perdomo Chief Of Police

I JAMES F. THORPE JR was issued the following items belonging to the Bowman Police Department upon being hired as a member of this department.

Officer Signature

Authorizing Signature

Date

Equipment Received

☒ 1 GLOCK 40 CAL SERIAL # HHH 999

☒ HOLSTER

☒ 3 MAGAZINES WITH AMMO 46 Rounds

☒ OC/PEPPER SPRAY

☒ OC/PEPPER SPRAY HOLSTER

☒ 3 HANDCUFFS SERIAL # 3635/302810/227390

☒ HANDCUFF CASE

DUTY BELT

☒ 1 ASP BATON SERIAL # 03447

☒ 1 ASP BATON HOLDER

☒ MOTOROLA PORTABLE RADIO SERIAL # Bowman 2

☒ MOTOROLA RADIO CHARGER SERIAL # _____

☒ MOTOROLA MIC SET FOR RADIO SERIAL # _____

☒ 1-set office keys

☒ Green Uniform Pants, 1 Green shirt, 2 Polo, 2 T-shirts

All Returned
ON 5-15-15
to chief
Karin Perdomo

☒ Badge
☒ Tazer
☒ Radio mic
☒ Body Cam
☒ Ticket Book
☒ War Book
☒ TR 310
☒ Ballistic Vest
☒ Jacket

245

EXHIBIT	3
Deponent	Thorpe Jr
Date	1-19-16
Signature	CK

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FOR AIKEN COUNTY
South Carolina Workers Compensation Commission

Commissioner Avery B. Wilkerson, Jr., Chair of Appellant Panel

Case Number 1503413

James Thorpe, Employee, Claimant, Respondent,

vs.

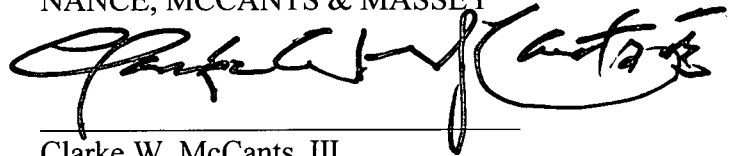
Town of Bowman, Employer, and State Accident Fund, Carrier, Appellants.

RECEIVED
NOV 22 2017
SC Court of Appeals

CERTIFICATE OF COUNSEL

I hereby certify that the foregoing Record on Appeal contains all material proposed to be included by the parties and not any other material.

NANCE, MCCANTS & MASSEY



October 26, 2017

Clarke W. McCants, III
P. O. Box 2881
Aiken, SC 29802-2881
(803) 649-6200, ext. 3
Attorney for Appellants