ORIGINAL

Volume 3 of 3

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

FEB 26 2018

S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

The Honorable Jocelyn Newman, Circuit Court Judge

Appellate Case No. 2017-001351

GREGORY VINCENT SMITH, #353524,

Respondent,

v.

STATE OF SOUTH CAROLINA,

Petitioner.

APPENDIX

DAVID A. ALEXANDER
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR RESPONDENT

ALAN WILSON
Attorney General

JESSICA E. KINARD
Assistant Attorney General
SC Bar No. 77889
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

ATTORNEYS FOR PETITIONER

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methamphetamines, and manufacturing with intent to distribute methamphetamines. *See*, Exhibit A (relevant portions of Plaintiff's KCDC Inmate File).

6. Immediately after being booked, the Plaintiff had to be transported to the hospital for decontamination protocols. *Id.*

7. He subsequently returned to KCDC, where he remains to this day, to await trial on his pending criminal charges. *Id.*

8. During his incarceration at KCDC, the staff at KCDC received information that the Plaintiff was involved in a scheme to smuggle in narcotics to our facility. We then turned that information over the Kershaw County Sheriff's Office (KCSO), so that it could be investigated.

9. Detective Chris Phillips with KCSO began investigating the issue.

10. Detective Phillips linked the smuggling of the narcotics to a Samantha Steeprock, who had sent letters to the Plaintiff about the narcotics scheme.

11. Detective Phillips secured a search warrant that allowed him to search the Plaintiff's cell and confiscate materials that might be related to the narcotics scheme.

12. Detective Phillips came to KCDC on, or about, August 15, 2011 and executed the search warrant.

13. I am aware that the Plaintiff alleges that he was required to submit to a urinalysis test on August 15, 2011.

14. A review of the Plaintiff's medical records does show that a urinalysis was performed on the Plaintiff on, or about, August 15, 2011, but again I took no part in performing that procedure, or directing that it be performed. *See*, Exhibit B (relevant portions of Plaintiff's KCDC medical records).

15. After Detective Phillips executed the search warrant on, or about, August 15, 2011, I am aware that the Plaintiff alleges he was placed into administrative segregation at KCDC for approximately two weeks.

16. The Plaintiff further alleges that he was not provided any notice as to why he was being held in administrative segregation during that time period.

17. At KCDC administrative segregation is not used as punishment, but instead is designed to preserve security and maintain order of the facility.

18. One of the legitimate penological reasons for placing an inmate in administrative segregation at KCDC is when there is a pending investigation for criminal activity involving the inmate in question.

19. In the Plaintiff's case there was a pending investigation into the Plaintiff's alleged involvement in the smuggling of narcotics into KCDC. Additionally, there was a pending investigation into the involvement of Samantha Steeprock for that same reason.

20. Administrative segregation is appropriate, under KCDC policies and for legitimate penological purposes, under those circumstances.

21. To allow the subject of such a criminal investigation to remain in the general population, especially after his cell had just been searched pursuant to a search warrant, would have compromised the on-going criminal investigation.

22. Such a placement into administrative segregation was not for any punitive reason, but instead was for the legitimate penological objective of preserving security and maintaining order within the facility.

23. Furthermore, KCDC has an established inmate grievance procedure.

24. That grievance procedure allows for inmates at KCDC to file grievances on essentially any issue associated with their confinement.

25. Under that grievance procedure the inmate must file the grievance within 48 hours of the alleged incident. The failure to timely file the grievance is against policy.

26. Additionally, under our grievance procedure inmates can appeal any response to a grievance, provided that they do so within 48 hours of receiving the response at issue.

27. I have reviewed the Plaintiff's grievances, and it is clear that he did not timely file any grievance related to the allegations set forth in his Complaint. *See*, Exhibit A.

28. Furthermore, there is no evidence that he ever appealed any response to any of his grievances in accordance with KCDC's inmate grievance procedure.

29. As such, the Plaintiff did not exhaust the administrative remedies available to him at KCDC.

30. I have not violated any of the Plaintiff's rights, nor am I aware of any employee at KCDC having violated any of the Plaintiff's rights.

FURTHER AFFIANT SAYETH NOT.

Peggy Spivey

SWORN TO BEFORE ME THIS 3
DAY OF August, 2012.

(SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 25 July 2014

Exhibit A to Affidavit of Spivey

BOOKING REPORT

AGENCY	DATE/TIME OF ARREST	BOOKING NUMBER
KER	05/28/2011 19:05 Hrs.	2011-1385

PERSONAL DATA

DEFENDANT NAME (LAST, FIRST, MIDDLE)	RACE	SEX	DATE OF BIRTH	DOCKET NUMBER
SMITH, GREGORY VINCENT	W	M	[redacted]	1385

AGE	ETH.	HEIGHT	WEIGHT	HAIR	EYES	SS#	VISIBLE SCARS AND MARKS	NCIC	I.D. NUMBER
49	N	602	160	BRO	HAZ	[redacted]	TATTOO on LEFT HAND; ;	C/R	1385

ADDRESS (NUMBER AND STREET)	CITY, STATE, ZIP CODE	RESIDENT	PHONE NUMBER
[redacted]	LUGOFF,	J	-

ALIAS	PLACE OF BIRTH	DRIVERS LICENSE NUMBER	STATE
	MAINE USA		

EMPLOYER OR OCCUPATION	NEXT OF KIN	ADDRESS (CITY AND STATE)
UNEMPLOYED	LINDA SMITH	

BOOKING OFFICER'S NAME	NUMBER	ARRESTING OFFICER	AGENCY	NUMBER
BRADSHAW, LINDA	312		KER	

ARRESTEE ARMED ☐ YES ☒ NO WEAPON TYPE: ☐ SEMI-AUTO ☐ FULL-AUTO ☐ ON VIEW ARREST ☐ SUMMONED ☐ CUSTODY

JUVENILE DISPOSITION: 1. ☐ HANDLED, RELEASED 2. ☐ REFFERED TO OTHER AUTHORITY J - This Jurisdiction, S - State, O - Out of State, U - Unknown

ADDITIONAL CASE NUMBERS | MORE IN REMARKS ☐

IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A, B, C

BOND CHARGE

CHARGE I.D.	A	B	C
CHARGE	POSSESSION OF MARIJUAN	MP OF OTHER SCH I,II,III W	DRUGS/MANUFACTURE DI
STATUTE	44-53-0370(D)(3)	44-53-0370(B)(2)	44-53-0375(B)(1)
BOND AMOUNT	$ 0 Warrent# 88548EL	$ 0 Warrent#: M-100403	$ 0.00 Warrent# M-100402
BOND TYPE	Case# 0 -0	Case#: 0-0	Case# 0-0
RET. DATE	00/00/000	00/00/000	00/00/000

DISPOSITION

	A DAYS	A AMOUNT	B DAYS	B AMOUNT	C DAYS	C AMOUNT
SENTENCE		C/S 620.00				
TIME SERVED		PD APPROVED		C/S 40,000.00		C/S 50.00
GOOD TIME						
BALANCE		JD		5/31/11		
PAID		INI		DATE	Mag C/S	620.00
RECEIPT NUMBER					GS C/S	90,000.00

RELEASE DATE	TIME	RELEASING OFFICER NUMBER	AGENCY RELEASED TO
00/00/000	00:00		

SIGNATURE OF RECEIVING OFFICIAL X [signature] LIST ANY REMARKS BELOW

REMARKS:

Prints: YES
Picture: YES
FBI #: 184616U3AA
SID#: SC0175803
NCIC C/R

SWANSON - jw
P.D. Form - yes
PIN# 517 03634

Bin
02

DEFENDANT'S PERSONAL PROPERTY RECEIPT | TOTAL CASH AT TIME OF ARREST >

QTY	ITEM	QTY	ITEM
	10251		

Bin # 72 Jodee
P2R Mag
Property
VOE
Uniform Traffic Ticket Narcotics

I HEREBY STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTES ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

X _____ DEFENDANT'S SIGNATURE AT TIME OF ARREST

[signature] OFFICER

I HEREBY STATE, ON THE DATE OF MY RELEASE, THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

X _____ DEFENDANT'S SIGNATURE AT TIME OF RELEASE

_____ OFFICER

Additional Charges			
CHARGE		STATUTE	
MURDER/MURDER	Warrent#: M-099445	16-03-0010, 0020	Case#:0-0

BOOKING REPORT

AGENCY	DATE/TIME OF ARREST	BOOKING NUMBER
KER	05/28/2011 19:05 Hrs.	2011-1385

PERSONAL DATA

DEFENDANT NAME (LAST, FIRST, MIDDLE)	RACE	SEX	DATE OF BIRTH	DOCKET NUMBER
SMITH, GREGORY VINCENT	W	M	[redacted]	

AGE	ETH.	HEIGHT	WEIGHT	HAIR	EYES	SS#	VISIBLE SCARS AND MARKS	NCIC	I.D. NUMBER
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ADDRESS (NUMBER AND STREET)	CITY, STATE, ZIP CODE	RESIDENT	PHONE NUMBER
[redacted]	LUGOFF,	J	--

ALIAS	PLACE OF BIRTH	DRIVERS LICENSE NUMBER	STATE
	MAINE USA		

EMPLOYER OR OCCUPATION	NEXT OF KIN	ADDRESS (CITY AND STATE)
UNEMPLOYED	LINDA SMITH	

BOOKING OFFICER'S NAME	NUMBER	ARRESTING OFFICER	AGENCY	NUMBER
BRADSHAW, LINDA	312		KER	

ARRESTEE ARMED ☐ YES ☐ NO WEAPON TYPE: ☐ SEMI-AUTO ☐ FULL-AUTO ☐ ON VIEW ARREST ☐ SUMMONED ☐ CUSTODY

JUVENILE DISPOSITION: 1. ☐ HANDLED, RELEASED 2. ☐ REFFERED TO OTHER AUTHORITY J - This Jurisdiction, S - State, O - Out of State, U - Unknown.

ADDITIONAL CASE NUMBERS | MORE IN REMARKS ☐

IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A, B, C

BOND CHARGE

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CHARGE	POSSESSION OF MARIJUAN	MP OF OTHER SCH I,II,III W	DRUGS/MANUFACTURE/DI
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BOND TYPE	Case# 0-0	Case# 0-0	Case# 0-0
RET. DATE	00/00/000	00/00/000	00/00/000

DISPOSITION

	A DAYS	A AMOUNT	B DAYS	B AMOUNT	C DAYS	C AMOUNT
SENTENCE						
TIME SERVED						
GOOD TIME						
BALANCE						
PAID						
RECEIPT NUMBER						

RELEASE DATE	TIME	RELEASING OFFICER NUMBER	AGENCY RELEASED TO
00/00/000	00:00		

SIGNATURE OF RECEIVING OFFICIAL X _____ LIST ANY REMARKS BELOW

REMARKS:

DEFENDANT'S PERSONAL PROPERTY RECEIPT | TOTAL CASH AT TIME OF ARREST > $ 0.00

QTY	ITEM	QTY	ITEM
1	OTHER MISC STUFF (NOT CATEGORIZED)		

I HEREBY STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTES ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

X _____ DEFENDANT'S SIGNATURE AT TIME OF ARREST _____ OFFICER

I HEREBY STATE, ON THE DATE OF MY RELEASE, THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

X _____ DEFENDANT'S SIGNATURE AT TIME OF RELEASE _____ OFFICER

KERSHAW COUNTY DETENTION CENTER
INMATE GRIEVANCE FORM

Inmate's Names: Gregory V. Smith Date: Oct. 6, 2011

Housing Unit: F Cell: 4 Date: May 28 Time: Approx. 15:00

INFORMAL RESOLUTION:

Informal Resolution of a problem between an Inmate and a Staff member is strongly recommended. Provide the name of the staff member or Shift Lieutenant who attempt to solve this matter.

Name of Staff/Shift Supervisor: Deputy Lee Young

INMATE GRIEVANCE:

You are allowed to file a grievance, when you believe you are being subjected to abuse, harassment, abrigement of civil rights, or denied privileges. Before filing a complaint concerning classification, disciplinary and medical, please see the KCDC Inmate Handbook. **No grievance will be accepted from a group on the behalf of more than one Inmate.**

GRIEVANCE: (List date, time, location, and name of staff member if known)

On May 28, 2011 Deputy Young transported me to DETox at Camden Hospital. Upon arrival I was to take a GSR-analysis right before entering a "decontamination tent" My personal effects: A pair of Black Nike sneakers, olive in color shorts, a tee shirt that was cut off my body, a pair of eye glasses and $30.00 cash. The sneakers and shorts were included in a chain of custody form. I have replaced the glasses. I would like my $30.00 returned to my account at KCDC.

(Use a separate sheet of paper if needed)

(✓) I do request a copy ( ) I do not request a copy

Inmate Signature: Gregory V. Smith Date: Oct. 6, 2011

Original: [redacted] Copies: Classification, Chief of Operations, Administrator

KCDC Policy 2036.11

Transferred to Deputy Young on 10-11-11 by [redacted]

KERSHAW COUNTY DETENTION CENTER
INMATE GRIEVANCE FORM

Inmate's Names: Gregory V. Smith Date: Oct. 7. 11

Housing Unit: F Cell: 4 Date: Oct. 7. 11 Time: 3:30 pm

INFORMAL RESOLUTION:

Informal Resolution of a problem between an Inmate and a Staff member is strongly recommended. Provide the name of the staff member or Shift Lieutenant who attempt to solve this matter.

Name of Staff/Shift Supervisor: Directer P.E. Spivy

INMATE GRIEVANCE:

You are allowed to file a grievance, when you believe you are being subjected to abuse, harassment, abrigement of civil rights, or denied privileges. Before filing a complaint concerning classification, disciplinary and medical, please see the KCDC Inmate Handbook. **No grievance will be accepted from a group on the behalf of more than one Inmate.**

GRIEVANCE: (List date, time, location, and name of staff member if known)

On Aug. 15. 11 I was subjected to a room search by a Lt. Chris Phillips (c/o Alston was present) Lt. Phillips confiscated most all of my personal property. Items Include: legal documents from my attorney and also my legal writings and all my documentation that I listed showing misconduct and lies by officers at my interrogation these items should have never been taken by officers, especially one who is the main subject my writings speak of. All of it was legal work... Even my deodorant, soap, tooth paste I got from canteen is gone. I NEED THESE ITEMS BACK

(Use a separate sheet of paper if needed)

(√) I do request a copy ( ) I do not request a copy

Inmate Signature: Gregory V. Smith Date: Oct. 7. 11

Original: Inmate Records **Copies: Classification, Chief of Operations, Administrator**

KCDC Policy 2036.11

Transferred to Deputy Phillips on 10-10-11. W/ C. [illegible]

grievance cont.

Gregory V. Smith
F 4

Oct 7
3:30 pm

I was also given a urine test by Nurse Hollis who informed me at the time it was for a liver function analysis This was a lie she admitted to that evening. The urine test was for Lt. Phillips The jail here is separate from K.C.S.O according to city council. You have no authority here, Not Lt. Phillips. I would like to see the search warrant that he presented at the time to confiscate my legal and personal items. I would like to see any documents that allow a detective or County jail employee to get a nurse to tell a detainee a lie in order to get body fluids for a detective, Especially on who is represented by counsil.

Gregory V. Smith
Oct. 7, 11

Staff's name: Nurse Hollis: Aug. 21. 2011

I am requesting the following information reguarding a liver function test:

1. The name of the person who sealed and signed Chain of custody form on speciman bottle.
2. Name, date, time and temperature of speciman when drug test was taken, and by whom?
3. The person who took liver function, at what facility. time, date,
4. The following information on who at what lab time, date, etc.... preformed 2nd analysis on Speciman.
5. The results on second drug screen.
6. A copy of the faka drug screen Lt. Phillips flashed me Aug. 15. 2011
7. A copy of the threshold limits and who performed the drug test here at the jail.

No one had rubber gloves, I wasnt told to wash my hands and I didnt seal the bottle while the test was administered I was led into another room. This information will be forwarded to a SLED forensic lab and used in a murder trial by myself Margory V. Smith. Against Lt Phillips for Malicious tampering of evidance to

4-01-2011

To: KCSO,

I Gregory V. Smith am requesting for my personal property returned including:
Motion of discovery w/ all my personal court statements.
A list of who has read and or copied statements.
A search warrant for obtaining my personal belongings.
A copy of Urine test.
My letters recieved and insert.
All my hygenic personals tooth brush. deodorant etc....
$30.00 from decontamination unit on 5-28-11

Thank you

Gregory V. Smith

I also need a copy of this letter for my records.

KERSHAW COUNTY DETENTION CENTER
INMATE GRIEVANCE FORM

Inmate's Names: Gregory V. Smith Date: 9-24-2011

Housing Unit: F Cell: 1 Date: 9-24-11 Time: 7:00 AM

INFORMAL RESOLUTION:

Informal Resolution of a problem between an Inmate and a Staff member is strongly recommended. Provide the name of the staff member or Shift Lieutenant who attempt to solve this matter.

Name of Staff/Shift Supervisor: Major Hodge

INMATE GRIEVANCE:

You are allowed to file a grievance, when you believe you are being subjected to abuse, harassment, abrigement of civil rights, or denied privileges. Before filing a complaint concerning classification, disciplinary and medical, please see the KCDC Inmate Handbook. **No grievance will be accepted from a group on the behalf of more than one Inmate.**

GRIEVANCE: (List date, time, location, and name of staff member if known)

On Aug. 8. 2011 at KCDC Peagu Spivy did in fact conspire with Chris Phillips to bluff myself Gregory V. Smith with a photo copy of a urine test that passed with all three bars visible. She then allowed Phillips to enter F-pod to steal my personal belongings that were also drug free. It began when Nurse Hollis asked me for urine for a liver function analysis. I complied. C/o Whack then escorted me to the utility room next door and drew the shades. I had left urine on the nurses desk with no lid therefore breaking chain of custody.

(Use a separate sheet of paper if needed)

(X) I do request a copy ( ) I do not request a copy

Inmate Signature: Gregory V. Smith Date: 9-24-2011

Original: Inmate Records Copies: Classification, Chief of Operations, Administrator
KCDC Policy 2036.11

892-Inmate File-15 E GRIEVANCE FORM 9-24-11 cont.
Rev.(2)

Several minutes later Phillips enters the room, I'm in, by using a lame attempt to use the element of surprise he informs me I failed the drug screen. He has previously used chicanery to coerce a confession, so I wasn't surprised. I gave no assent to claim his fiction valid. C/O Whack then took me to get what property that Phillips had/it stolen and put me in lock-up in A-pod cell 6.

On Aug. 17, 2011 I submit a request to be returned to F-pod. C/O Crawford told me that he had been inquiring why I was being held in A-pod, it was not on disciplinary action. On Sept. 2, 2011 Major Hodge returned me to F-pod. She also phoned K.C.S.O about the return of my property. On Sept. 4, 2011 another request for the return of my court papers and property. Sept. 7, 2011 Major Hurst responds saying she cant get my motion of discovery papers... My civil rights have been violated, I've been denied privilages and subjected to cruel and unusual punishment. Chris Phillips acted on a falsehood. I am making this attempt to obtaining my property and information pertaining to my healthcare without making a federal civil case against K.C.D.C. and K.C.S.O. This will be the final attempt before filing a 1983 federal civil form.

1012
8921-Inmate File-16
Rev. (2)

Sept. 8th 2016

KCDC INMATES GRIEVANCE FORM

Defendant's Rights

My lawyer has told me not to talk to anyone about my case, not to answer any questions and not to reply to any accusations. Call my lawyer if you want to ask me any questions, to search me or my property, do any tests, do any line-ups, or any other I.D. procedures. I DO NOT AGREE TO ANY OF THESE THINGS WITHOUT MY LAWYER PRESENT AND DO NOT WANT TO WAIVE ANY OF MY CONSTITUTIONAL RIGHTS.

1. I will be expecting every single piece of my personal property returned.
2. Nurse Hollis's full name.
3. My medical records with the results of my liver function results.
4. The original chain of custody form with full detail of who handled my urine specimen.
5. The warrant signed by a judge to obtain my body fluids.
6. The original drug screen along with the name of who handled it.

Your full cooperation is required and will be used in a federal law suit if my requirments are not met.

Thank you Gregory V. Smith

KERSHAW COUNTY DETENTION CENTER
INMATE GRIEVANCE FORM

Inmate's Names: Gregory V. Smith Date: 9-24-2011

Housing Unit: F Cell: 1 Date: 9-24-11 Time: 7:00 AM

INFORMAL RESOLUTION:

Informal Resolution of a problem between an Inmate and a Staff member is strongly recommended. Provide the name of the staff member or Shift Lieutenant who attempt to solve this matter.

Name of Staff/Shift Supervisor: Major Hodge

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GRIEVANCE: (List date, time, location, and name of staff member if known)

On Aug. 8. 2011 at KCDC Peggy Spivy did in fact conspire with Chris Phillips to bluff myself Gregory V. Smith with a photo copy of a urine test that passed with all three bars visible. She then allowed Phillips to enter F-pod to steal my personal belongings that were also drug free. It began when Nurse Hollis asked me for urine for a liver function analysis. I complied. C/O Whack then escorted me to the utility room next door and drew the shades. I had left urine on the nurses desk with no lid therefore breaking chain of custody.

(Use a separate sheet of paper if needed)

(X) I do request a copy ( ) I do not request a copy

Inmate Signature: Gregory V. Smith Date: 9-24-2011

Original: Inmate Records Copies: Classification, Chief of Operations, Administrator
KCDC Policy 2036.11

Transmitted to Phillips KCSD by Dep. Wilson on 10-6-11.

1014
INMATE GRIEVANCE FORM 9-24-11 cont. (
8921 Inmate Rile-18
Rev. 2

Several minutes later Phillips enters the room In
n, by using a lame attempt to use the element
of surprise he informs me I failed the drug
screen. He has previously used chicanery to
coerce a confession, so I wasn't surprised. I
gave no assent to claim his fiction valid.
c/o Whack then took me to get what property that
Phillips hadn't stolen and put me in lock-up in
A-pod cell 6.
On Aug. 17, 2011 I submit a request to be returned
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phoned K.C.S.O about the return of my
property. On Sept. 4, 2011 another request for
the return of my court papers and property.
Sept. 7, 2011 Major Hodge responds saying she
cant get my motion of discovery papers.
My civil rights have been violated, I've been
denied privilages and subjected to cruel
and unusual punishment. Chris Phillips acted
on a falsehood. I am making this attempt
to obtaining my property and information
pertaining to my healthcare without making
a federal civil case against K.C.DC. and
K.C.S.O. This will be the final attempt
before filing a 1983 federal civil form.

KCDC INMATES GRIEVANCE FORM

Defendant's Rights

My lawyer has told me not to talk to anyone about my case, not to answer any questions and not to reply to any accusations. Call my lawyer if you want to ask me any questions, to search me or my property, do any tests, do any line-ups, or any other I.D. procedures. I DO NOT AGREE TO ANY OF THESE THINGS WITHOUT MY LAWYER PRESENT AND DO NOT WANT TO WAIVE ANY OF MY CONSTITUTIONAL RIGHTS.

1. I will be expecting every single piece of my personal property returned.
2. Nurse Hollis's full name.
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5. The warrant signed by a judge to obtain my body fluids.
6. The original drug screen along with the name of who handled it.

Your full cooperation is required and will be used in a federal law suit if my requirments are not met.

Thank you Gregory V. Smith

KERSHAW COUNTY DETENTION CENTER
INMATE GRIEVANCE FORM

Inmate's Names: Gregory V. Smith Date: 9-24-2011

Housing Unit: F Cell: 1 Date: 9-24-11 Time: 7:00 AM

INFORMAL RESOLUTION:

Informal Resolution of a problem between an Inmate and a Staff member is strongly recommended. Provide the name of the staff member or Shift Lieutenant who attempt to solve this matter.

Name of Staff/Shift Supervisor: Major Hodge

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(Use a separate sheet of paper if needed)

(X) I do request a copy ( ) I do not request a copy

Inmate Signature: Gregory V. Smith Date: 9-24-2011

Original: Inmate Records Copies: Classification, Chief of Operations, Administrator
KCDC Policy 2036.11

8921-Inmate File 21 INMATE GRIEVANCE FORM 4-24-11 comm
Rev. 2

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(2)

KCDC INMATES GRIEVANCE FORM

Defendant's Rights

My lawyer has told me not to talk to anyone about my case, not to answer any questions and not to reply to any accusations. Call my lawyer if you want to ask me any questions, to search me or my property, do any tests, do any line-ups, or any other I.D. procedures. I DO NOT AGREE TO ANY OF THESE THINGS WITHOUT MY LAWYER PRESENT AND DO NOT WANT TO WAIVE ANY OF MY CONSTITUTIONAL RIGHTS.

1. I will be expecting every single piece of my personal property returned.
2. Nurse Hollis's full name.
3. My medical records with the results of my liver function results.
4. The original chain of custody form with full detail of who handled my urine specimen.
5. The warrant signed by a judge to obtain my body fluids.
6. The original drug screen along with the name of who handled it.

Your full cooperation is required and will be used in a federal law suit if my requirments are not met.

Thank you Keagan [illegible]

8921-Inmate File-23

KCDC INMATE TO STAFF REQUEST FORMS

Staff's Name: Peggy Spivy **Date:** Sept. 12. 2011

Nature of Request:
- Classification / Housing
- Personal Property
- Bond Hearing / Court
- Hygiene PK ($2.00)
- Legal Material / Rep.
- Program Services
- Use of Telephone
- Medical (Nurse/Doctor)
- Other (Specify)

Briefly Describe the Request

On or about Aug 8th I was made to believe that I failed a drug test. I saw you leaving the nurses station just as I arrived. Nurse Hollis asked me to give sample for a liver function test. I worked construction for 20 years. I was given a pre-employment drug screen each job before being hired. NEVER once was I ushered into a nearby room while the test was being administered and had the blinds closed. The chain of custody was broken at this point.

(If additional space is needed use the back of this form.)

Inmate's Name: Smith Gregory N. **Pod:** F
Last First MI

Staff's Response:

Staff's Signature: **Date:**

KCDC Form 2003.4 Revised 11/2009

I am writing to you so that perhaps you can shed some light on the events that followed. Lt. Chris Phillips uses dirty tricks to get whatever fictions he believes in. This isn't the first time he has bluffed me. He has stolen my property, my motion of discovery with all my plans on going to trial. ① he had no search warrant ② he flashed a urine test copy that failed. Nurse Hollis told me that evening my urine was clean ③ He also said that pot and narcotics smuggled into your jail wasn't his concern. I'm not going to waste our time to go much further with that. I would like you to answer me one thing: May 28th 2011 I was brought to your jail from David Tyler's residence in a paper uniform that I recieved at the hospital after being "decontaminated". On two different times Brooks Houser had mentioned that David Tyler was shaking and sweating. He went on to say that he turned on the AC in his cruiser to give Mr. Tyler some air. I noticed your name in the 911 report so I'm guessing you might have some idea what happened that day. Sheriff Matthews was one of the last people to wrestle with Mr. Tyler in the back of a cruiser. Man this is where you can give me some insight. Why didn't Mr. Tyler who was showing symtoms of cardiac arrest, go to the decontamination at the hospital, In short why did he die out front of your jail? when in fact he should have been →

taken to decontamination and then he might possibly alive today. On 9-02-2011 Major Hodges requested my property to be returned. On 9-07-2011 Major Hodges informed me to write a letter concerning my person effects. I did and I'm still awaiting an answer. I'm not asking for anything that isn't mine. Next I guess I'll need to go to SLED. I am filing a 1984 fed civil c with the U.S. District Court. Mr. Tetterton and Mr. Phillips are done playing games with my life, Mr. Ph needs to get his stories straight. He has informed me he is trying to plea bargan with the PA to get me a 15 year deal. I may have asked for law books but I know this is not the way the la works. Now we will need to find an answer to my question. Why David Tyler died in front o your jail and not at the hospital? who indeed made that call? I would like your help in my obtaining my property. Thank You Gregor

KERSHAW COUNTY DETENTION CENTER
INMATE GRIEVANCE FORM

Inmate's Names: Gregory V. Smith Date: 2-10-12

Housing Unit: F Cell: 1 Date: 2-10-12 Time: 6:00 PM

INFORMAL RESOLUTION:

Informal Resolution of a problem between an Inmate and a Staff member is strongly recommended. Provide the name of the staff member or Shift Lieutenant who attempt to solve this matter.

Name of Staff/Shift Supervisor: Peggy Spivey (Director)
JJJ

INMATE GRIEVANCE:

You are allowed to file a grievance, when you believe you are being subjected to abuse, harassment, abrigement of civil rights, or denied privileges. Before filing a complaint concerning classification, disciplinary and medical, please see the KCDC Inmate Handbook. **No grievance will be accepted from a group on the behalf of more than one Inmate.**

GRIEVANCE: (List date, time, location, and name of staff member if known)

On 12-05-11 I had made you aware that I needed two papers notarized. On 12-08-11 the papers in question were signed and transferred by officer Rabon to DD. Hodge. On 12-08-11 Hodge gave papers to you. "When a pre-trial detainee remains in custody, he is not disrobed of his constitutional rights and laid bare for the zealous investigation of his case. He is cloaked with the presumption of innocence. Nonetheless, to allow an independant prosecution team the right to indiscriminately inspect letters written by the accused is to hack the roots of any defense." I want my papers back.

(Use a separate sheet of paper if needed)

(√) I do request a copy ( ) I do not request a copy

Inmate Signature: Gregory V. Smith Date: 2-10-12

Original: Inmate Records Copies: Classification, Deputy Director, Director

KCDC Policy 2036.11

Stack vs Boyle, 342 U.S. 1, 72 S. Ct. 1, 96 L. Ed 3 (1951)

Procunier V Martinez, Supra. I notified these Deputy Director Hodge did not and sent back to you? 2/13/12

8921-Inmate File-27

Trainee was informed by DD Hodge that she did not have any forms that had been notarized for him. I explained to him that I [redacted] thoroughly looked for the forms for at least a week. I informed Mr. Smith that I did not have them and that if he would submit new papers I would ensure that he got the forms back.

C. Hodge

3-14-2012

Notarized new forms for Mr. Smith. Also notarized "2" additional forms for Mr. Smith from Ms Jonathan Goad and Brian Evans

C. Hodge

1024

8921-Inmate File-30.

KERSHAW COUNTY DETENTION CENTER
INMATE GRIEVANCE FORM

Inmate's Names: Gregory V. Smith Date: 2-4-12

Housing Unit: F Cell: 1 Date: 2-4-12 Time: 3:45 pm

INFORMAL RESOLUTION:

Informal Resolution of a problem between an Inmate and a Staff member is strongly recommended. Provide the name of the staff member or Shift Lieutenant who attempt to solve this matter.

Name of Staff/Shift Supervisor: Hodge & Spivy

INMATE GRIEVANCE:

You are allowed to file a grievance, when you believe you are being subjected to abuse, harassment, abrigement of civil rights, or denied privileges. Before filing a complaint concerning classification, disciplinary and medical, please see the KCDC Inmate Handbook. **No grievance will be accepted from a group on the behalf of more than one Inmate.**

GRIEVANCE: (List date, time, location, and name of staff member if known)

Upon further investigation I have figured whoever shut the water off in A-pod made a smart move, however I am a journeyman pipe fitter of 24 yrs. I'm going to give you a helpful pointer, Shit does actually flow downhill. So your correctional officer can only claim to be half-assed in plumbing. I apologize for the fecal matter that was floating around, but I will not be held responsible for the chip nails and honey-bun wrappers I hope this will help you in the future.

2/6/12

(Use a separate sheet of paper if needed)

( ) I do request a copy ( ) I do not request a copy

Inmate Signature: Gregory V. Smith Date: 2-4-12

Original: Inmate Records Copies: Classification, Deputy Director, Director

KCDC Policy 2036.11

Kershaw County Detention Center

Detention Center Director

Peggy Spivey 425-1516 ext 5734

101 Bramblewood Plantation Road, Camden, SC 29020

(803) 425-1516 Fax: (803) 424-4047

To: Detainee Gregory Smith

From: Deputy Director Rufus-Hodge

Date: 2-4-2012

Re: Grievances Dated 2-4-2012

Mr. Smith

The purpose of this letter is to respond to your grievance forms that were sent in to Administration on 2-4-2012. I do not know what you are grieving because you did not make a specific complaint. I am aware that you will be served with disciplinary papers on today for the incident that you admitted to Director Spivey and I.

Thank you once again for admitting and apologizing for your involvement in the fecal matter issue that caused flooding in A Pod. We do appreciate it when detainees admit to doing things that are against policy. It causes us to be able to discipline you accordingly.

Deputy Director C. Rufus-Hodge

Kershaw County Detention Center

Detention Center Director
Peggy Spivey 425-1516 ext 5734
101 Bramblewood Plantation Road, Camden, SC 29020
(803) 425-1516 Fax: (803) 424-4047

To: Detainee Gregory V. Smith

From: Lt. Cato

Date: January 24, 2012

Re: Grievance Dated 1-8-2012

Mr. Smith

The purpose for this letter is a response to your grievance form that was sent to Administration on 1-8-2012. We would like to thank you for bringing the issue between you and Morris Nixon to our attention. When I spoke to you today in F-pod you stated that since you wrote the grievance you have not had any contact with Nixon, and that you did not wish to go any further with your grievance at this time. Mr. Smith if you have any concerns in the future please do not hesitate to contact Administration.

Lt. Cato

Cc: Deputy Director, Crystal Hodge

Director Peggy Spivey

1027

L/TC

KERSHAW COUNTY DETENTION CENTER
INMATE GRIEVANCE FORM

Inmate's Names: Gregory V. Smith Date: 1-7-12

Housing Unit: F Cell: 1 Date: 1-7-12 Time: 6:00 AM

INFORMAL RESOLUTION:

Informal Resolution of a problem between an Inmate and a Staff member is strongly recommended. Provide the name of the staff member or Shift Lieutenant who attempt to solve this matter.

Name of Staff/Shift Supervisor: Peggy Spivy

INMATE GRIEVANCE:

You are allowed to file a grievance, when you believe you are being subjected to abuse, harassment, abrigement of civil rights, or denied privileges. Before filing a complaint concerning classification, disciplinary and medical, please see the KCDC Inmate Handbook. No grievance will be accepted from a group on the behalf of more than one Inmate.

GRIEVANCE: (List date, time, location, and name of staff member if known)

I have sent you proper paperwork to let you know Martis Nixon was cussing at me in front of F-pod. Today he served me breakfast. A man who is working with Phillips to give me a life sentence. C/o Whack C/o Threet C/o Covington and C/o Crawford had no knowledge of this. Your incompetence once again comes shining through. I have asked for Notary Public several times. You letting Phillips take my court papers was wrong. I have followed your rules and I'm going use my constitutional rights to defend myself, defeat my charges and seek aquittal →

(Use a separate sheet of paper if needed)

(X) I do request a copy ( ) I do not request a copy

Inmate Signature: Gregory V. Smith Date: 1-7-12

Original: Inmate Records Copies: Classification, Chief of Operations, Administrator
KCDC Policy 2036.11

KERSHAW COUNTY DETENTION CENTER
INMATE GRIEVANCE FORM

Inmate's Names: Page #2 Date: _____

Housing Unit: _____ Cell: _____ Date: _____ Time: _____

INFORMAL RESOLUTION:

Informal Resolution of a problem between an Inmate and a Staff member is strongly recommended. Provide the name of the staff member or Shift Lieutenant who attempt to solve this matter.

Name of Staff/Shift Supervisor: _____

INMATE GRIEVANCE:

You are allowed to file a grievance, when you believe you are being subjected to abuse, harassment, abrigement of civil rights, or denied privileges. Before filing a complaint concerning classification, disciplinary and medical, please see the KCDC Inmate Handbook. **No grievance will be accepted from a group on the behalf of more than one Inmate.**

GRIEVANCE: (List date, time, location, and name of staff member if known)

You and your law breaking officers will be addressed properly. I stated 100% legally I will react to the devious, conniving and unethical treatment you have subjected me to. The miscarriage of justice you have intentionally exposed me to will not go unpunished. I will subpoena Morris Nixon and Karen Hollis to our trials. You cannot and will not instigate illegal subterfuge. Your part in this is nauseating, time and time again you ignore my rights, breaking laws and conspiring against me.

(Use a separate sheet of paper if needed)

(√) I do request a copy ( ) I do not request a copy

Inmate Signature: Gregory N. Smith Date: 1-7-12

Original: Inmate Records Copies: Classification, Chief of Operations, Administrator
KCDC Policy 2036.11

KERSHAW COUNTY DETENTION CENTER
INCIDENT REPORT

INCIDENT DATE: 1/23/2012 INCIDENT TIME: 1530

INCIDENT TYPE: [ ] GENERAL INCIDENT REPORT [X] INMATE INCIDENT REPORT

INCIDENT LOCATION: A B C D E F G H OTHER: _____

( ) STAFF'S OR ( ) INMATE'S NAME: Gregory Smith

DESCRIBE THE INCIDENT: On the above date and time, Director Peggy Spivey and I spoke with detainee Gregory Smith who is currently being housed in F Pod. Detainee Gregory Smith informed Director Spivey and I that the guys that are housed in F Pod have informed him that when he uses the restroom, he smells bad. Detainee Smith stated that the other guys in F Pod told him that when he uses the restroom he needs to flush the toilet and the smell will not be so bad. Detainee Smith stated, " I did not intentionally flush the toilet to cause damage". He went on to say that he did cause the water problem on last night. He then stated once more that he did not intentionally cause the problem in A Pod. He stated that the guys in A Pod told him to go ahead and tell the truth about causing the clog problem because they were not going to miss talking to their children for him. Camden Police Department will be contacted to take an Incident Report for a warrant to be issued for detainee Gregory Smith for damage to facility property. End of Report.

OTHER FORMS ATTACHED: ( ) USE OF FORCE ( ) DISCIPLINARY HEARING FORMS

WITNESSED BY: _____ OTHERS INVOLVED: Director Peggy Spivey

STAFF'S SIGNATURE: _____ DATE: 1-23-12

Inmate Incident Report - Original: Inmate's File Copies: Administrative Aseistant, Classification, Chief of Operations and Adminstrator.

General Incident Report - Original: Administrative Assistant Copies: Administrator and Chief of Operations

KCDC FORM 2003.18

PAGE ___ of ___

8921 Initiate File-36

ROOTER-MAN

10120 Two Notch Road • Suite Two PMB 11
Columbia, SC 29223-4395

Columbia Ph.: 699-6909
Camden Ph.: 425-9100
Fax: 865-2824

DRAINS • SEWERS • PLUMBING REPAIRS

TO THE RESCUE

DATE OF SERVICE: 1-21-12

INVOICE: 30807

CUSTOMER NAME	CUSTOMER PHONE	JOB PHONE
Kershaw Co. Detention Cnt	425-1516 Ext 1	

ADDRESS	APT. #	NOTES
101 Bramblewood Plantation Rd		

CITY	STATE	ZIP	MAP
Camden	SC	29101210	

JOB ADDRESS IF DIFFERENT THAN CUSTOMER ADDRESS	STATE	ZIP	CONTACT PERSON	JOB NAME
			Sgt Wack	

DISCRIPTION OF WORK

Run Cable From Cleanout in Chase room in the middle of A pod pulled back mattress pad & Towel Also had To run Cable From B pod & run Cable From hall way pulled back Mattress pads, sheet & a Towel To Clear Sewer Line To Septic Tank
run Sewer From 3 locations To Clear Line
Also Augred Toilets in B pod in Cell B-3 & B-6 To Clear blockages in Toilets — 235.00
2 Toilets — 190.00

DRAIN LINES CLEANED & GUARANTEES

☐ MAIN LINE:	FT.	☐ TUB	FT.
☐ SINK:	FT.	☐ TOILET	FT.
☐ FLOOR DRAIN:	FT.	☐ WASHER LINE	FT.
☐ OTHER LINE:	FT.	☐ STORM	FT.

I hereby authorize you to perform the above described services and I agree to pay the amounts indicated to the agent. I hereby certify that I am duly authorized to order and approve the work requested. Interest @ 1.5% per month 18% per annum on past due balances.

SIGNATURE _____ TITLE _____

GUARANTEE

PARTS	
LABOR	
OTHER	
TAX	
TOTAL	

TERMS: CASH _____ CHECK # _____ CHARGE ✓ P.O. # _____
C.C. TYPE _____ AUTH. # _____
CARD NO. _____ EXP. DATE: _____

TOTAL DUE $ 925.00

JOB COMPLETION TIME ON 6:30 Pm TIME OFF 11:30 Pm

This is to acknowledge completion of the above described work which has been done to my complete satisfaction.

1-21-12
DATE

CUSTOMER SIGNATUARE

SERVICEMANS NAME

VEH

OM : C&J INC. D/B/A Rooter-Man PHONE NO. : 803 865 2824 Jan. 23 2012 12:17PM P2

ROOTER-MAN

10120 Two Notch Road • Suite Two PMB 11
Columbia, SC 29223-4395

Columbia Ph.: 699-6909
Camden Ph.: 425-9100
Fax: 865-2824

DRAINS • SEWERS • PLUMBING REPAIRS

DATE OF SERVICE: 1-22-12

TO THE RESCUE

INVOICE: 30808

CUSTOMER NAME	CUSTOMER PHONE	JOB PHONE
Kershaw Co. Retention Cnt	425-1516 Ext 1	

ADDRESS	APT. #	NOTES
101 Bramble Wood Plantation Rd		

CITY	STATE	ZIP	MAP
Camden	SC	29101210	

JOB ADDRESS IF DIFFERENT THAN CUSTOMER ADDRESS	STATE	ZIP	CONTACT PERSON	JOB NAME
			Sgt Wack	

DISCRIPTION OF WORK

Went back out For Sewer in A pod Stopped up	
Again ran From Cleanout in Chase in middle of	
A pod pulled Another Sheet out That was tied	
in Knotts.	245.00
Also had To go To The back Chase in A pod Cut out	
Section of 4" Cast Iron Sewer pipe & Installed 4" Cleanout	
on Sewer line in 4" PVC & 4" Wye.	355.00
ran Sewer From new Cleanout & Pulled out Amount Pad	245.00
unstopped Floor Drain in A pod shower Stoppage was Sludge	95.00
unstopped Floor Drain in B pod shower up stairs on End	95.00

DRAIN LINES CLEANED & GUARANTEES

☐ MAIN LINE:	FT.	☐ TUB	FT.
☐ SINK:	FT.	☐ TOILET	FT.
☐ FLOOR DRAIN:	FT.	☐ WASHER LINE	FT.
☐ OTHER LINE:	FT.	☐ STORM	FT.

I hereby authorize you to perform the above described services and I agree to pay the amounts indicated to the agent. I hereby certify that I am duly authorized to order and approve the work requested. Interest @ 1.5% per month 18% per annum on past due balances.

SIGNATURE _____ TITLE _____

GUARANTEE

PARTS	
LABOR	
OTHER	
TAX	
TOTAL	

TERMS: CASH _____ CHECK # _____ CHARGE ✓ P.O. # _____

C.C. TYPE _____ AUTH. # _____

CARD NO. _____ EXP. DATE: _____

TOTAL DUE $ 1035.00

JOB COMPLETION _____ TIME ON _____ TIME OFF _____

This is to acknowledge completion of the above described work which has been done to my complete satisfaction.

1-22-12 _____ _____ VEH 1

DATE CUSTOMER SIGNATUARE SERVICEMANS NAME

SAVE THIS INVOICE FOR YOUR GUARANTEE
SEE BINDING TERMS ON REVERSE

DATE OF SERVICE 01/23/12 | LOCATION COLUMBIA

SERVICE TECHNICIAN'S NAME

INVOICE NO. 53933

SEWER & DRAIN ☑ PLUMBING ☐ PUMPS ☐
INDUSTRIAL ☐ EXCAVATION ☐ DRAIN TILE ☐

ROTO-ROOTER®
PLUMBING & DRAIN SERVICE
1-800-GET-ROTO

Roto-Rooter
PO Box 1511, Lexington SC 29071
Service (803) 256-0543 • Fax (803) 749-2703
License # M1111137
Operated as an Independent Contractor

CUSTOMER NAME	CUSTOMER NO.	CUSTOMER CLASS
KERSHAW COUNTY DETENTION		☐ RESIDENTIAL ☑ COMMERCIAL

SERVICE ADDRESS	APT. NUMBER	FEDERAL I.D. #
101 BRAMLEWOOD PLANTATION ROAD		36-4660016

CITY	STATE/PROVINCE	ZIP/POSTAL	CUSTOMER PHONE NO.	P.O. NUMBER/AUTHORIZATION
CAMDEN	SC	29020		

BILLING ADDRESS (IF DIFFERENT FROM SERVICE ADDRESS)	CITY	STATE/PROVINCE	ZIP/POSTAL

REPAIR CODE	ESTIMATE AND DESCRIPTION OF WORK TO BE PERFORMED (The approximate starting date is _____, and the approximate completion date is _____. Neither date is guaranteed. Unexpected conditions or problems could cause delays.)	$ AMOUNT
010	CLEANED AND CLEARED MAIN SEWER DRAIN LINE VIA POD - ADDRESS WAS DOWN IN SEWER	
	UNABLE TO RAN SNAKE DUE TO CLEAN OUT IS CLEAR	
	(A) CLEANED AND CLEARED SHWR DRAIN IN POD B	
	(B) CLEANED AND CLEARED SHWR DRAIN IN POD F	173.00
	(C) CHECK HOT WATER HEATER TEMP	0.00
	(D) CLEAR SHWR DRAIN IN POD	181.00
		864.00

WORK ORDER AUTHORIZATION I authorize the services indicated and agree to pay the amounts specified. I have read and agree to the terms on the reverse side, including limits on Roto-Rooter's responsibility specified in those terms.

(SIGNATURE) [redacted] (PRINT NAME) [redacted]

CHANGES TO ESTIMATE I authorize these changes	ADJUSTMENTS/CHANGES IN WORK TO BE PERFORMED (Use additional invoice if needed to describe changes)

COMMENTS

COMPLETION I acknowledge completion of the above described work which has been done to my complete satisfaction.

(SIGNATURE) [redacted] (PRINT NAME) [redacted]

(E-MAIL ADDRESS) [redacted]

☐ Send plumbing tips, product/services information and coupons via email.

LABOR $	
PARTS $	
PRODUCTS $	
OTHER $	
$	
$	
TAX $	54.95
INVOICE TOTAL $	854.95

PAYMENT

☐ CASH ☐ CHECK NO. ☐ CREDIT CARD ☑ NET 10 DAYS

OVER 30 DAYS - LATE CHARGE OF 1 1/2% PER MONTH - In the event check is returned, the COMPANY will charge the CUSTOMER A $25.00 processing fee.

NEXT VISIT _____

PLEASE PAY FROM THIS INVOICE

RESIDENTIAL GUARANTEE		COMMERCIAL GUARANTEE	
	LABOR		LABOR
☐	Main/Branch Lines — 6 months	☐	Main/Branch Lines — 30 days
☐	Toilet Auger — 7 days	☐	Toilet Auger — 24 hours
☐	Plumbing Repair — 6 months	☐	Plumbing Repair — 90 days
☐	Plumbing Replacement — 1 year	☐	Plumbing Replacement — 90 days
☐	Extended Guarantee — 1 year		

REASON FOR NO GUARANTEE

(Service Technician's Signature)

Rely on the experts at Roto-Rooter for complete plumbing and drain services! Call 1-800-GET-ROTO (438-7686).

Visit us at rotorooter.com for coupons, helpful hints and more. Complete our customer survey at: rotorooter.com/contact-us/customer-survey.

And, follow us online for news, timely updates, and other plumbing and drain information.

facebook.com/rotorooter
twitter.com/rotorooter
blog.rotorooter.com/blog/rotorooter
youtube.com/rotorootertv

KERSHAW COUNTY DETENTION CENTER
INCIDENT REPORT

INCIDENT DATE: 1/22/2012 INCIDENT TIME: 0530

INCIDENT TYPE: [x] GENERAL INCIDENT REPORT [ ] INMATE INCIDENT REPORT

INCIDENT LOCATION: A B C D E F G H OTHER: A-pod

( ) STAFF OR ( ) INMATE NAME:

DESCRIBE THE INCIDENT: On the above date and approximate time, I, Officer Covington was assigned to main control. I was observing Detainee Keen and Detainee Norris talking through the open flaps. Sgt. Threatt was in main control observing them also. I turned on the intercom to see if we could hear what was being said. Detainee Keen stated to detainee Norris that he was thinking about using his bedding to stop the toilet up. Detainee Keen stated " They better clear out multipupose room , cause I'm not gonna smell this shit again." Detainee Keen also asked detainee Norris " How did you get a cup down the toilet ?" " Did you break it up or was it a orange cup? " " Oh it was a styrofoam cup." Detainee Keen stated to detainee Norris "Here's how you do it, wet toilet paper and keep appling tooth paste to the toilet paper and it will get hard and it will stop the toilet up. " Detainee Norris was saying something that I could not make out and then I heard detainee Keen state " I'm not using my sheet, cause I sleep with it. " As I kept listening, detainee Keen stated at 0614 am" did you put something down there yet?" I could not make out what detainee Norris said. Detainee Keen then stated that he was going to use his towel but he needed that unless he could get another one. Detainee Keen told detainee Norris " just give me the go ahead and I'll start. Sgt. Threatt walked out of main control, went to intake to contact Lt. Harvey to brief him of the situation. Officer Furniss was conducting a walk thru and noticed that the drain in A-pod was over flowing with water and sewage, he instructed for me, Officer Covington to cut the water off in A-pod at that time. I informed Officer Crawford of the flooding when he entered main control and he assumed the duties of Main Control Officer.EOR.....

WITNESSED BY: Sgt. Threatt
Officer Furniss

OTHERS INVOLVED:

STAFF'S SIGNATURE: R. Covington DATE: 1/22/2012

KERSHAW COUNTY DETENTION CENTER
INCIDENT REPORT

INCIDENT DATE: 1/21/2012 INCIDENT TIME: 18:57

INCIDENT TYPE: [x] GENERAL INCIDENT REPORT [ ] INMATE INCIDENT REPORT

INCIDENT LOCATION: A B C D E F G H OTHER: _____

( ) STAFF'S OR ( ) INMATE'S NAME: _____

DESCRIBE THE INCIDENT: On the above date and approx. time, The Plumbing Co. Rooter - Man entered KCDC to repair some plumbing problems in the drain system. Lt. Harvey breifed me on this matter. Officer Covington was the main escort officer but Officer Furniss did assist with escorting also. Plumbers went into A-pod, B-pod, D-pod and the outside area. Plumbers exited KCDC at 23:25. A-pod was cleaned up by inmate Murray and detainee Hunter, supervised by Officer Covington. EOR.

OTHER FORMS ATTACHED: ( ) USE OF FORCE ( ) DISCIPLINARY HEARING FORMS

WITNESSED BY: _____ OTHERS INVOLVED: _____

STAFF'S SIGNATURE: Sgt. Threatt DATE: _____

Inmate Incident Report - Original: Inmate's File Copies: Administrative Assistant, Classification, Chief of Operations and Adminstrator.

General Incident Report - Original: Administrative Assistant Copies: Administrator and Chief of Operations

KCDC FORM 2003.18

PAGE 1 of 1

8921-Inmate File-41

KERSHAW COUNTY DETENTION CENTER
INCIDENT REPORT

INCIDENT DATE: 1/21/2012 INCIDENT TIME: 1857

INCIDENT TYPE: [x] GENERAL INCIDENT REPORT [ ] INMATE INCIDENT REPORT

INCIDENT LOCATION: A B C D E F G H OTHER: A-pod

( ) STAFF OR ( ) INMATE NAME:

DESCRIBE THE INCIDENT: On the above date and approximate time, I, Officer Covington was assigned to the floor as the roamer. I began to escort the plummers to A-pod where they assessed the flooding issue. They began to use the snake tool to go through the lines to flush or find any items that may have been used to stop the drains or clog the lines up. They retrieved in A-pod a portion of the bedding from a mattress. They retrieved a small part of a towel out of D-pod. They removed 2 sheets with knots tied in them, 1 towel, and a large portion of bedding from the drain in the intake hallway. The plummers departed from KCDC at 2325.

EOR.....

WITNESSED BY: Sgt. Threatt
Officer Furniss

OTHERS INVOLVED:

STAFF'S SIGNATURE: R. Covington DATE: 1/21/2012

1036

8921-Inmate File-42

KERSHAW COUNTY DETENTION CENTER
INCIDENT REPORT

INCIDENT DATE: 1/22/2012 INCIDENT TIME: 22:36

INCIDENT TYPE: [x] GENERAL INCIDENT REPORT [ ] INMATE INCIDENT REPORT

INCIDENT LOCATION: A B C D E F G H OTHER: _____

( ) STAFF'S OR ( ) INMATE'S NAME: _____

DESCRIBE THE INCIDENT: On the above date and appox. time, I, Sgt. Threatt, was informed by Officer Mungo that he had heard detainee Norris yell up to detainee Gregory Smith in F-1 to keep the water coming. Officer Mungo heard detainee Smith flush his toilet several times after that. Officer Mungo began to see more water coming up thru the drain in A-pod again. I informed Officer Mungo to cut of the water in F-pod and it was to remain off until Director Spivey had the order changed. Officers were informed to make sure that detainees in F-pod had drinking water if they ask for it. A cooler of water was placed in F-pod and A-pod. The conversation that Officer Mungo heard with detainee Norris yelling up to detainee Smith was over the intercom system in F-1. A cooler of water was placed in F-pod and A-pod. EOR.

OTHER FORMS ATTACHED: ( ) USE OF FORCE ( ) DISCIPLINARY HEARING FORMS

WITNESSED BY: Officer Mungo OTHERS INVOLVED: _____

STAFF'S SIGNATURE: Sgt Threatt DATE: 01-22-12

Inmate Incident Report - Original: Inmate's File Copies: Administrative Assistant, Classification, Chief of Operations and Adminstrator.

General Incident Report - Original: Administrative Assistant Copies: Administrator and Chief of Operations

DC FORM 2003.18 PAGE 1 of 1

KERSHAW COUNTY DETENTION CENTER
INMATE ORIENTATION

The basic information that you will need to know while you are incarcerated at this facility is listed below. Your initials and your signature acknowledge that you understand and are aware of what is required of you.

1. GS You are to conduct yourself in a respectful and orderly manner at all times.
2. GS You will maintain your bed, cell and other living quarters in a clean, orderly and sanitary fashion. You cannot wear a towel or sheet on your head at any time. Do not leave any door open.
3. GS You will obey all rules and regulations of this facility as indicated either by being told to you or posted on or in regards to the Inmate Orientation form and it is your responsibility to familiarize yourself with them.
4. GS You will wear your uniform shirt, pants and shoes at all times. Full Uniforms are to be worn in individual cells (B & F Pod) also. All t-shirts are to be tucked in.
5. GS You will be required to pay for any facility property that you damage.
6. GS Bond hearings are held twice a day: Approximately 7:30AM & 4:00PM.
7. GS An alphabetical listing of registered Bail/Surety Bonding Companies is posted in each housing unit.
8. GS You will be given a PIN number for phone access to a phone in your housing unit. All calls are collect. We also have telephone cards that can be purchased for $10.70. Order forms will be available in each unit and will be picked up between 6:45pmand 7pm each day.
9. GS All medical concerns should be addressed to Medical on an Inmate to Staff Request Form. All Medical request forms are picked up daily by the Officer that retrieves the mail and Staff Request Forms. Upon admission, if you do not have your medication, you will be afforded the opportunity to make (2) two phone calls to contact someone to have your medication brought to the facility. Only your current medications in the appropriate bottle will be accepted. There is a $5 charge for Medical/Doctor Sick Call. Narcotics are not distributed at this facility.
10. GS Visitation is on Saturdays and Sundays for 30 minutes each day. Visitors must call the facility at (803)425-1516 ext. 35 Monday – Friday during the hours of 9:00am to 12Noon to set up an appointment.
11. GS Snack packs, which consist of (1) each of the following items: Snicker bar, peanuts, honey bun and crackers can be purchased for $5. Orders forms will be available in each unit and picked up at 7pm. Canteen orders must be turned in by 6:45pm on Monday to ensure that your order will be processed properly and efficiently. Night Shift will pick these forms up with the mail, request forms etc....
12. GS All cash that you have in your possession when you are admitted to the facility will be placed on your account. Any other monies will be placed in your property and will be returned to you upon your release in the form of a check. Money can be brought to the facility for you in the form of a U.S. Postal money order. Place the money order in the black box located at the front door of the jail.
13. GS If you need to contact Administration, you must address a request form to him/her and give it to the Officer that picks up the mail on Night Shift.
14. GS The lights will be turned off at 11pm in the pre-sentenced housing units. The lights will be turned off between 9pm – 11pm for the sentenced housing units. Do not go into any cell other than your own.
15. GS You are not allowed to correspond by mail with any detainee unless you are married.
16. GS This facility is a Non-Smoking facility. Smoking products and any form of tobacco is considered contraband and you will be formally charged if you are found with it.
17. GS There is a Red Line that is located within every housing unit. You are NOT permitted to touch or cross the Red Line with your foot or any part of your body or you will be placed in Administrative Segregation.
18. All food must be consumed when it is served. You are not allowed to hoard food. This is a violation of policy and you will be placed in lockdown if you are found with food from your tray. You are to stack your food tray in orderly fashion and place your spork beside the tray to be counted. No utensils are to be kept; this is also a violation of policy.
19. Any and all mailings must have a complete mailing address and a complete return address. NO mail will be accepted or sent out that has ANY drawings or markings other than a return address and/or mailing address. You are to inform your friends and family members. Any mail that has markings or drawings will be placed into your personal property storage bin until you are released.
20. NO inmate is to press the intercom button unless it is an EMERGENCY. You WILL be placed in Administrative Segregation.

Gregory V. Smith — Mar. 8, 12
Detainee (Print & Sign Name) — Date

Sgt. Kincaid — 03-08-12
Officer (Print and Sign Name) — Date

x x x Communication Result Report (Aug. 8. 2011 4:51PM) x x x

Date/Time: Aug. 8. 2011 4:50PM

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
2990	Memory TX	94321498	P. 1	OK	

Reason for error
E. 1) Hang up or line fail
E. 2) Busy
E. 3) No answer
E. 4) No facsimile connection
E. 5) Exceeded max. E-mail size

Aug. 6. 2011

Mr. Tetterton,

I am making a request for A. Georgetown Law Journal and any other legal information that is associated with my case. I am interested in all materials before a jury trial is set up along with motions, confessions, coercions, extraction of evidence rules, and defendants rights.

* Also any video and audio evidence the prosecution plans to use against me.

Thank you,
Gregory V. Smith
Gregory V. Smith

Aug. 6. 2011

Mr. Tetterton,

I am making a request for A Georgetown Law Journal and any other legal information that is associated with my case. I am interested in all materials how a jury trial is set up along wi motions, confessions, coercions, extraction c evidence rules, and defendants rights.

* Also any video and audio evidence the prosecution plans to use against me.

Thank you,

Gregory V. Smith

Gregory V. Smith

KERSHAW COUNTY DETENTION CENTER

INMATE PROPERTY REPORT

NAME (LAST, FIRST, MIDDLE)	BOOKING YEAR/NO	CELL/BED	DOB	SEX	RACE
SMITH, GREGORY VINCENT	2011 1385	1/B	03/03/1962	M	B

CODE	DESCRIPTION	BIN #	QTY	VALUE	REFERENCE #	TAKEN BY
MISTUFF	OTHER MISC STUFF (NOT CATEGORIZED)	82	1			DANTHONY
TOTALS			1			

I HEREBY STATE THAT THE PROPERTY LISTED ABOVE WAS PROVIDED TO THE ABOVE-LISTED INMATE AND IS PROPERTY OF THE INMATE AND WILL BE ADDED TO THE INMATE'S PROPERTY INVENTORY.

INMATE SIGNATURE	OFFICER SIGNATURE
7/26/2011	7/26/2011
DATE	DATE

DANTHONY

8921-Inmate File-47

M-099445

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Kershaw

THE STATE 2011-2782

against

Gregory Vincent Smith

Address: [redacted]

Lugoff, SC [redacted]

Phone: SSN: [redacted]

Sex: M Race: W Height: 6 2 Weight: 160

DL State: SC DL #: [redacted]

DOB: [redacted] Agency ORI #: SC0280000

Prosecuting Agency: Kershaw County Sheriff

Prosecuting Officer: Dexter Handy - 7064

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant GREGORY SMITH on 06/07/2011

Signature of Constable/Law Enforcement Officer #42

RETURN WARRANT TO:

General Sessions
1121 Broad Street
Camden, SC 29020

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

[X] County/ [ ] Municipality of)
Kershaw)

AFFIDAVIT

Personally appeared before me the affiant Dexter Handy who being duly sworn deposes and says that defendant Gregory Vincent Smith did within this county and state on or about 05/28/2011 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) in the following particulars:

DESCRIPTION OF OFFENSE Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on May 28, 2011 the defendant Gregory Vincent Smith did, with malice and aforethought, cause the death of Debra Lee Tyler by shooting her about the face with a handgun. This incident did occur at Highway 601 South which is located in Lugoff, Kershaw County, South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Kershaw)

Affiant's Address 821 Ridgeway Rd.
Lugoff, SC 29078-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 5/28/2011 defendant Gregory Vincent Smith did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)
on 06/07/2011 (L.S.)

Signature of Issuing Judge

R. Eugene Hartis)
Judge Code: ~~5562~~ 7029)

Judge's Address Post Office Box 1528
Camden, SC 29020-1528

Judge's Telephone (803)425-1500

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

Appendix - page 1044

1041

Messages

Menu - Refresh Screen

Check messages (2) below for: KERDC400

	Date	Title
☑	May 28, 2011 at 19:33:50	QWA 00067B75A6 from NC2K
☑	May 28, 2011 at 19:33:47	XQSO 003E9FE2EB from SRS

Uncheck All

○ Delete All Checked Messages
◉ Print All Checked Messages

Submit

QWA 00067B75A6 from NC2K - May 28, 2011 at 19:33:50

```
KERDC400
.QWA.00067B75A6.NC2K.20110528 19:33:50
  TO: KERDC400-203229    20110528 19:33:50  00067B75A6
FROM:      NC2K-8091046   20110528 19:33:50
1L011A540209D62QWA
SC028023C

NO NCIC WANT SOC/005566578
NO NCIC WANT NAM/SMITH,GREGORY VINCENT DOB/[redacted] RAC/W SEX/M
***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.
```

Top of page or Menu

Delete | Copy | Print

XQSO 003E9FE2EB from SRS - May 28, 2011 at 19:33:47

```
KERDC400
.XQSO.003E9FE2EB.SRS.20110528 19:33:47
  TO: KERDC400-203228    20110528 19:33:47  003E9FE2EB
FROM:      SRS-10478315  20110528 19:33:47
MKE/ XQSO
                    SRS/ 00000000000000000000
NAM/ SMITH,GREGORY VINCENT
**** INVALID FORMAT USED - MUST BE LAST NAME,       FIRST NAME OR INITIAL ****
```

Top of page or Menu

Delete | Copy | Print

Messages

Menu - Refresh Screen

Check messages (2) below for: KERDC400

	Date	Title
☑	May 28, 2011 at 17:59:27	QH 0035ED6DD2 from III
☑	May 28, 2011 at 17:59:24	ICHS 003FA78090 from SCCH

Uncheck All | ○ Delete All Checked Messages | ◉ Print All Checked Messages | Submit

QH 0035ED6DD2 from III - May 28, 2011 at 17:59:27

```
KERDC400
.QH.0035ED6DD2.III.20110528 17:59:27
  TO: KERDC400-203220    20110528 17:59:27  0035ED6DD2
FROM:      III-15560146  20110528 17:59:27
7L011A540209D12QH
SC028023C
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR
INQUIRY ON NAM/SMITH,GREGG VINCENT SEX/M RAC/W DOB/[redacted]
 SOC/005656578 PUR/C
NAME                          FBI NO.        INQUIRY DATE
SMITH,GREGORY VINCENT         689664JA8      2011/05/28

SEX RACE BIRTH DATE  HEIGHT WEIGHT EYES HAIR PHOTO
M   W    [redacted]  601    145    HAZ  BRO  N

BIRTH PLACE
MAINE

FINGERPRINT CLASS      PATTERN CLASS
10 TT 02 06 09         RS RS RS RS RS LS AU LS LS LS
09 AA 02 08 08            AU                AU


ALIAS NAMES
SMITH,GREGORY V

OTHER        SCARS-MARKS-
BIRTH DATES  TATTOOS       SOCIAL SECURITY
[redacted]   SC BACK       [redacted]
             SC R HND
             TAT L HND
             TAT R HND

IDENTIFICATION DATA UPDATED 2007/05/23

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE
FOLLOWING:
 NEW JERSEY     - STATE ID/NJ754368B
 PENNSYLVANIA   - STATE ID/PA19757307
```

```
 SOUTH CAROLINA - STATE ID/SC01758003
 UTAH           - STATE ID/UT00445203
 FBI            - FBI/689664JA8

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION
INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.


END
```

Top of page or Menu

Delete | Copy | Print

ICHS 003FA78090 from SCCH - May 28, 2011 at 17:59:24

```
KERDC400
.ICHS.003FA78090.SCCH.20110528 17:59:24
  TO: KERDC400-203219     20110528 17:59:24  003FA78090
FROM:      SCCH-10977424  20110528 17:59:24
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-WHACK
ORI-SC028023C  PUR-C
NAM-SMITH, GREGG VINCENT
SOC-[redacted] SEX-M  RAC-W  DOB-[redacted]

DATE-05/28/2011  TIME-18:05       PAGE-01 OF 01
ORI-SC028023C
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE
MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-SMITH, GRAGORY JEROME          SEX-M RACE-B
HEIGHT-508 WEIGHT-165 EYES-BRO HAIR-BLK SKIN-    BORN-SC
FPC: HENRY-11 O 16 U    OOO     NCIC-P011I7POPOPO13PIPIPI
             O 22 U    OII
SID-SC00230678  FBI- 181192W9
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--03/20/1979    DATE OF LAST UPDATE--04/13/1998

ALIAS NAMES-SMITH, GREGG JEROME              SMITH, GREG J
            SMITH, SAMUEL ALPHONZO JR        SMITH, GREGORY J
            SMITH, GREGG                     SMITH, JEROME GREGORY
            SMITH, GREG                      SMITH, GREGORY
            SMITH, GREGORY JEROME

BIRTH DATES-[redacted]

MARKS, ETC-SC ABDOM    SC CHEST

SOC SEC NUMBERS-[redacted]
SCLED CJIS RECORD INDICATES SUBJECT HAS OUT-OF-STATE ARREST INFORMATION

-------------------------------------------------------------------------
INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING HANDGUN IN
```

SOUTH CAROLINA

INFORMATION SUBMITTED TO SLED CCH PURSUANT TO 16-23-10 (C) AND 23-31-110 (C) OF THE SOUTH CAROLINA CODE OF LAWS INDICATES THIS INDIVIDUAL HAS BEEN CONVICTED OF A CRIME OF VIOLENCE AND IS NOT PERMITTED TO POSSESS OR ACQUIRE A HANDGUN.

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS. THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS DEFINED BY THE GUN CONTROL ACT OF 1968 (18.USC 922(G)).

** END OF IDENT **

NAME-SMITH, GREGORY VINCENT SEX-M RACE-W
HEIGHT-601 WEIGHT-160 EYES-HAZ HAIR-BRO SKIN- BORN-NC
FPC: HENRY- NCIC-

SID-SC01758003 FBI-689664JA8

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--05/23/2007 DATE OF LAST UPDATE--05/23/2007

BIRTH DATES-[redacted]

MARKS, ETC-

SOC SEC NUMBERS-[redacted]
SCLED CJIS RECORD INDICATES SUBJECT HAS OUT-OF-STATE ARREST INFORMATION

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

Top of page or Menu

Delete Copy Print

Messages

Menu - Refresh Screen

Check messages (7) below for: KERDC400

	Date	Title
☐	May 28, 2011 at 18:04:48	CR 0008D7E589 from NLETS
☐	May 28, 2011 at 18:04:48	CR 0008D7E588 from NLETS
☐	May 28, 2011 at 18:04:45	CR 0008D7E587 from NLETS
☐	May 28, 2011 at 18:04:44	QWA 00067B6CCC from NC2K
☐	May 28, 2011 at 18:04:43	CR 0008D7E585 from NLETS
☐	May 28, 2011 at 18:04:42	QR 0035ED6DE8 from III
☐	May 28, 2011 at 18:04:41	ICHR 003FA78097 from SCCH

Check All ○ Delete All Checked Messages ◉ Print All Checked Messages Submit

CR 0008D7E589 from NLETS - May 28, 2011 at 18:04:48

```
KERDC400
.CR.0008D7E589.NLETS.20110528 18:04:48
  TO: KERDC400-203227    20110528 18:04:48  0008D7E589
FROM:     NLETS-14149001  20110528 18:04:48
CR.UTI1I0000
15:03  13832
 05/28/2011 68172 SC028023C
*1A540209D3
TXT

HDR/2L011A540209D32QR
ATN/DEJESUSM
PART 1
This Record is Based only on the SID Number in Your Request-UT00445203
SC028023C    REQSTR: NCIC III          REAS: C   nletsinq   T
                          UTAH CRIMINAL HISTORY RECORD
                             MAY 28 2011 16:03:42
THIS RECORD IS PROVIDED FOR OFFICIAL USE ONLY, AND MAY BE USED ONLY FOR THE
PURPOSE REQUESTED.  USE OF THE INFORMATION CONTAINED IN THIS RECORD IS
GOVERNED BY STATE AND FEDERAL LAWS AND REGULATIONS.  MISUSE OF ANY PART OF
THIS RECORD IN ANY FORM, INCLUDING RELEASE TO UNAUTHORIZED AGENCIES
OR INDIVIDUALS, MAY BE SUBJECT TO CIVIL OR CRIMINAL PENALTIES.

THIS RESPONSE IS BASED UPON FINGERPRINT-SUPPORTED CRIMINAL HISTORY
INFORMATION IN THE FILES OF THE UTAH CRIMINAL IDENTIFICATION BUREAU ON THIS
DATE.  SINCE THE BUREAU'S FILES ARE REVISED AS NEW INFORMATION IS RECEIVED,
PLEASE REQUEST AN UPDATED RECORD FOR ANY SUBSEQUENT NEEDS.  IF EXPLANATION
OF ANY INFORMATION IS NEEDED, PLEASE CONTACT THE CONTRIBUTING AGENCY.

THIS IS UTAH'S PORTION OF A MULTISTATE RECORD.  ADDITIONAL CRIMINAL HISTORY
```

RECORD INFORMATION IS INDEXED IN NCIC-III FOR OTHER STATE OR FEDERAL OFFENSES.

****

IDENTIFICATION DATA MULTISTATE OFFENDER
NAME: ALIASES:
SMITH, GREGORY VINCENT
STATE IDENT. NO. FBI NO.
445203 689664JA8
SEX: HEIGHT: WEIGHT: RACE:
MALE 6 FT. 01 IN. 155 LBS. WHITE
HAIR: EYES:
BROWN HAZEL
DATE OF BIRTH: SCARS, MARKS, TATTOOS, AMPUTATIONS:
[redacted] SC R HND
TAT R HND
PLACE BORN: SSN:
ME [redacted]
RESIDENCE:
TRANSIENT, SALT LAKE CITY, UT (Apr 18, 1996)
MISCELLANEOUS COMMENTS:

****

CRIMINAL JUSTICE SUMMARY
TOTAL NUMBER OF ARRESTS: 1
DATE OF LAST ARREST: Feb 23, 1996

****

CRIMINAL HISTORY
INCIDENT # 1
ARREST/CHARGE
DATE OF ARREST: Feb 23, 1996 OFFENSE TRACKING #: 7699838
ARRESTING AGENCY: SOUTH SALT LAKE PD (UT0180400)
ARRESTING AGENCY CASE #: 209917
ARREST CHARGES:
NCIC Code: 3599, POCS SCHOOL GROUND ENHANCED PCP/MARIJ, FELONY - FIRST
AGENCY OF NEXT APPEARANCE: 3RD CIR CRT-SALT LAKE CITY (UT018055J)
NCIC Code: 6199, DRUG STAMP VIOLATION, FELONY - THIRD DEGREE
AGENCY OF NEXT APPEARANCE: 3RD CIR CRT-SALT LAKE CITY (UT018055J)
NCIC Code: 5212, POSSESSION OF FIREARM AT SCHOOL, MISDEMEANOR - A
AGENCY OF NEXT APPEARANCE: 3RD CIR CRT-SALT LAKE CITY (UT018055J)
NCIC Code: 3550, POSSESSION OF DRUG PARAPHERNALIA, MISDEMEANOR - B
AGENCY OF NEXT APPEARANCE: 3RD CIR CRT-SALT LAKE CITY (UT018055J)
DISPOSITION/FINDING
CHARGES DISPOSED OF:
AGENCY: SALT LAKE CITY PD (UT0180300)
, FELONY - SECOND DEGREE
STATUTE TEXT: ILLEGAL POSS/USE OF CONTROLLED SUBSTANCE

CASE #: 96-41192
DISPOSITION: WARRANT ISSUED
DISPOSITION DATE: Mar 22, 1996
COMMENTS: Warrant # 960101329, Agency Issue D1853
AGENCY: SALT LAKE CITY PD (UT0180300)
, FELONY - SECOND DEGREE
STATUTE TEXT: ILLEGAL POSS/USE OF CONTROLLED SUBSTANCE

CASE #: 96-41192
DISPOSITION: WARRANT ISSUED
DISPOSITION DATE: Mar 22, 1996
COMMENTS: Warrant # 960101329, Agency Issue D1853
AGENCY: SALT LAKE CITY PD (UT0180300)

```
        , FELONY - SECOND DEGREE
        STATUTE TEXT: ILLEGAL POSS/USE OF CONTROLLED SUBSTANCE

        CASE #: 96-41192
        DISPOSITION: WARRANT ISSUED
        DISPOSITION DATE: Mar 22, 1996
        COMMENTS: Warrant # 960101329, Agency Issue D1868
        AGENCY: SALT LAKE CITY PD (UT0180300)
        , FELONY - SECOND DEGREE
        STATUTE TEXT: ILLEGAL POSS/USE OF CONTROLLED SUBSTANCE

        CASE #: 96-41192
        DISPOSITION: WARRANT ISSUED
        DISPOSITION DATE: Mar 22, 1996
        COMMENTS: Warrant # 960101329, Agency Issue D1853
END OF CRIMINAL RECORD
CUSTODY INFORMATION TO FOLLOW
*****************************************************************************
CORRECTIONS/CUSTODY INFORMATION
                * * *  NO INFORMATION AVAILABLE  * * *
END OF RECORD
```

Top of page or Menu

Delete | Copy | Print

CR 0008D7E588 from NLETS - May 28, 2011 at 18:04:48

```
KERDC400
.CR.0008D7E588.NLETS.20110528 18:04:48
  TO: KERDC400-203226    20110528 18:04:48  0008D7E588
FROM:    NLETS-14149000  20110528 18:04:48
CR.PAIII0000
15:03  13831
 05/28/2011 29699 SC028023C
*1A540209D3
TXT
HDR/2L011A540209D32QR
ATN/DEJESUSM
**********************. CRIMINAL HISTORY RECORD  ***********************

***************************  Introduction  ***************************

This rap sheet was produced in response to the following request:

Subject Name(s)          SMITH,GREGORY VINCENT
State Id Number          197-57-30-7 (PA)
Purpose Code             C
Attention                DEJESUSM

The information in this rap sheet is subject to the following caveats:

USE OF THE FOLLOWING CRIMINAL HISTORY RECORD *** SID 197-57-30-7 ***
REGULATED BY ACT 47, AS AMENDED. (PA)
III - MULTIPLE STATE OFFENDER ()
```

********** IDENTIFICATION **********

Subject Name(s)

SMITH, GREGORY VINCENT
SMITH, GREGORY VINCENT (AKA)

Subject Description

FBI Number	State Id Number
689664JA8	197-57-30-7 (PA)

Social Security Number
[redacted]

Sex	Race	
Male	White	
Height	Weight	Date of Birth
5'01" (1990-10-18)	150 (1990-10-18)	[redacted]
Hair Color	Eye Color	
Brown (1990-10-18)	Hazel (1990-10-18)	
	Citizenship	

********** CRIMINAL HISTORY **********

========== Cycle 1 ==========

Tracking Number	C440115-4
Earliest Event Date	1990-09-01
Arrest Date	1990-09-01
Arrest Case Number	C7077
Arresting Agency	PA0250400 NORTH EAST
Subject's Name	SMITH, GREGORY VINCENT
Charge	1
Charge Number	1
Charge Tracking Number	C440115-4
Charge Literal	FIREARM CARRIED W/O A LICENSE
Statute	FIREARM CARRIED W/O A LICENSE (CC6106A; Pennsylvania)
State Offense Code	CC6106A
Counts	1
Severity	Misdemeanor
Disposition	(Acquitted 1991-01-04; QUASHED/ DISMISSED/ DEMURRER SUSTAINED)
Charge	2
Charge Number	2
Charge Tracking Number	C440115-4
Charge Literal	DUI OF ALCOHOL OR CONTRL SUBST
Statute	DUI OF ALCOHOL OR CONTRL SUBST (VC3731A1; Pennsylvania)
State Offense Code	VC3731A1
Counts	1

```
            Severity  Misdemeanor
          Disposition  (Acquitted 1991-01-04; NOLLE PROSSED/WITHDRAWN)
Charge                3
       Charge Number  3
Charge Tracking Number  C440115-4
       Charge Literal  DUI OF ALCOHOL OR CONTRL SUBST
              Statute  DUI OF ALCOHOL OR CONTRL SUBST (VC3731A4;
                       Pennsylvania)
    State Offense Code  VC3731A4_
              Counts  1
            Severity  Misdemeanor
          Disposition  (Convicted 1991-01-04; PLEAD GUILTY/ COUNTY
                       PRISON/ 02 DYS - 18 MOS/ FINES AND COSTS)
************************  INDEX OF AGENCIES  ************************

Agency                  NORTH EAST; PA0250400;
Agency Telephone        8148983333
Address
                        POLICE DEPARTMENT,58 E MAIN STREET
                        NORTH EAST, PA 16428


                              * * * END OF RECORD * * *
```

Top of page or Menu

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CR 0008D7E587 from NLETS - May 28, 2011 at 18:04:45

```
KERDC400
.CR.0008D7E587.NLETS.20110528 18:04:45
  TO: KERDC400-203225    20110528 18:04:45  0008D7E587
FROM:    NLETS-14148999  20110528 18:04:45
CR.NJIII0000
15:03 13830
 05/28/2011 33184 SC028023C
*1A540209D3
TXT

HDR/2L011A540209D32QR
ATN/DEJESUSM
THIS RECORD IS BASED ON THE SID NUMBER IN YOUR REQUEST-SID/NJ754368B
          NEW JERSEY CRIMINAL HISTORY DETAILED RECORD
USE OF THIS RECORD IS GOVERNED BY FEDERAL AND STATE REGULATIONS.
UNLESS FINGERPRINTS ACCOMPANIED YOUR INQUIRY, THE STATE BUREAU OF
IDENTIFICATION CANNOT GUARANTEE THIS RECORD RELATES TO THE PERSON WHO IS
THE SUBJECT OF YOUR REQUEST. USE OF THIS RECORD SHALL BE LIMITED SOLELY TO
THE AUTHORIZED PURPOSE FOR WHICH IT WAS GIVEN AND IT SHALL NOT BE
DISSEMINATED TO ANY UNAUTHORIZED PERSONS. TO ELIMINATE A POSSIBLE
DISSEMINATION VIOLATION, AND TO COMPLY WITH FUTURE EXPUNGEMENT ORDERS,
THIS RECORD SHALL BE DESTROYED *IMMEDIATELY* AFTER IT HAS SERVED ITS
INTENDED AND AUTHORIZED PURPOSES. ANY PERSON VIOLATING FEDERAL OR STATE
REGULATIONS GOVERNING ACCESS TO CRIMINAL HISTORY RECORD INFORMATION
MAY BE SUBJECT TO CRIMINAL AND/OR CIVIL PENALTIES.  THIS RECORD IS
CERTIFIED AS A TRUE COPY OF THE CRIMINAL HISTORY RECORD INFORMATION
```

```
ON FILE FOR THE ASSIGNED STATE IDENTIFICATION NUMBER.
STATE ID NO. 754368B      FBI NO. 689664JA8   DATE REQUESTED. 05/28/2011
NAME: SMITH, GREGORY V.
SEX  RACE  BIRTH DATE  HEIGHT  WEIGHT  EYES  HAIR  BIRTH PLACE
M    W     [redacted]    602     145     HAZ   BRO   ME

RECEIVING AGENCY: SC028023C  U.S. CITIZEN: YES
FPC: \A\\\/A///            AFIS NO:                  III: MULTI STATE
                                                    DNA AVAILABLE: NO
SOCIAL SECURITY NUMBERS
005-56-6578
SCARS/MARKS/TATTOOS/MISC NUMBERS
TATTOO LEFT HAND
*************************** ARREST 001 ********************************
ARRESTED 06/13/1991   AGENCY CASE NO:  A14091340
    AGENCY: NJNSP3200    SP WOODSTOWN                        SALEM
    001 CNT  NJ2C35-10A1       COCAINE-POSSESS
    001 CNT  NJ2C36-2          NARCOTIC EQUIP-POSSESS
    001 CNT  NJ2C39-3          CARRYING PROHIBITED
SUMMONS/WARRANT                        PROMIS/GAVEL NO:
NO: S742207                            DISPOSITION DATE: 06/08/1993
AGENCY: NJ017031J                      MUNICIPAL COURT SALEM
DISPOSITION: DISMISSED
001  CNT: 2C:36-2            DEG:          NARCOTIC EQUIP-POSSESS
INDICTMENT/ACCUSATION                  PROMIS/GAVEL NO:
NO: SLM910700407I                      DISPOSITION DATE: 10/07/1991
AGENCY: NJ017023J                      SALEM CO SUPERIOR COURT
DISPOSITION: GUILTY                    FELONY CONVICTION
001  CNT: 2C:39-3E           DEG: 4        POSS WEAPON
DISPOSITION: DISMISSED
001  CNT: 2C:35-10A(1)       DEG: 3        DRUG OFFENSE
AGGREGATE SENTENCE       DATE: 10/07/1991
      COURT:  NJ017023J    SALEM CO SUPERIOR COURT
  INCARCERATION: SALEM CTY JAIL
     CONFINEMENT      1Y                  AMOUNT ASSESSED  $          30
*******************************************************************************
DEPARTMENT OF CORRECTIONS DATA NOT FOUND FOR THIS SID NUMBER
*******************************************************************************
      CRIMINAL HISTORY DIVERSION PROGRAM AND FELONY CONVICTION SUMMARY
                     PRE-TRIAL INTERVENTION: 000
                     CONDITIONAL DISCHARGE:  000
                     FELONY CONVICTIONS:     001
                     VIOLATION OF PROBATION: 000
COURT DISPOSITION INFORMATION CONTAINED IN THIS RECORD IS REPORTED

ELECTRONICALLY FROM THE SENTENCING COURT. QUESTIONS CONCERNING DISPOSITION

INFORMATION SHOULD BE DIRECTED TO THE MUNICIPAL OR SUPERIOR COURT LISTED ON

THE RECORD. INFORMATION REGARDING CORRECTIONS TO THIS RECORD MAY BE DIRECTED

TO THE SBI AT (609)882-2000, EXTENSION 2369, 2457, OR 2886.

                              END OF CCH RECORD
END OF RECORD
```

Top of page or Menu

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QWA 00067B6CCC from NC2K - May 28, 2011 at 18:04:44

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KERDC400
.QWA.00067B6CCC.NC2K.20110528 18:04:44
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FROM:     NC2K-8088780   20110528 18:04:44
1L011A540209D42QWA
SC028023C

NO NCIC WANT FBI/689664JA8
NO NCIC WANT SOC/005566578
***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.
```

Top of page or Menu

Delete Copy Print

CR 0008D7E585 from NLETS - May 28, 2011 at 18:04:43

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KERDC400
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  TO: KERDC400-203223    20110528 18:04:43  0008D7E585
FROM:    NLETS-14148997  20110528 18:04:42
CR.WVFBINF00
15:03  13828
 05/28/2011 56934 SC028023C
*1A540209D3
TXT
HDR/2L011A540209D32QR
ATN/DEJESUSM
*********************  CRIMINAL HISTORY RECORD  **********************

***************************  Introduction  ***************************

This rap sheet was produced in response to the following request:

FBI Number              689664JA8
Purpose Code            C
Attention               DEJESUSM

The information in this rap sheet is subject to the following caveats:

This record is based only on the FBI number in your request-689664JA8.
Because additions or deletions may be made at any time, a new copy
should be requested when needed for subsequent use. (US; 2011-05-28)
All arrest entries contained in this FBI record are based on
fingerprint comparisons and pertain to the same individual. (US;
2011-05-28)
The use of this record is regulated by law. It is provided for official
use only and may be used only for the purpose requested. (US;
2011-05-28)
```

********** IDENTIFICATION **********

Subject Name(s)

SMITH, GREGORY VINCENT
SMITH, GREGORY V (AKA)

Subject Description

FBI Number	State Id Number
689664JA8	SC01758003
	PA19757307
	NJ754368B
	UT00445203

Social Security Number
[redacted]

Sex	Race	
Male	White	
Height	**Weight**	**Date of Birth**
6'01"	145	[redacted]
Hair Color	**Eye Color**	**Fingerprint Pattern**
Brown	Hazel	10TT02060909AA020808 (FPC)

Scars, Marks, and Tattoos

Code	Description, Comments, and Images
TAT L HND	, TATTOO ON LEFT HAND
SC BACK	, SCAR ON BACK
TAT R HND	, TATTOO ON RIGHT HAND
SC R HND	, SCAR ON RIGHT HAND

Place of Birth	Citizenship
ME	US

Fingerprint Images

Photo Images
Available Image Other
(No Photo Image Transmitted
Comment:Arresting agency has photo associated
with arrest date of 1988/05/23)
Available Image Other
(No Photo Image Transmitted
Comment:Arresting agency has photo associated
with arrest date of 1987/09/29)

********** CRIMINAL HISTORY **********

========== Cycle 1 ==========

Earliest Event Date 1987-09-29

Arrest Date 1987-09-29
Arrest Case Number

```
Arresting Agency          MESPSBI00 STATE POLICE AUGUSTA
Subject's Name            SMITH,GREGORY V
Charge                    01
        Charge Literal    BURGLARY
              Severity
Charge                    02
        Charge Literal    BURGLARY
              Severity

--------------------------------------------------------------------------
Court Disposition         (Cycle 1)
Court Agency               Unknown
Charge                    01
        Charge Literal    BURGLARY
              Severity
           Disposition    ( ; GUILTY)
Charge                    02
        Charge Literal    BURGLARY
              Severity
           Disposition    ( ; 18 M TO DEPT OF CORR ALL BUT 60D SUS 1 YEAR
                          PROB TO RUN CONC)
============================== Cycle 2 ==============================
Earliest Event Date       1988-05-23
--------------------------------------------------------------------------
Arrest Date               1988-05-23
Arrest Case Number        FC03563
Arresting Agency          ME0040000 SHERIFF'S OFFICE FARMINGTON
Charge                    01
        Charge Literal    BURGLARY B
              Severity

--------------------------------------------------------------------------
Court Disposition         (Cycle 2)
Court Agency               Unknown
Charge                    01
        Charge Literal    BURGLARY B
              Severity
           Disposition    ( ;   18M CONFINEMENT, D OF C ALL BUT 60 DAYS
                          SUSP,1 YR PROBATION)
************************** INDEX OF AGENCIES ****************************

Agency                    FBI-CJIS DIV-CLRKSBG CLARKSBURG; WVFBINF00;
Address
                           1000 CUSTER HOLLOW RD
                          CLARKSBURG, WV 26306

--------------------------------------------------------------------------
Agency                    STATE POLICE AUGUSTA; MESPSBI00;
Address
                           42 STATEHOUSE STATION
                          AUGUSTA, ME 043330042

--------------------------------------------------------------------------
Agency                    SHERIFF'S OFFICE FARMINGTON; ME0040000;
Address
                           123 COUNTY WAY
                          FARMINGTON, ME 04938

--------------------------------------------------------------------------
```

```
Agency                    STATE POLICE AUGUSTA; MESPSBI00;
-----------------------------------------------------------------------
Agency                    SHERIFF'S OFFICE FARMINGTON; ME0040000;
-----------------------------------------------------------------------
Agency                    Unknown; ;
-----------------------------------------------------------------------
Agency                    Unknown; ;

                                  * * * END OF RECORD * * *
```

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Delete | Copy | Print

QR 0035ED6DE8 from III - May 28, 2011 at 18:04:42

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.QR.0035ED6DE8.III.20110528 18:04:42
  TO: KERDC400-203222    20110528 18:04:42  0035ED6DE8
FROM:      III-15560168  20110528 18:04:41
FL011A540209D32QR
SC028023C
THIS INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR
RECORD REQUEST FOR FBI/689664JA8. INDIVIDUAL'S RECORD WILL BE
COMPLETE WHEN ALL RESPONSES ARE RECEIVED FROM THE FOLLOWING SOURCES:
 FBI            - FBI/689664JA8
 PENNSYLVANIA   - STATE ID/PA19757307
 NEW JERSEY     - STATE ID/NJ754368B
 UTAH           - STATE ID/UT00445203

AN ADDITIONAL RECORD MAY BE OBTAINED FROM FILES WITHIN YOUR STATE.
END
```

Top of page or Menu

Delete | Copy | Print

ICHR 003FA78097 from SCCH - May 28, 2011 at 18:04:41

```
KERDC400
.ICHR.003FA78097.SCCH.20110528 18:04:41
  TO: KERDC400-203221    20110528 18:04:41  003FA78097
FROM:      SCCH-10977431  20110528 18:04:41

ICHR REQUEST FOR RAP SHEET
ORI-SC028023C  FBI-689664JA8  PUR-C
ATN-DEJESUSM

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING
AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS.
```

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY
SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-05/28/2011 TIME-18:10:31
REQ ORI-SC028023C KERSHAW CTY DETENTIO
SID-SC01758003 FBI-689664JA8
NAME-SMITH, GREGORY VINCENT SEX-M RACE-W
HEIGHT-601 WEIGHT-160 EYES-HAZ HAIR-BRO SKIN- BORN-NC
FPC- HENRY-

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--05/23/2007 DATE OF LAST UPDATE--05/23/2007

ADDITIONAL IDENTIFIERS BIRTH
NAME DATES MARKS SOC SEC MISC NUM
[redacted]

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

SMITH, GREGORY VINCENT 05/23/2007
SC0160000 DARLINGTON CNTY SO
CASE-22103
ATN-16X007143019
WARR-J660318
CIT-44-53-375(A)-MISDEMEANOR
ARREST CHARGE 01-POSS < 1GRAM
OF METH OR COCAINE BASE
1ST
OFFENSE DATE-05/22/2007

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/689664JA8
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS OUT OF STATE ARREST INFORMATION
REQUEST FORWARDED TO NCIC FOR OUT-OF-STATE INFORMATION
INFORMATION FROM OTHER STATES TO FOLLOW THRU NLETS VIA YOUR TERMINAL

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

** S C CJIS END OF RECORD **

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8921-Inmate File-63

ARREST WARRANT

M-099398

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Kershaw

THE STATE 2011-2782

against

Gregory Vincent Smith

Address: [redacted]

Lugoff, SC [redacted]

Phone: SSN:

Sex: M Race: W Height: 6 2 Weight: 160

DL State: SC DL #: [redacted]

DOB: [redacted] Agency ORI #: SC0280000

Prosecuting Agency: Kershaw County Sheriff

Prosecuting Officer: Dexter Handy - 7064

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Gregory Vincent Smith on 5-31-11

Austin Scott

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
1121 Broad Street
Camden, SC 29020

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 516

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Kershaw)

Personally appeared before me the affiant Dexter Handy who being duly sworn deposes and says that defendant Gregory Vincent Smith did within this county and state on or about 05/28/2011 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) in the following particulars:

DESCRIPTION OF OFFENSE Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on May 28, 2011 in the defendand Gregory Vincent Smith did, with malice and aforethought, cause the death of Debra Lee Tyler by shooting her about the face with a handgun. This incident did occur at 5 Hwy 1 South which is located in Lugoff, Kershaw County, South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Kershaw)

Affiant's Address 821 Ridgeway Rd.
Lugoff, SC 29078-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 5/28/2011 defendant Gregory Vincent Smith did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 05/31/2011 (L.S.)

Signature of Issuing Judge

William D. Corbett

Judge Code: 7029

Judge's Address Post Office Box 1528
Camden, SC 29090-

Judge's Telephone (803)425-1500

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

Appendix - page 1060

1057

8921-Inmate File-04

ARREST WARRANT

M-100403

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Kershaw

THE STATE

against

Gregory Vincent Smith

Address: [redacted]

Lugoff, SC [redacted]

Phone: SSN:

Sex: M Race: W Height: 6 2 Weight: 160

DL State: SC DL #: [redacted]

DOB: [redacted] Agency ORI #: SC0280000

Prosecuting Agency: Kershaw County Sheriff

Prosecuting Officer: Kirk Willis - 7222

Offense: Drugs / Manuf., poss. of other sub. in Sch. I,II,III or flunitrazepam or analogue, w.i.t.d. - 1st offense

Offense Code: 0186

Code/Ordinance Sec: 44-53-0370(b)(2)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Gregory Vincent Smith on 05-29-2011

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Bond Court
1121 Broad Street
Camden, SC 29020

ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Kershaw)

AFFIDAVIT

ORIGINAL

U.S. Attorney General April 21, 2003 SCCA 516

Personally appeared before me the affiant Kirk Willis who being duly sworn deposes and says that defendant Gregory Vincent Smith did within this county and state on or about 05/28/2011 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Manuf., poss. of other sub. in Sch. I,II,III or flunitrazepam or analogue, w.i.t.d. - 1st offense

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on May 28, 2011 within Kershaw County, State of South Carolina, KCSO responded to 2 Hwy. One, in response to a complaint of a disturbance. Upon arrival, responding officers found a deceased party, and indications of an ongoing functional methamphetimine lab. KCSO secured a Search Warrant for the premises. On the aforesaid premises, one Gregory Vincent Smith did have in his custody and control, with intent to distribute same, in excess of 130 marijuana plants, a controlled substance, in various stage of growth and development, along with related equipment used to grow and cultivate same, including lights, thermostats and soils.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Kershaw)

Affiant's Address 821 Ridgeway Rd.
Lugoff, SC 29078-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 5/28/2011 defendant Gregory Vincent Smith did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Manuf., poss. of other sub. in Sch. I,II,III or flunitrazepam or analogue, w.i.t.d. - 1st offense

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)
on 05/29/2011)
(L.S.))
Signature of Issuing Judge)
Roderick M. Todd Jr.)
Judge Code: 5074)

Judge's Address P.O. Drawer 1528
Camden, SC 29020-1528

Judge's Telephone (803)425-1500

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL

1058

Appendix - page 1061

8921-Inmate-File-65

ARREST WARRANT

M-100402

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Kershaw

THE STATE

against

Gregory Vincent Smith

Address: [redacted]

Lugoff, SC [redacted]

Phone: SSN:

Sex: M Race: W Height: 6 2 Weight: 160

DL State: SC DL #: [redacted]

DOB: [redacted] Agency ORI #: SC0280000

Prosecuting Agency: Kershaw County Sheriff

Prosecuting Officer: Kirk Willis - 7222

Offense: Drugs / Manufacture, distribution, etc. of methamphetamine, 1st

Offense Code: 3198

Code/Ordinance Sec: 44-53-0375 (B) (1

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date.

RETURN

A copy of this arrest warrant was delivered to defendant Gregory Vincent Smith on 5-29-2011

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Bond Court
1121 Broad Street
Camden, SC 29020

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Kershaw)

AFFIDAVIT

ORIGINAL

S.C. Attorney General Appr 21, 2003 SCCA 418

Personally appeared before me the affiant Kirk Willis who being duly sworn deposes and says that defendant Gregory Vincent Smith did within this county and state on or about 05/28/2011 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Manufacture, distribution, etc. of methamphetamine, 1st

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on May 28, 2011 within Kershaw County, State of South Carolina, KCSO responded to 1995 1/2 Hwy. One, in response to a complaint of a disturbance. Upon arrival, responding officers found a deceased party, and indications of an ongoing functional methamphetimine lab. KCSO secured a Search Warrant for the premises. The Defendant did have in his custody and control a functional lab, on the aforesaid premises, with required chemicals and equipment, used to manufacture methamphetimine. Within the lab area, within the home of Defendant, were personal belongings, documents and photos bearing the likeness of Defendant or his identity. Prior to arrest, the Defendant did flee the crime scene.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Kershaw)

Affiant's Address 821 Ridgeway Rd.
Lugoff, SC 29078-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 5/28/2011 defendant Gregory Vincent Smith did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of methamphetamine, 1st

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 05/29/2011

(L.S.)

Signature of Issuing Judge

Roderick M. Todd Jr.

Judge Code: 5074

Judge's Address P.O. Drawer 1528
Camden, SC 29020-1528

Judge's Telephone (803)425-1500

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL

1059

Appendix - page 1062

8921-Inmate File-66

ARREST WARRANT

M-099398

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Kershaw

THE STATE 2011-2782

against

Gregory Vincent Smith

Address: [redacted]

Lugoff, SC [redacted]

Phone: SSN:

Sex: M Race: W Height: 6 2 Weight: 160

DL State: SC DL #: [redacted]

DOB: [redacted] Agency ORI #: SC0280000

Prosecuting Agency: Kershaw County Sheriff

Prosecuting Officer: Dexter Handy - 7064

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Gregory Vincent Smith on 5-31-11

Justin Scott

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
1121 Broad Street
Camden, SC 29020

ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Kershaw)

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

1060

Personally appeared before me the affiant Dexter Handy who being duly sworn deposes and says that defendant Gregory Vincent Smith did within this county and state on or about 05/28/2011 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) in the following particulars:

DESCRIPTION OF OFFENSE Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on May 28, 2011 in the defendand Gregory Vincent Smith did, with malice and aforethought, cause the death of Debra Lee Tyler by shooting her about the face with a handgun. This incident did occur at Hwy 1 South which is located in Lugoff, Kershaw County, South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Kershaw)

Affiant's Address 821 Ridgeway Rd.
Lugoff, SC 29078-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 5/28/2011 defendant Gregory Vincent Smith did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)
on 05/31/2011)

(L.S.)

Signature of Issuing Judge

William D. Corbett)

Judge Code: 7029)

Judge's Address Post Office Box 1528
Camden, SC 29090-

Judge's Telephone (803)425-1500

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

Appendix - page 1063

Form S-438
Rev. 12/06

STATE OF SOUTH CAROLINA

UNIFORM TRAFFIC TICKET

CITY OR COUNTY OF KERSHAW VERSUS

FIRST NAME	MIDDLE NAME	LAST NAME
GREGORY	V.	SMITH

STREET AND NO.	CITY	STATE	ZIP CODE
[redacted]		LUGOFF SC	[redacted]

STATE LICENSED	DRIVER'S LICENSE NO.	CDL	DRI. LIC. CLASS
NC	[redacted]	☐ YES ☑ NO	

VEH. LIC. NO.	STATE	MAKE OF VEH.		COMM. VEH.	AUTO	15 PSGR. VEH.	COMB.
/	/	/	/	HAZ. MT.	MOPED	MTRCYCL.	OTHER

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL OFFICER

NAME OF TRIAL OFFICER	STREET AND NO.
CORBETT	1121 BROAD ST

DATE	OF	TRIAL	TIME OF TRIAL	CITY	STATE	ZIP CODE
6	13	2011	2PM	CAMDEN	SC	29020

VIOLATION - COURT APPEARANCE REQUIRED (YES) NO	VIOLATION SECTION NO.
SPMJ	44-53-370

OWNER OF VEHICLE	DATE OF ARREST
/	5 28 2011

ADDRESS OF OWNER	DATE OF VIOLATION
	5 28 2011

BAIL DEPOSITED	NAME OF ARRESTING OFFICER	RANK
JAIL	K. WILLIS	LT

PRESENT THIS SUMMONS TO THE TRIAL OFFICER SHOWN ABOVE

Be sure you understand from the arresting officer the exact time and before whom you are to appear. IF THIS TICKET IS WRITTEN FOR A TRAFFIC VIOLATION AND YOU FORFEIT BAIL, PLEAD GUILTY OR NOLO CONTENDERE, OR ARE CONVICTED AFTER A TRIAL, THIS VIOLATION WILL BE PLACED AGAINST YOUR DRIVING RECORD, OR FORWARDED TO YOUR HOME STATE.

FAILURE TO COMPLY WITH THE TERMS OF THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR DRIVERS LICENSE BY YOUR HOME STATE. YOU ARE REQUIRED BY LAW TO APPEAR IN COURT FOR CERTAIN OFFENSES.

SEE IMPORTANT INFORMATION ON THE REVERSE SIDE OF THIS TICKET

VIOLATOR'S COPY

COUNTY	HUNDRED
KER	28

BADGE	DISTRICT
90	1

DAY	S 1	M 2	T 3	W 4	T 5	F 6	S 7

TIME OF VIOLATION	WEATHER
1830 A.M.-1	CLR

DISTANCE IN FEET FROM INTERSECTION OF [redacted]

MILES	N 1	E 2	S 3	W 4

HWY NO.	CITY
601 S	LUGOFF

Lat	° ' "
Long	° ' "

OFFENSE CODE	B.A. LEVEL
659	

88548 EL

2011-2782

DOCKET NO.

1062
8921-Inmate File-68

No Bin !!!

TEMPORARY HOLD

Date: 05/28/11

Inmate's Name: SMITH , GREGG ,
Last First Middle

Pending Charges / Warrants: MANUFACTURING METH & MARIJUANA

Agency: KCSO Contact # of Arresting Officer: 803-425-1512

Information for the Judge:

Subject Has No Property

Comments:

Arresting Officer's Name: CJ. CHRIS PHILLIPS
Please Print

Signature of Arresting/Transporting Officer: #65

Signature of Booking Officer: #

Date Hold Taken Off: 5-31-11 Releasing Officer: Justin Seely

KERSHAW COUNTY DETENTION CENTER
INMATE GRIEVANCE FORM

Inmate's Names: Gregory V. Smith Date: 6/19/2011

Housing Unit: F Cell: 6 Date: 6/19/2011 Time: 10:30 PM

INFORMAL RESOLUTION:

Informal Resolution of a problem between an Inmate and a Staff member is strongly recommended. Provide the name of the staff member or Shift Lieutenant who attempt to solve this matter.

Name of Staff/Shift Supervisor: _____

INMATE GRIEVANCE:

You are allowed to file a grievance, when you believe you are being subjected to abuse, harassment, abrigement of civil rights, or denied privileges. Before filing a complaint concerning classification, disciplinary and medical, please see the KCDC Inmate Handbook. **No grievance will be accepted from a group on the behalf of more than one Inmate.**

GRIEVANCE: (List date, time, location, and name of staff member if known)

In the early A.M. around 5:00 On 6/18/2011 I was awakened by Officer Auker And was told I needed to let another inmate have my bunk on bottom due to "Medical reasons". Not knowing I had a choice in the matter I moved. The Inmate involved complaint about being locked in till 10:00 AM And he wanted out. Next thing I know he's getting a new mattress in my bunk I wanted back. I think the way I was woke was wrong All I want is my bed back. I did my waiting on the floor for a week down stairs.

(Use a separate sheet of paper if needed)

( ) I do request a copy (✓) I do not request a copy

Inmate Signature: Gregory V. Smith Date: 6/19/2011

Original: Inmate Records Copies: Classification, Chief of Operations, Administrator

Mr. Smith, As a facility we assign beds to each detainee In the event you are moved from one bed to another, it is not intended to be a punishment, we must make decisions based on the individual and the situation. Length of stay is not a means to

Kershaw County Detention Center
Inmate's Release of Responsibility Form

I, Gregory Smith release the Kershaw County Detention Center of all liability for the item(s), which I have been allowed to keep in my possession during my incarceration:

Quantity	Specific Description of Item	Condition of Item
1	Reading Glasses	1

Inmate's Signature: _____ Date: 6-8-20

Witness's Signature: _____ Date: 6-8-20

Shift Supervisor's Signature: _____ Date: _____

KCDC Form # 2003.2

KERSHAW COUNTY DETENTION CENTER
INCIDENT / SHAKEDOWN REPORT

SHAKEDOWN DATE: 10/25/2011 SHAKEDOWN TIME: 9:05am

LOCATION OF SHAKEDOWN: F Pod ROOM #: All

REPORTING STAFF'S NAME: Officer M. Alston, Sgt. D. Anthony, Sgt. E. Whack

DESCRIBE THE INCIDENT: On the above date and time,a shakedown was conducted in F Pod due to (2) inmate to staff request forms from detainee Gregory Smith in F Pod. Detainee Gregory Smith stated in the forms that detainee Jerome Lewis had made comments to him in regards to taking a hostage. Detainee Gregory Smith indicated in the request form that detainee Jerome Lewis asked him in the presence of detainee Micque Wood, about going to along with him to take a hostage. After receiving both of these request forms, I, Director C. Rufus-Hodge, instructed Sgt. Ervin Whack; Sgt. Donnie Anthony, Officer James Crawford and Officer Michael Alston to conduct a Shakedown in F Pod. Office Matilda Lowe,posted in Main Control was instructed to ensure that no movement took place during the shakedown. Please see attached copies of inmate to staff request forms. Items found during shakedown are listed below. Director Spivey was informed of these events. End of Report.

ITEMS FOUND DURING SHAKEDOWN

QTY	DESCRIPTION OF ITEM	QTY	DESCRIPTION OF ITEM
4	Towels	2	Cake
5	Sheets	2	Paper Bags
1	Washclothes	3	Clipper Equipment
3	Uniform	10	Empty Tissue Roll
4	Pens	4	Plastic Bags
3	Blankets		
12	Books		
3	Razors		
11	Cups		
10	Sporks		
1	Toothpaste Tops		
2	Cookies		

OTHERS INVOLVED: Sgt. D. Anthony, Sgt. E. Whack
Ofc. M. Lowe, Ofc. M. Alston,
Ofc. J. Crawford

STAFF'S SIGNATURE: [signature] DATE: 10/25/2011

KCDC INMATE TO STAFF REQUEST FORMS

Staff's Name: Major Hodge **Date:** 10-21-11

Nature of Request:

- ___ Classification / Housing
- ___ Personal Property
- ___ Bond Hearing / Court
- ___ Hygiene Pk ($2.00)
- ___ Legal Material / Rep.
- ___ Program Services
- ___ Use of Telephone
- ___ Medical (Nurse/Doctor)
- ✓ Other (Specify)

Briefly Describe the Request

I am writing to you to warn you of a statement that was said to me. Sitting out at the television night before last J'Jerome Lewis said "Taking a hostage is the only way out of this motherfucker" and he was saying escaping would be his only way out of here. JT didn't take him seriously until I noticed him actios depressed and angry. You've always helped me so I'm going (If additional space is needed use the back of this form.)

Inmate's Name: Smith (Last) Gregory (First) V (MI) **Pod:** F

Staff's Response:

Staff's Signature: **Date:**

KCDC Form 2003.4 Revised 1 0/2009

help you. I also have noticed how he is gaining access to the intake quite often. He was counting on a bond hearing until one of his co-defendants failed to get a bond this week. I'm just relaying what was said to me.

Meagan V Smith

KCDC INMATE TO STAFF REQUEST FORMS

Staff's Name: Peggy Spivy **Date:** Oct. 24 2011

Nature of Request:

- ___ Classification / Housing
- ___ Personal Property
- ___ Bond Hearing / Court
- ___ Hygiene Pk ($2.00)
- ___ Legal Material / Rep.
- ___ Program Services
- ___ Use of Telephone
- ___ Medical (Nurse/Doctor)
- V Other (Specify)

Briefly Describe the Request

This appears as a conspiricy. 3:30 PM Lewis entered my room with my roomate present and asked me about going along with him to take a hostage. My answer is no. I'm not looking for added trouble. I'm not going to try to escape. I'm not exactly sure why Lewis is fabricating stories to mess me up. I'm going to reside here legally and I will however use laws to my

(If additional space is needed use the back of this form.)

Inmate's Name: Smith (Last) Gregory (First) V (MI) **Pod:** F

Staff's Response:

Staff's Signature: **Date:**

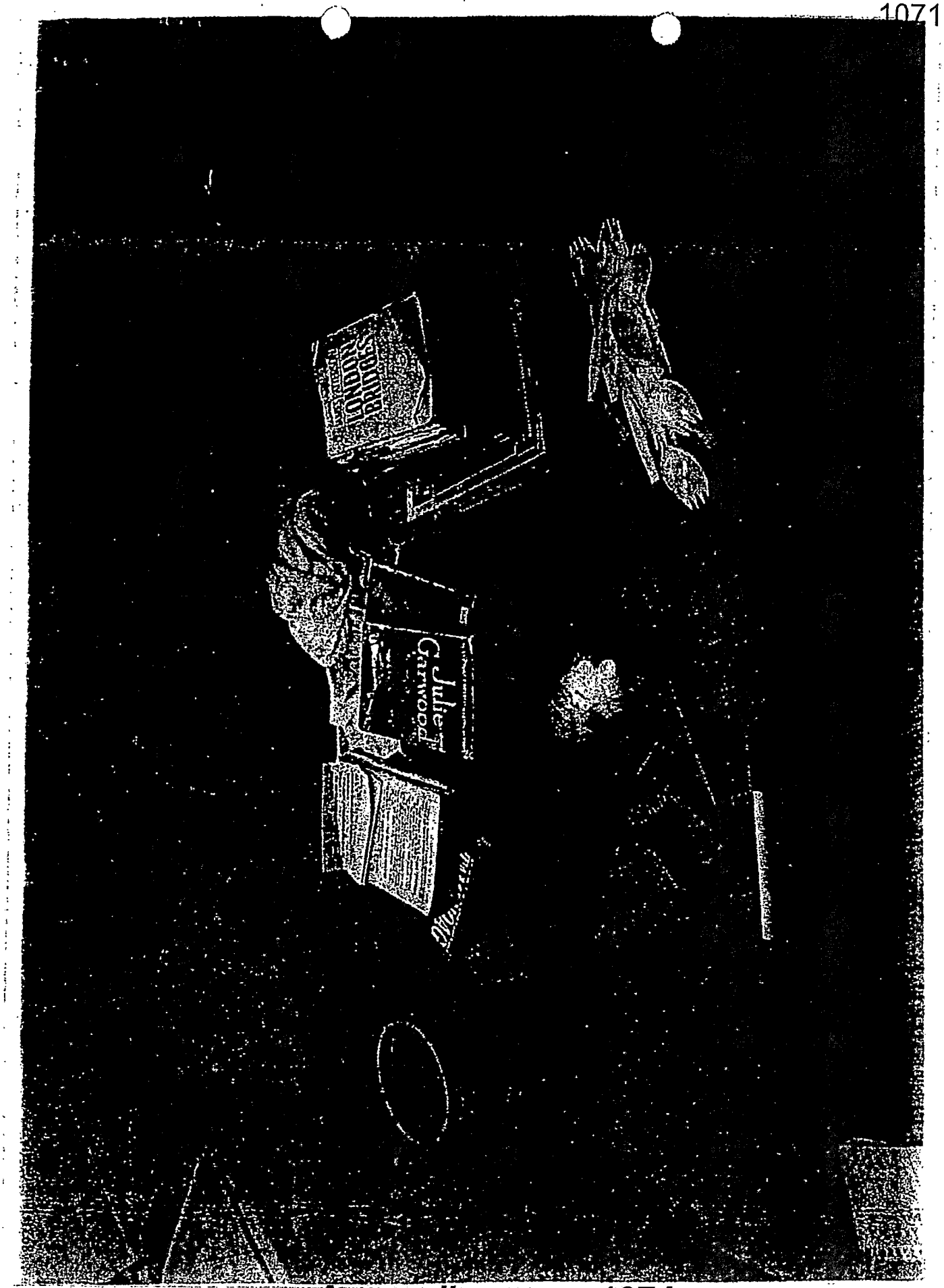
KCDC Form 2003.4 Revised 11/2009

advantage. This approach will not work on me. Im not desparate to leave here. I was wondering why there wasnt anything done the first time, Im not wondering any more its obvious. I do not and will not take any part of this chicanery.

Thank you

Gregory V. Smith

Appendix - page 1073



Appendix - page 1074

ARREST WARRANT

M-099445

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Kershaw

THE STATE 2011-2782

against

Gregory Vincent Smith

Address: [redacted]

Lugoff, SC [redacted]

Phone: SSN: [redacted]

Sex: M Race: W Height: 6 2 Weight: 160

DL State: SC DL #: [redacted]

DOB: [redacted] Agency ORI #: SC0280000

Prosecuting Agency: Kershaw County Sheriff

Prosecuting Officer: Dexter Handy - 7064

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant GREGORY SMITH on 06/07/2011

[signature] #42

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
1121 Broad Street
Camden, SC 29020

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

AFFIDAVIT

ORIGINAL

S.C. Attorney General April 21, 2003 SCCA 518

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Kershaw)

Personally appeared before me the affiant Dexter Handy who being duly sworn deposes and says that defendant Gregory Vincent Smith did within this county and state on or about 05/28/2011 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) in the following particulars:

DESCRIPTION OF OFFENSE Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on May 28, 2011 the defendant Gregory Vincent Smith did, with malice and aforethought, cause the death of Debra Lee Tyler by shooting her about the face with a handgun. This incident did occur at Highway 601 South which is located in Lugoff, Kershaw County, South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA)
[X] County/ [ ] Municipality of)
Kershaw)

Affiant's Address 821 Ridgeway Rd. Lugoff, SC 29078-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 5/28/2011 defendant Gregory Vincent Smith did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me)
on 06/07/2011)

Signature of Issuing Judge

R. Eugene Hartis)
Judge Code: ~~5562~~ 7029)

Judge's Address Post Office Box 1528 Camden, SC 29020-1528

Judge's Telephone (803)425-1500

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

Exhibit B to Affidavit of Spivey

Statewide Nursing Solutions LLC

KERSHAW COUNTY DETENTION CENTER
CONSENT FOR ROUTINE HEALTH SERVICES

INMATE'S NAME: GREGG SMITH (Please Print) DOB: [redacted]

I understand that I may be provided with routine health care services while I am within the custody of the **Kershaw County Detention Center.** The health services provided by Statewide Nursing Solutions LLC may include procedures such as blood samples, immunizations, treatment of communicable diseases, routine suturing of minor lacerations, X-Ray and other treatment interventions generally governed by implied consent guidlines based on the current community standards.

I fully understand this consent agreement and I certify that no guarantee, written or oral, has been made to me as the results of such professional medical treatment and services.

I, hereby **Consent:** X **Do NOT Consent:** _____

I request and authorize that all medical reports, medical bills, X-Ray reports, nurse/doctor notes, admission/discharge summaries, and all information incidental or related to the medical care and treatment of the undersigned will be furnished to the Director of the medical department of this detention center.

Inmate's Signature: X [signature] Date: 5/28/2011

Officer/Witness Signature: [signature] Date: 5/28/2011

EMERGENCY CONTACT PERSON:(Family/Friend)

NAME: LINDA SMITH RELATIONSHIP: MOTHER

ADDRESS: _____

CITY: _____ STATE: _____ ZIPCODE: _____

CONTACT TELEPHONE #: [redacted]

(REVISED 6-2010)

Statewide Nursing Solutions LLC

KERSHAW COUNTY DETENTION CENTER
PRE-BOOKING TB SCREENING QUESTIONNAIRE

Date: 5/28/2011

Inmate's Name: GREGG SMITH DOB: [redacted]

Place a **check mark** in the box under the correct answer for each question:

QUESTION	YES	NO	UNSURE
1. Have you ever had a positive TB (tuberculosis) skin test?		X	
2. Have you ever had an abnormal chest x-ray?		X	
3. Have you ever had the mucous/phlegm you cough up tested for TB?		X	
4. Have you ever been told you have infectious TB?		X	
5. Have you ever been treated with medication for infectious TB?		X	
If no, skip to question number 6			
a. How many different medications did you take?			
b. Are you still taking the medications?			
c. Did you take all of the TB medication until the health care professional told you that you were finished?			
6. Do you have a cough now that has lasted over 3 weeks?		X	
7. Are you coughing up blood or mucous/phlegm?		X	
8. Have you lost your appetite, or don't get hungry?		X	
9. Have you lost more than 10 pounds of weight in the last 2 months without trying, or without a known cause?		X	
10. Do you have night sweats where you need to change your sheets or clothes because they are wet?		X	

Further evaluation is needed if the individual has:

1. A persistent cough lasting three (3) weeks or more (#6) and two or more symtoms of active TB as noted in questions 6-10. **(Nurse: administer PPD test, if positive-obtain CXR and refer to health department and Medical Director (MD) for follow up.)**
2. Has history of a positive PPD test, was given medication but never finished the medication. Confirm information, if possible, and refer to health department and MD for follow-up.
3. Had a positive TB test on mucous coughed up or told he/she had TB, confirm information if possible, and refer to health department and MD for follow up.

X _____ 5/28/2011
INMATE'S SIGNATURE DATE

_____ 363 5/28/2011
OFFICER'S SIGNATURE BADGE # DATE

3-3-041 (Revised 06-2010)

1076

KERSHAW COUNTY DETENTION CENTER

Medical Information Report

Booking Number: 2011-1385 DOB: [redacted] Age: 49 Race: W Sex: M
Inmate Name: SMITH, GREGORY VINCENT Social Security:

Interviewer Name / Title: ARTHUR

Previous Incarceration (Where/When): NA Medical Coverage? NO

1. NO — Is inmate unconscious?
2. NO — Is inmate showing visible signs of illness, injury, bleeding, pain or other symptoms suggesting the need for immediate emergency medical referral?
3. UNKNOWN — Are there obvious signs of fever, jaundice, or other infection?
4. NO — Poor skin condition, skin lesions, rash, needle marks, body vermin?
5. NO — Does the inmate's behavior or appearance suggest the risk of suicide or assault?
6. NO — Does the inmate exhibit any signs of abnormal behavior?
7. YES — Does the inmate appear to be under the influence of drugs/alcohol?
   YES
8. NO — Visible signs of of withdrawing from drugs/alcohol?
9. NO — Is the inmate's mobility restricted in any way due to deformity, case, injury, etc.?
10. Diagnosed or problems with the following

☐ Allergies	☐ Arthritis	☐ Asthma	☐ Delirium	☐ Dental
☐ Diabetes	☐ Epilepsy	☐ Fainting	☐ Heart Condition	☐ Hepatitis
☐ High Blood Pressure	☐ Physican Prescribed Diet	☐ Psychiatric Disorder	☐ Tuberculosis	
☑ Urinary Tract Problems	☐ Venereal Disease	☐ Other / Specify	☐ Ulcers	

11. NO — Are you carrying or reporting any medication?
12. NO — Is the inmate using any medication? If yes, what?
13. NO — Are you allergic to any medications and/or foods?
14. NO — Have you fainted or had a head injury in the last 72 hours?
15. NO — Do you have, or have you been exposed to Hepatitis, TB, VD, or other communicable disease?
16. YES — Have you been hospitalized by a physician or psychiatrist in the past year (when/where)?
    may 28 2011 kershaw medical
17. NO — Have you ever attempted or considered suicide?
18. NO — Have you seen a dentist in the last six months?
19. NO — Are you on a regular diet?
20. NO — Do you use alcohol? What kind? How often? How much?

NKMA

Statewide Nursing Solutions LLC

Medical History and Assessment

Site: KCDC Date: 8-10-11 Time: 10:32 am/pm

Name: Gregg Smith DOB: [redacted]

Age: 49 yy ID#: 20111585

Question	Yes	No
Have you been to a doctor in the last month?		✓
In the past six months have you been in the hospital?		✓
Have you had an injury in the past three months or have an injury now?		✓
Do you have lice or crabs now?		✓
Do you have a history of:		
Asthma		✓
Epilepsy/Seizures		✓
Hypertension		✓
Heart Trouble		✓
TB		✓
Diabetes		✓
Hepatitis		✓
Family history of heart disease, TB or diabetes or other disease?		✓
Are you taking any medications?		✓
Are you allergic to any medications, food, or plants?		✓
Have you ever been treated or hospitalized for a nervous/mental disorder?		✓
Have you tried to kill yourself? Thought of it? Explain.		✓
Do you have other health problems?		✓
Alcohol/Drug Use (how much, how long, when last used) Withdrawal.		
Alcohol		✓
Heroin		✓
Cocaine		✓
Barbiturates		✓
Methamphetamine	✓	
Other		✓
Are you in a methadone program now?		✓
Name of Program:		

Narrative Note for Yes Answers

Vit B-6 (for circulation trouble)
L-Carnitine, Garlic tab
↓ states this is a cure for his problem of needles + pins

Alcoholism Screening Section

Do you drink almost daily? Y (N)
(Liquor, Beer, wine)
Have you ever had a drink in the morning to get rid of a hangover Y (N)
After drinking, have you had times where you could not remember what happened?
Y (N)

Female Patients Only
Date of Last Period:
Pregnant now? Y N
Pregnancies
Abortions N/A
Miscarriages

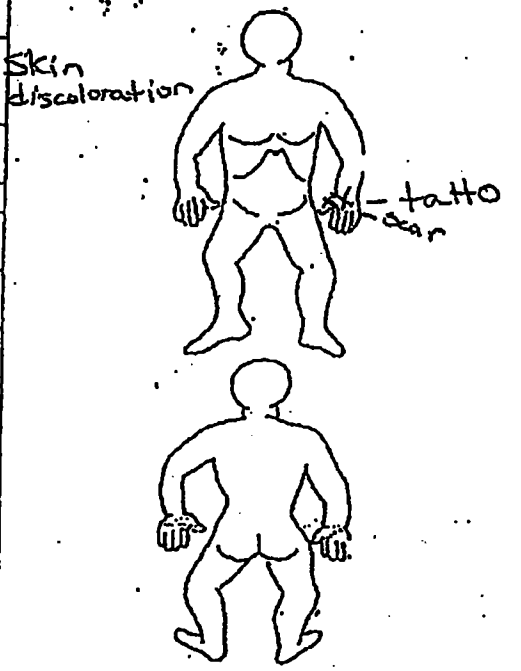
Inmate Name: Gregg Smith Date: [redacted]

Vital Signs: Temp: _____ Pulse: 86 Resp: _____ BP: 137/93

Height: 6'2 Weight: 173 Visual Acuity (R) ___/___ (L) ___/___

Systems Review	Normal	Abnormal
General Appearance	✓	
Skin and Extremities: (rash tracks, lesions, scar, jaundice, pallor, abscess, tattoo.)		✓
Head Trauma: Inspection and palpation (do PERL neuro ck)	✓	
Other Trauma		
Head: glasses, pupils, (PERL), sclera, conjunctiva.	Glasses	
Ears: hearing impaired, ear wax.	✓	
Neck: mobility, thyroid, lymph nodes.	✓	
Mouth: (See Dental Screen)		✓
Lungs: Auscultation/respiration, cough/sputum.	✓	
Heart: Rhythm/rate, hypertensive.	✓	
Abdomen: Constipation, tenderness, hernia.	✓	
Extremities: Gait, pulses, edema	✓	
Spine: (have touch Fingers to toes).	Scolious	
Genital/Urinary: Trouble voiding, discharge, blood in urine.	✓	
Alert/Orientation (X3)	X3	
Mood and Affect		
Mental health referral:	Yes	(No)
Is inmate suicidal?		No
Is there a possibility of alcohol or drug withdrawal?		No

Identify Abnormalities and/or Tattoos



Laboratory Tests:
Test: _____
Date: _____
Result: _____

Complete Master Problem form, Special Needs Treatment Plan. List all chronic medications:
1.
2.
3.
4.

Examiner Signature: Kayla Hollis BPN Date: 8-10-11

Physician Signature: [signature] Date: 8/30/11

Inmate Signature: Gregory Smith Date: _____

Statewide Nursing Solutions LLC

Dental Screening Form

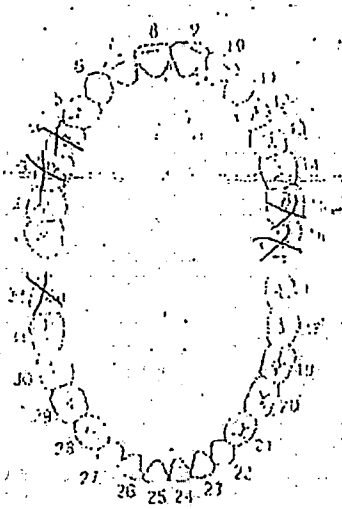
Site: KCDC Date: 8-10-11

Inmate Name: Gregg Smith DOB: [redacted]

Referral to Dentist? ✓ Yes ___ No Dent'l

Please examine all 8 areas of the mouth as indicated below and note the location of any oral lesions, trauma, swelling, or cavities.

1. Upper Lip (outer/inner) Teeth/Gingiva
2. Lower Lip (outer/inner) Teeth/Gingiva
3. Palate
4. Pharynx
5. Tongue: Dorsal, lateral borders, ventral
6. Floor of the mouth
7. Left mucobuccal folds
8. Right mucobuccal folds



Comments:

Nurse Signature: Karyn Hollis LPN Date: 8-10-11

PHYSICIAN ORDERS

NAME: Greg Smith DOB: [redacted]

ALLERGIES: NKDA

Date/Time	Physician Order
8/10/11	Tramadol 50mg 1 tab po q HS
	( ) Generic substitution is ***not*** permitted. Kiera Jones
	( ) Generic substitution is ***not*** permitted.
	( ) Generic substitution is ***not*** permitted.
	( ) Generic substitution is ***not*** permitted.

Note Allergies in Red

Medical Information Report

Booking Number: 2011-1385 DOB: [redacted] Age: 49 Race: W Sex: M
Inmate Name: SMITH, GREGORY VINCENT Social Security:

21. NO Do you use drugs? What kind? How often? How much?

22. NO Females: Are you pregnant or on birth control pills? Aborted? Recently delivered or aborted? List date of last menstrual cycle.

23. NO Under doctor's care? If yes, what for?

24. NO Are there any visible cuts, bruises or minor injuries?

PLACEMENT RECOMMENDATION (CHECK 1)

☐ Emergency Room ☒ General Population ☐ Infirmary
☐ Isolation ☐ Observation ☐ Next Sick CallList

REMARKS

INSURANCE INFORMATION

Physician Information: Insurance Information:

I hereby state that the above information is correct to the best of my knowledge

Inmate Signature [signature] Date 5-28-11

Officer Signature LBRADSHAW [signature] Date 5-28-11

Southern Health Partners
Your Partner in Affordable Inmate Healthcare

Inmate Name: Smith, Greg

DOB or ID#:

Allergies: NKA

Start at top and write Subsequent orders below

Date of Physician's Order: 1 6-25-12	Zantac 150mg BID x 30 days. motrin 600mg x 5 day Q Pm Kuna [illegible]
Date of Physician's Order: 2	
Date of Physician's Order: 3	
Date of Physician's Order: 4	
Date of Physician's Order: 5	
Date of Physician's Order: 6	

8921-Medical Records-10

Vision	✓		Hypertension		✓	Gonorrhea		✓
Hearing	✓		Anemia		✓	Syphilis		✓
Balance/Dizziness		✓	Blood		✓	Muscle Problem		✓
Blackouts		✓	Stomach Pain		✓	Joint Problem		✓
DT's		✓	Heartburn	✓		Arthritis		✓
Headaches		✓	Ulcer		✓	Other		
Seizures		✓	Nausea/Vomiting	✓		Other		
Nervous Disorder		✓	Gall Bladder		✓	Regular Menstrual Period		
Throat		✓	Liver		✓	Irregular Menstrual Period		
Teeth	✓		Hepatitis		✓	# of days Menstrual Period		
Asthma		✓	Diabetes		✓	LMP		
Hay Fever		✓	Kidney Disease		✓	Gravida/Para		
Pneumonia		✓	Bladder Infection		✓	Last Pap		
Tuberculosis		✓	Trouble Voiding		✓	Contraception		
Heart		✓	Pediculi (lice)		✓	Other		

EXAM: Race W Ht.____ Wt. 190 Pulse 72 BP 146/98 Temp.____ Resp.____

Area/Type	N	A/Comment	Area/Type	N	A/Comment
Skin: Color Condition Turgor Recent Inj.		Vitalgo (skin dis. coloration on body head to toe	Chest (Breasts): Configuration Auscultation Respirations Cough/Sputum	✓	Lungs clear
Head: Glasses Pupils Sclera Conjunctiva Vision	✓	~~RX~~ glasses reading	Heart: Auscultation Radial pulses Apical pulse Rhythm		S_1 S_2
Ears: Appearance Canals Hearing	✓		Extremities: Pulses Edema Joints	✓	Φ swelling
Mouth: Teeth/Gums Dentures Plates Throat Tongue Tonsils	✓	own teeth	Abdomen: Shape alpation Hernia Bowel sounds	✓	Soft, nondistended BS present
Nose			Spine	✓	
Neck: Veins Mobility Thyroid Carotids Lymph nodes		Φ bulging	Genital/Urinary System	✓	Φ issues

LABORATORY TESTS

	Date & Initial	Results
Was PPD planted and read timely?	Refused test (RH)	
VDRL / RPR		
Other Lab Tests needed:		
Pregnancy Test?		

MENTAL HEALTH OBSERVATION

	N	A/Comment
Orientation (person, place, time)		
General appearance (motor behavior, mannerisms		
Affect (mood)		
Content of thought, history of suicide, present thoughts of suicide		

PATIENT REFERRAL BASED ON INFO: MD____ DENTIST____ MENTAL HEALTH____

CHRONIC CARE: Based on H&P, is patient to be added to Chronic Care List: Y or N
Initial here after patient has been added to Chronic Care listing:_____

Physical Examiner's Signature: [signature] Date: 6-25-12

Physician's Signature: [signature] Date: 6/29/12

8921-Medical Records-11

Southern Health Partners
Your Partner in Affordable Inmate Healthcare

TB Consent and Screening Form (2 pages)

Lot #:
Exp. Date #:
Results:

Tuberculosis Screening and Treatment

What is Tuberculosis:

Tuberculosis ("TB") is a serious, infectious (transmitted through the air) disease that most commonly affects the lungs. In the lungs, the bacteria destroys elastic lung tissues and is replaced with fibrous connective tissues. The general symptoms of active TB are often subtle, unnoticeable and may include: Fatigue; Weight Loss; Fever; Chills; and Night Sweats. Symptoms of TB in the lungs may include: a persistent cough; chest pain; and coughing up blood. Although TB is preventable and can be cured with proper medication, 5% to 10% of those with active TB will die from the disease. This is usually due to patients not taking their medications correctly or improper drug treatment. TB is usually diagnosed through the use of the Mantoux tuberculin skin test. In this test, a dose of purified protein derived from the Tubercle bacilli, which is non-infectious, is injected into the upper layer of skin on the inside of the forearm. Forty-eight to 72 hours after the injection, the test site is examined. In most cases a hardened area of tissue 10 millimeters or larger is considered an indication of infection with TB, but it is not necessarily an indication of having active TB. Chest x-rays and sputum smears and cultures are used to test for active TB.

There are several high risk groups in the US that are known to have a high rate of TB. They include:

* The homeless;
* Alcoholics;
* The elderly;
- IV drug users
- Prison Inmates
- Persons with HIV infections/AIDS

Screening:

Upon consent, all new inmates who are processed into jail, without written proof of receiving TB testing in the past year, will receive purified protein derivative (PPD) during the health screening. A nurse will read the PPD forty-eight (48) to seventy-two (72) hours afterwards and document the results in the patient's medical file. The patient will be instructed during the health screening to the necessity of follow-up medical care, the results (both positive or negative) and treatment which may be necessary.

Treatment:

During the screening, if a patient states he/she is past positive, we will attempt to retrieve past records for verification. If records are unattainable, we will replant a PPD. When a nurse reads a positive PPD, a chest x-ray will be ordered as per physician protocol. The patient will receive information regarding the test results, symptoms of TB, proposed treatment, and follow-up care, etc.

Should the chest x-ray suggest active TB, the local Health Department, SHP Medical Team Administrator, and SHP corporate office should be notified immediately. Initiating therapy/treatment should begin under the recommendations of the local Health Department and in conjunction with the jail physician. The jail will immediately segregate the patient from general population. All people who have come in contact with the patient will have a skin test. The patient will have restricted movement and visitors in the jail, and will be required to wear a mask at all times during contact with staff and/or other persons, until subsequent tests prove no longer infectious.

All new inmates who are processed into the jail, who are on treatment and deemed not infectious will be housed in general population. If a patient is released from Jail during therapy, the local Health Department will be notified and provided with the patient's release location and/or the patient's last known address.

Consent for Testing/Treatment:

I hereby give my consent for TB testing and/or treatment, if needed. I have read and understand the above information regarding testing and treatment procedures.

Patient's Signature: _____ Date: _____

Witness: _____ Date: _____

KCDC INMATE TO STAFF REQUEST FORMS

Staff's Name: Nurse Walker Date: Sept. 27.2011

Nature of Request:

- ___ Classification / Housing
- ___ Personal Property
- ___ Bond Hearing / Court
- ___ Hygiene Pk ($2.00)
- ___ Legal Material / Rep.
- ___ Program Services
- ___ Use of Telephone
- ✓ Medical (Nurse/Doctor)
- ___ Other (Specify)

Briefly Describe the Request

I need clip my nails.

(If additional space is needed use the back of this form.)

Inmate's Name: Smith (Last) Gregory (First) V. (MI) Pod: F

Staff's Response: Nail clippers provided

Staff's Signature: [signature] Date: 9-29-11

KCDC Form 2003.4 Revised 11/2009

NKDA

PROGRESS NOTES

Date/Time | Inmate Name Greg Smith | ID#: | DOB: [redacted]

Date/Time	
8/10/11	Initial Assessment done — Iman
	Im request something for pain in extremeties.
	Will start tramadol 50mg 1 tab p.o. q 6 hrs.
8/	Urine drug screen given at request of administration.
8/26/11	Im requesting something to help him sleep. Explained we do not provide any sleep aids. He then requested to see MH. Was added to list for MH. — Iman

Specimen Inquiry
KershawHealth Medical Center
1315 Roberts Street, Camden, SC 29020
Robert E. Bradley, MD KHMC Laboratory Medical Director
William V. Lewis, MD KH Outpatient Ctr at Elgin Laboratory Medical Director
RUN DATE: 08/15/11 PAGE 1
RUN TIME: 1330

Name: SMITH,GREG Age/Sex:49/M DOB: [redacted]
Acct#: K10000818393 Unit#: M000350240 Status: REG CLI
Reg: 08/15/11 Room: Location: LAB

SPEC: 0815:UC000138 COMP Service: 08/15/11-1200 Entered: 08/15/11-1237
Completed: 08/15/11-1302 Collected: 08/15/11-1200 Received: 08/15/11-1237
Subm Dr: CUNNINGHAM,NIEVERS MD Alt Fax To #:

ORDERED: ERTOX
COMMENTS: FAX KCDC 803-432-1158

Test	Result	Flag	Reference	Site
ERTOX				
AMPHETAMINES	NEGATIVE		NEG <1000 ng/mL	
BARBITURATES	NEGATIVE		NEG <200 ng/mL	
BENZODIAZEPINES	NEGATIVE		NEG <300 ng/mL	
CANNABINOIDS	NEGATIVE		NEG <50 ng/mL	
COCAINE	NEGATIVE		NEG <300 ng/mL	
METHADONE	NEGATIVE		NEG <300 ng/mL	
OPIATES	NEGATIVE		NEG <300 ng/mL	
OXYCODONE	NEGATIVE		NEG <100 ng/mL	
PHENCYCLIDINE	NEGATIVE		NEG <25 ng/mL	
PROPOXYPHENE	NEGATIVE		NEG <300 ng/mL	
	THIS IS A MEDICAL URINE DRUG SCREEN ONLY.			
	POSITIVES ARE UNCONFIRMED. PATIENTS LESS THAN 16 YEARS OF			
	AGE WILL AUTOMATICALLY REFLEX TO CONFIRMATION TEST. 6/29/06			

** END OF REPORT **

2011-Aug-15 09:45 PM KershawHealth Med Cntr Lab 803-713-6119

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

COLUMBIA DIVISION

Gregory V. Smith, Plaintiff, v. P.E. Spivey, Jail Director, Individual and Official Capacity; and Chris Phillips, Detective, Individual and Official Capacity, Defendants.	Civil Action No. 1:12-29-RBH-SVH **CERTIFICATE OF SERVICE**

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Defendants, does hereby certify that service of the **Notice of Motion and Motion for Summary Judgment; Supporting Memorandum of Law; Affidavit of Peggy Spivey, with Exhibits;** and the **Affidavit of Chris Phillips, with Exhibits,** in the above-captioned matter was made upon the *Pro Se* Plaintiff by placing a copy in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 6th day of August, 2012:

Gregory V. Smith
Kershaw County Detention Center
101 Bramblewood Plantation Road
Camden, South Carolina 29020

s/ Daniel C. Plyler

Motions

1:12-cv-00029-RBH-SVH Smith v. Spivey et al

SVH-Inmate

U.S. District Court

District of South Carolina

Notice of Electronic Filing

The following transaction was entered by Plyler, Daniel on 8/6/2012 at 10:10 PM EDT and filed on 8/6/2012

Case Name: Smith v. Spivey et al
Case Number: 1:12-cv-00029-RBH-SVH
Filer: Chris Phillips
P E Spivey
Document Number: 42

Docket Text:
MOTION for Summary Judgment by Chris Phillips, P E Spivey. Response to Motion due by 8/23/2012. (Attachments: # (1) Memo in Support, # (2) Affidavit of Chris Phillips, # (3) Exhibit A to Affidavit of Phillips (Steeprock GS documents), # (4) Exhibit B to Affidavit of Phillips (Letters between Plaintiff and Steeprock), # (5) Exhibit C to Affidavit of Phillips (Plaintiff's letter to SLED), # (6) Affidavit of Director Peggy Spivey, # (7) Exhibit A to Affidavit of Spivey (portions of Inmate File), # (8) Exhibit B to Affidavit of Spivey (medical records), # (9) Certificate of Service)No proposed order.Motions referred to Shiva V Hodges.(Plyler, Daniel)

1:12-cv-00029-RBH-SVH Notice has been electronically mailed to:

Daniel C Plyler dplyler@dml-law.com, lawfirmnerd@gmail.com, sstafford@dml-law.com

James Miller Davis , Jr jdavis@dml-law.com, jbaker@dml-law.com, msegear@dml-law.com

William Henry Davidson , II wdavidson@dml-law.com, abruyere@dml-law.com, nbouknight@dml-law.com

1:12-cv-00029-RBH-SVH Notice will not be electronically mailed to:

Gregory V Smith
Kershaw County Detention Center
101 Bramblewood Plantation Rd
Camden, SC 29020

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1091130295 [Date=8/6/2012] [FileNumber=5128095-0]
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Document description: Memo in Support
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1091130295 [Date=8/6/2012] [FileNumber=5128095-1]
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Document description: Affidavit of Chris Phillips
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1091130295 [Date=8/6/2012] [FileNumber=5128095-2]
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Document description: Exhibit A to Affidavit of Phillips (Steeprock GS documents)
Original filename:n/a
Electronic document Stamp:
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Document description: Exhibit B to Affidavit of Phillips (Letters between Plaintiff and Steeprock)
Original filename:n/a
Electronic document Stamp:
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Document description: Exhibit C to Affidavit of Phillips (Plaintiff's letter to SLED)
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1091130295 [Date=8/6/2012] [FileNumber=5128095-5]
[19ad76a5611d92da3341e70806e62889b92ac4a4b87c0d910acf13679e10cec8e595
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Document description: Affidavit of Director Peggy Spivey
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1091130295 [Date=8/6/2012] [FileNumber=5128095-6]
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Document description: Exhibit A to Affidavit of Spivey (portions of Inmate File)
Original filename:n/a
Electronic document Stamp:
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Document description: Exhibit B to Affidavit of Spivey (medical records)
Original filename:n/a
Electronic document Stamp:
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Document description: Certificate of Service
Original filename:n/a
Electronic document Stamp:
[STAMP dcecfStamp_ID=1091130295 [Date=8/6/2012] [FileNumber=5128095-9]
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f8bb5a5d202de43589e1ec393bf9d239305b081652c9c7d596a33fb5bd31]]

WITNESSES

(S) D Handy – Kershaw County Sheriff

ARREST WARRANT NUMBER

M099445

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: JAN 23 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-28-0074

The State of South Carolina

County of

Kershaw

COURT OF GENERAL SESSIONS

JANUARY TERM 2012

K96

THE STATE
vs.

Gregory Vincent Smith

Indictment for
MURDER

SC Code: **16-03-0010**
CDR Code: **0116**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

ATTEST: True, Correct & Certified Copy of Original on File in Court
Gregory Smith
Clerk of Court
Kershaw County

1092

WITNESSES

(S) Kirk Wilks – Kershaw County Sheriff

ARREST WARRANT NUMBER

M100402

ACTION OF GRAND JURY

TRUE BILL

William Morris

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-28-0076

The State of South Carolina

County of

Kershaw

COURT OF GENERAL SESSIONS

JANUARY TERM 2012

K96

THE STATE
vs.

Gregory Vincent Smith

Indictment for
MANUFACTURING METH - 1ST OFF

SC Code: 44-53-0375 (B) (1)
CDR Code: 3198

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

ATTEST True, Correct & Certified Copy of Original on File in this Court
Kershaw County
Clerk of Court

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CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

January 17, 2014

Benjamin John Tripp
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Kershaw County

G. Thomas Cooper, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GREGORY V. SMITH,

APPELLANT

APPELLATE CASE NO. 2012-213666

ANDERS BRIEF OF APPELLANT

BENJAMIN JOHN TRIPP
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether Appellant was denied Due Process where he distrusted and fired his first appointed counsel and barely communicated with his second appointed counsel; where, while in pretrial detention, the State seized all of his legal paperwork and notes; where he informed the court below in the middle of trial that he could not present the defense he wanted because, despite repeated attempts, he was never able to secure his case materials; where the court's remedy was to give Appellant one afternoon to obtain the materials through appointed counsel and review them; and where Appellant was still unable to present any evidence in defense and ultimately suffered a conviction.

STATEMENT OF THE CASE

On January 23, 2012, a Kershaw County grand jury indicted Appellant Gregory Smith for murder and manufacturing methamphetamine. R. *.[1] On October 22, 2012, Appellant's case proceeded to trial before the Honorable G. Thomas Cooper, Jr. and a jury. Neil Riley represented Appellant and Ron Moak and Brett Perry represented the State. Tr. 1.

The jury found Appellant guilty on both counts. Tr. 706, ll. 14-21. After a separate sentencing hearing, the trial court sentenced Appellant to thirty years for the murder charge and five years concurrent for the methamphetamine charge. Tr. Dec. 12, 2012 at 20, ll. 11-20.

[1] The grand jury also indicted Appellant for manufacturing marijuana, but the State dropped the charge before trial. Tr. 14, ln. 24–Tr. 17, ln. 20.

ARGUMENT

APPELLANT WAS DENIED DUE PROCESS OF LAW BECAUSE HE SOUGHT TO DECIDE WHETHER TO WAIVE COUNSEL AND PREPARE HIS OWN DEFENSE BUT WAS NEVER AFFORDED THE CHANCE.

STATEMENT OF FACTS

The State alleged that on May 28, 2011, Appellant shot and killed Deborah Tyler in her trailer home. During the State's opening statement at trial on October 22, 2012, the solicitor explained to the jury that the State had marshalled numerous witnesses, including a pathologist and investigating police officers, and was thoroughly prepared to present a convincing case against Appellant. Tr. 160, ln. 23–Tr. 171, ln. 5. During the same opening Statement, Appellant sat thoroughly unprepared for trial: all of his legal papers, including correspondence and his handwritten notes on his case, were sealed in evidence at the Kershaw County Sheriff's Office evidence room. Tr. 567, ln. 3–Tr. 568, ln. 5.

Appellant had never given up trying to prepare his own defense. After his indictment on January 23, 2012, the State appointed William Tetterton to represent him. The two met in the Kershaw County jail a few times. Although Tetterton arranged for a fifteen-year plea deal, he observed signs from Appellant that he was not being entirely cooperative with the representation. Tr. 113, ln. 15–Tr. 126, ln. 13; SLED Report 29-30. All the while, Appellant was amassing and drafting his own legal materials in contemplation of representing himself.

On August 15, 2011, the State seized Appellant's legal materials from him while he was still in pretrial detention. Tr. 567, ln. 23–Tr. 568, ln. 1; Tr. 568, l. 15 – 570, l. 11; Tr. 576, ll. 7-20; SLED Report 12. Then-Lieutenant Christopher Phillips of the Kershaw County Sheriff's Office obtained and executed a search warrant on Appellant's cell at 12:00

p.m. Tr. 139, ln. 20–Tr. 143, ln. 1; Tr. 533, ln. 13–Tr. 534, ln. 11; Tr. 567, ln. 3–Tr. 572, ln. 21; SLED Report 9-12. In support of the warrant, Phillips alleged in a written affidavit that a confidential jail informant reported that Appellant's girlfriend sent him mail laced with amphetamines. He also alleged that Appellant tested positive for amphetamines in a drug test administered that same day. SLED Report 11; SLED Report 17-20. In reality, the results of the test did not come back until 1:00 p.m., and the results were negative for all drugs, including amphetamines. SLED Report 341. Phillips had also ordered the test without the knowledge or consent of the detention center director.[2] SLED Report 252.

The warrant described the items to be seized as "**all** papers and effects belonging to inmate Greg Smith. To Include but not limited to pictures, letters, envelopes and memo's." SLED Report 10 (emphasis added). Although the underlying allegation implicated only materials from Appellant's girlfriend, Phillips said he seized all of Appellant's papers because "I could not pinpoint a specific item . . . that could have potentially been laced with some type of material, it had to be all collected up at one time." Tr. 574, l. 19 – Tr. 575, l. 3.

Phillips seized Appellant's Brady and Rule 5 materials. The materials were clearly organized into stacks of related documents. SLED Report 55-184. They included witness statements from Horace Lee, Appellant's girlfriend Samantha Steeprock, and Virginia Grady. In front of each were one to three pages of Appellant's handwritten notes on the content of the statements for purposes of his defense. SLED Report 86-100. The materials also included a SLED forensic report with a page of Appellant's handwritten notes; the initial search warrant for Appellant's residence with two pages of handwritten notes; the Kershaw County Sheriff's Office incident from the original incident with three to four pages

[2] Officer Phillips was later promoted to Captain and then demoted to Corporal. Tr. 572, l.

of handwritten notes; and Appellant's criminal history report with handwritten notes. SLED Report 106-184. Finally, the seized materials included Appellant's request to Tetterton for information regarding motions and trial procedures, SLED Report 43, notes on Appellant's suspicion that Phillips "used Mr. Tetterton and coer[c]ion to gain a confession," SLED Report 59, and a two and one-half page draft of an opening statement for trial, SLED Report 102-104; Tr. 599, ll. 5-12. .

Tetterton was not aware of the warrant and was not present when Phillips executed it. Sometime after the seizure, Appellant fired Tetterton as his lawyer, claiming Tetterton had conspired with the solicitor and the sheriff's office to obtain a confession. The State then appointed Riley as Appellant's trial counsel. SLED Report 30; Tr. 113, ln. 15–Tr. 126, ln. 13.

Over the following months, Appellant made continuous efforts to reacquire his notes and other legal paperwork. On October 7, 2011, Appellant filed a grievance report seeking the return of his paperwork. SLED Report 259-261. On September 9, 2011, Appellant sent a letter to the Kershaw County Sheriff's Office seeking the paperwork. SLED Report 263. On September 12, 2011, Appellant filled out an "Inmate to Staff Request Form" complaining about his seized paperwork. SLED Report 273-275. On September 24, Appellant filed another grievance form. SLED Report 264-272. Later in 2011, Appellant sent multiple letters to Mark Keel, Chief of SLED, informing him of the seizure of his papers. SLED Report 248-250. On or about January 4, 2012, Appellant filed a complaint in South Carolina federal court against the Kershaw County jail director and Phillips, claiming they had wrongfully seized and kept the materials. SLED Report 199.

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22 – Tr. 573, l. 11.

All of Appellant's pretrial efforts to secure the materials necessary to prepare his defense were fruitless. His only relief finally came after the commencement of trial when he was permitted to directly address the trial court regarding his decision whether to testify in presenting his defense. Appellant initially attempted to take the stand and introduce on his own various documents into evidence. Based on Riley's lack of knowledge as to the contents of the documents in conversing with the trial judge, he and Appellant had apparently not discussed the materials at length, if at all. Tr. 592, ln. 11—Tr. 594, ln. 3. The trial judge admonished Appellant he needed to converse with Riley. Tr. 593, ll. 5-17. Appellant then informed the judge about the broader problem undermining his defense:

> I got – all my family is in Maine. The only way to get a proper defense is through the manual system. I have Mr. Riley, and the evidence that I'm bringing in is from – under penalties of perjury in a civil suit in which my evidence from August 15th of last year to May 28th back is missing. Law enforcement took it. So therefore I'm at a disadvantage, where I don't have anybody. I don't have anybody on the outside but Mr. Riley.

Tr. 592, ln. 11–Tr. 596, ln. 23. Appellant further explained to the court that he had lost "anything that I had started to build my case," Tr. 600, ll. 15-16, and he had documentary evidence of "several attempts to get my legal documents back from the Kershaw County sheriff's office. They will not give me my paperwork back. I got a huge hole in my defense." Tr. 600, ll. 4-8. Appellant notified the court of the case he filed in federal district court. Tr. 593, ll. 20-25; Tr. 601, ln. 2 –Tr. 602, ln. 4

Appellant argued that the seizure of his papers amounted to a denial of his Fourteenth Amendment right to a fair trial. Tr. 602, ll. 17-22. To provide Appellant time to review other materials he did have in his possession at the time, the trial court continued the case at approximately 11:00 a.m. to reconvene at 9:00 the following morning. Appellant

asked the court to help him obtain the seized paperwork. The court instructed him to seek help from his counsel. Tr. 604, ln. 9–Tr. 606, ln. 25.

The following day, Appellant told the court he had decided not to testify. The solicitor told the court that after adjournment the previous day, he had Appellants papers, still in custody at the Kershaw County Sheriff's Office, copied and provided to Appellant and his counsel. Tr. 612, ln. 13–Tr. 614, ln. 1.

Appellant subsequently offered no evidence in his defense. Tr. 617, ln. 1–Tr. 619, ln. 14. After the jury found him guilty of both charges, the court delayed sentencing and allowed Appellant to state for the record any claims of error with respect to his prosecution. Appellant claimed that while he was in pretrial detention in Kershaw County, the State obtained his legal materials in violation of his constitutional rights. Appellant also informed the court he had correspondence to and from SLED regarding the matter. The trial judge instructed trial counsel to follow up with SLED to determine the status of any investigation into a violation of Appellant's rights. Tr. 713, l. 15 – Tr. 724, l. 3.

At his sentencing hearing on December 12, 2012, Appellant repeated his allegation of denial of a fair trial, stating had he not been deprived of his paperwork, he would have had identifiable witnesses and documents to present at trial. Tr. Dec. 12, 2012 at 1; Tr. Dec. 12, 2012 at 15, ll. 11-22. "They had the right to inspect the letters. That's true, but to remove my defense from my possession at that time and return it to me the day before the jury goes into deliberation had a serious effect on my trial . . . ." Tr. Dec. 12, 2012 at 16, ll. 14-18.

At the end of the hearing, trial counsel noted that the trial judge had previously requested a SLED investigation into the seizure of Appellant's papers and that such a report

had been made. Upon asking for a copy of the report, the trial court stated it had yet to review the report and might release it later if the circumstances called for it. Tr. Dec. 12, 2012 at 19, ln. 11–Tr. Dec. 12, 2012 at 20, ln. 2.

DISCUSSION

Appellant was denied Due Process of law because he sought to decide whether to waive counsel and prepare his own defense, but he was never afforded the chance to intelligently make the decision. A pretrial detainee is presumed innocent and has his rights curtailed only to the extent justified by considerations underlying the operation of the detention facilities. *See State v. Ellefson*, 266 S.C. 494, 500, 224 S.E.2d 666, 669 (1976). "Pursuant to the Due Process Clause of the Fourteenth Amendment, criminal prosecutions must comport with prevailing notions of fundamental fairness." *State v. Hutton*, 358 S.C. 622, 631, 595 S.E.2d 876, 882 (Ct. App. 2004) (citing *California v. Trombetta*, 467 U.S. 479, 485 (1984)). "This standard requires criminal defendants be afforded a meaningful opportunity to present a complete defense." *Id.*

"The right to defend is given directly to the accused," *Faretta v. California*, 422 U.S. 806, 819-20 (1975), and "forcing a lawyer upon an unwilling defendant is contrary to his basic right to defend himself if he truly wants to do so." *Id.* at 817. Thus, a criminal defendant has the Due Process right to self-representation under both the federal and state constitutions. *State v. Starnes*, 388 S.C. 590, 698 S.E.2d 604 (2010); *Faretta*, 422 U.S. at 818. "Unless the accused has acquiesced in [appointed] representation, the [presentation of such a defense] is not the defense guaranteed him by the Constitution, for, in a very real sense, it is not his defense." *Faretta* at 821.

Such a "knowing, intelligent, and voluntary decision 'must be honored out of that respect for the individual which is the lifeblood of the law.'" *State v. Barnes*, Op. No. 27322 (Jan. 15, 2014) (quoting *Faretta* at 834) (providing defendant could intelligently waive counsel and proceed pro se based on "trust issues"). It cannot be doubted that denial of the opportunity to make the decision when sought is a deprivation of the right itself. *See, e.g., U.S. v. Portillo*, 633 F.3d 1313, 1324-25 (9th Cir. 1980) ("Appellant's contention that his right to self-representation was denied him due to the district court's unreasonable restrictions on research is without merit. Appellant had sufficient time to conduct his research prior to trial if he truly wanted to proceed in pro per.").

The record in this case repeatedly shows Appellant sought before the trial court the opportunity to decide intelligently whether to waive counsel and prepare his own defense. Appellant was consistently disinterested in appointed representation. He fired Tetterton early in the case, in doing so even rejecting a plea deal Tetterton had secured as discussed in the SLED report. Also appearing in the report, Appellant's worries about Tetterton conspiring with authorities against him indicated trust issues with appointed representation in general. At trial, when they discussed his defense with the trial judge, neither Appellant Riley made reference to any substantial communications between the two about examining the State's evidence or possible defenses. Indeed, Appellant never stated that he had actually relied on or asked anything of Riley. The trial judge plainly recognized the disassociation when he called out their lack of communication and instructed Appellant to defer to Riley.

The record also shows Appellant consistently pursued representing himself. At trial Appellant attempted to offer into evidence on his own various documents with which Riley

was woefully unfamiliar. He expressly explained to the court he had been working to develop a defense himself and alluded to the claim he was pursuing pro se in federal court that was necessary to "build his case" and correct the "hole in [his] defense." He then asked the trial judge directly to compel the return of his papers rather seeking help from Riley. In addition, the SLED report revealed that Appellant had organized and studied his legal paperwork while also creating substantial notes on the State's evidence, requests for information on court procedures, and drafts of statements to a jury for trial. Further, his efforts to reacquire the papers were commensurate with a serious contemplation of self-representation. The SLED report disclosed that he pleaded for the materials through four written communications to local authorities, letters to SLED, and the ultimate filing of a lawsuit in federal district court.

The communications at trial, the information in the SLED report, and Appellant's arguments post-trial all reasonably indicated to the trial court Appellant's good faith desire to further consider representing himself. No meaningful sign of his acquiescence in representation by appointed counsel appeared before the court below until the middle of trial, when the case was too far gone Appellant had no realistice options once and for all. He was precluded from making that decision by the seizure of his legal paperwork and the resulting dearth of understanding of his case. The right to defend should have been afforded the greatest honor and been given directly to him first.

CONCLUSION

For the foregoing reasons, Appellant Gregory Smith respectfully requests reversal of his convictions and remand for a new trial.

Respectfully submitted,

Benjamin John Tripp
Appellate Defender

ATTORNEY FOR APPELLANT

This 16th day of January, 2014.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Kershaw County

G. Thomas Cooper, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GREGORY V. SMITH,

APPELLANT

APPELLATE CASE NO. 2012-213666

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Gregory V. Smith states:

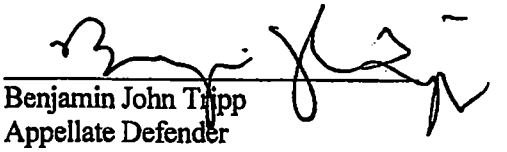
1. He is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.

2. He has reviewed the record of appellant's trial before Judge G. Thomas Cooper, Jr., which was held on October 22-26, 2012, and, in his opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. He has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, he asks the Court to relieve him as counsel for Gregory V. Smith.

Respectfully submitted,



Benjamin John Tripp
Appellate Defender

ATTORNEY FOR APPELLANT

Appendix - page 1112

This 16th day of January, 2014.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Kershaw County

G. Thomas Cooper, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GREGORY V. SMITH,

APPELLANT

APPELLATE CASE NO. 2012-213666

DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

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

(1) True–billed indictment(s);
(2) Entire Trial Transcript October 22 – 25, 2012
(3) Entire Trial Transcript December 12, 2012
(4) SLED Investigative Report

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

January 16th, 2014

Benjamin John Tripp
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1343

Attorney for Appellant

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

January 16, 2014

Benjamin John Tripp
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Kershaw County
G. Thomas Cooper, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

GREGORY V. SMITH,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter has been served on Gregory V. Smith, #00353524 at Lieber Correctional Institution, this 16th day of January, 2014.

Benjamin John Tripp
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 16th day of January, 2014.

(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.

RECEIVED
MAR 28 2014
ATTORNEY GENERALS OFFICE

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Kershaw County
G. Thomas Cooper, Jr., Judge

THE STATE,

RESPONDENT,

V.

GREGORY V. SMITH,

APPELLANT.

APPELLATE CASE NO. 2012-213666

PRO-SE BRIEF OF APPELLANT

GREGORY V. SMITH #353524
L.C.I CA-08
P.O. Box # 205
Ridgeville, S.C. 29472

PRO-SE APPELLANT

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U.S vs. Black, 385 U.S. 26, 87 S. Ct. 190, 17 L. Ed 2d 26, (1966). (15)

State vs. Quattlebaum, 338 S.C. 441, 527 S.E, 2d 105, (2000) (16)

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STATEMENT OF ISSUES ON APPEAL (Pg)

I. APPELLANT WAS DENIED DUE PROCESS OF LAW WHEN HE WAS NOT ALLOWED TIME TO SELECT AN ATTORNEY OF HIS OWN CHOOSING. (5)

II. APPELLANT WAS DENIED DUE PROCESS OF LAW BECAUSE HE SOUGHT TO DECIDE WHETHER TO WAIVE COUNSEL AND PREPARE HIS OWN DEFENSE BUT WAS NEVER AFFORDED THE CHANCE (7)

III. DID THE TRIAL JUDGE ABUSE HIS DISCRETION WHEN HE PROCEEDED TO MAKE FINDINGS OF FACT ON THE VERY MATTERS WHICH INQUIRY COULD REASONABLY HAVE BEEN EXPECTED TO ILLUMINATE? (9)

IV. DID THE TRIAL JUDGE ABUSE HIS DISCRETION WHEN HE RECEIVED FINDINGS OF OFFICIAL MISCONDUCT AND PROCEEDED TO SENTENCE APPELLANT? (10)

V. DID THE TRIAL JUDGE ERR WHEN HE REFUSED TO ALLOW APPELLANT TO OBJECT? (11)

STATEMENT OF THE CASE

On January 23, 2012, a Kershaw County grand jury indicted Appellant Gregory Smith for murder and manufacturing methamphetamine. R. *.[1] On October 22, 2012, Appellants case proceeded to trial before the Honorable G Thomas Cooper, Jr and a jury. Neil Riley represented Appellant and Ron Moak[2] and Brett Perry represented the State. Tr: 1.

The jury found Appellant guilty on both counts. Tr: 706, ll. 14-21. After a separate sentencing hearing, the trial court sentenced Appellant to thirty years for the murder charge and five years concurrent for the methamphetamine charge. Tr: Dec. 12, 2012 at 20, 11, 11-20.

1. The grand jury also indicted Appellant for manufacturing marijuanna, but the State dropped the charge before trial. Tr. 14, ln. 24- Tr: 17, ln. 20.

2. Deputy solicitor ~~Ron~~ Moak was fired on Dec. 10, 2012 for misconduct involving alcohol, upon information and belief.

ARGUMENT

I. APPELLANT WAS DENIED DUE PROCESS OF LAW WHEN HE WAS NOT ALLOWED TIME TO SELECT AN ATTORNEY OF HIS OWN CHOOSING.

The State alleged that on May. 28. 2011. Appellant shot and killed Deborah Tyler in her trailer home. Gregory Smith was arrested, within hours after arrest, the Appellant was taken from Kershaw County Detention Center to the Sheriff's Office for an in custody interrogation. Upon arrival he was met by Lt. Christopher Phillips, Detective, and an attorney William Tetterton, Esq. The attorney was allegedly called to represent the Appellant, by Brett Perry a deputy solicitor for the 5th Judicial Circuit in Kershaw County, which is per-se a conflict of interest. See Supp. Rec. on App. Pg. 1095.

The Attorney informed the Appellant that he was facing 40 years on the drug charges alone, but if made a video statement that the alleged shooting was an error in the heat of the moment, the attorney promised a fifteen year plea deal.

The Appellant in his diminished capacity, being overwhelmed by the circumstances, reluctantly agreed. After sufficient time, the Appellant decided to reconsider his decision, contacted Tetterton, on Aug. 8. 11 via fax informing the attorney he was going to begin his own defense, in reality had already began in July of 2011, See Rec. on app. pg. 849-850, Confession Recant, See Rec. on app. pg. 848, Opening Statement.

On Aug. 8. 11, fax was ~~sent~~ from the detention center, See Rec. on app. pg. 1038 and 1039, two days later Tetterton and Perry conspire together, to put together, a new motion of discovery, See Supp. Rec. on app. pg. 1096. Five days later Lt. Phillips drafts up a fraudulant search warrant, See Rec. on app. pgs. 755, 756, 757 and 758. The Appellant contends at this point there is an irrebuttable conspiracy that has developed between the attorney, solicitor and investigator.

On Aug. 15. 11, then-Lieutenant Phillips of Kershaw County Sheriffs Office executed an invalid search warrant on Appellants cell at 12:00 pm.

II. APPELLANT WAS DENIED DUE PROCESS OF LAW BECAUSE HE SOUGHT TO DECIDE WHETHER TO WAIVE COUNSEL AND PREPARE HIS OWN DEF-ENCE BUT WAS NEVER AFFORDED THE CHANCE.

IN THE SLED Report Attacment 8, See Rec. on app. Pgs. 787-930, clearly shows the 80 days of Appellants notes and intentions to go to trial throughout the entire record.

The record clearly shows in the privileged documentation from his then attorney, where he underlined case laws and legal language, Rec. on app. pgs. 795, 796, and 800.

The Appellant was denied the option to represent himself when on Aug. 15. 11, the State Seized Appellants legal materials from him while he was in pretrial det-ention, claiming a valid search warrant, which in fact was fraudulent. See Attach-ment #1, Rec. on app. pg 757, Affidavit of Ph-illips claiming a random drug test that had positive results for amphetamines, when in fact results were negative. See Rec. on app. pg. 1087. One can only reason-ably conclude that while acting under "color of law" that gross official misc-onduct has occured.

On or around July. 18, 12 in the District Court of South Carolina, the Appellant requested #1. Copies of all documents which include all personal correspondance and legal documents and writings, See Supp. Rec. on app. pg. 1097, Additionally, request #6 to produce documents that authorize you [Phillips] to confiscate Appellants legal discovery and legal notes that outlined his planned defense in his upcoming trial. Phillips replied that he was acting under a valod warrant but wasn't sure whether or not he could obtain a copy. See Supp. Rec. on app. pg. 1099. The records clearly show that the illegally seized material was held from the Appellant, until well after the State had presented thier case, which in fact should be considered "Extrinsic Evidence". When the investigators and solicitors both withheld "Extrinsic Evidence" proves that the Appellant was deprived the opportunity to present his case and therefore there was never a real contest, but a fraud upon the court has occured and the Appellants seeks vacated judgement.

III. DID THE TRIAL JUDGE ABUSE HIS DISCRETION WHEN HE PROCEEDED TO MAKE FINDINGS OF FACT ON THE VERY MATTERS WHICH INQUIRY COULD REASONABLY HAVE BEEN EXPECTED TO ILLUMINATE?

The Appellant contends that the trial judge had erroneously believed he had no authority to permit record to be supplemented. The judge states "I thought the solicitors office might have those things", "I don't --- its not my job to present the evidence". Tr. pg. 607 5-7. The judge declared "my responsibility is to make sure both sides, the State and the defendant get a fair trial". Tr. pg. 607, ln 22-24.

In this case, the trial judge declined to investigate allegations of intentional withholding of evidence, the investigation team and solicitor deliberatly withheld a search warrant [entirely], and the Appellants defence plans until it was far too late to be useful. Judge Cooper failed to determine the extent of the misconduct. The defense raised the issue of a search warrant. Tr. 601, ln. 25, Tr. 602, ln. 1-4, and put on record a diligent attempt to obtain

the warrant before trial. See request #6 Supp. Rec. on app. 1098, 1099. Additionally, a copy should have been presented at the time of search. The judge ordered an investigation after the Appellant was found guilty. Tr. pg. 723 ln. 11-16.

IV. DID THE TRIAL COURT JUDGE ABUSE HIS DISCRETION WHEN HE RECEIVED FINDINGS OF OFFICIAL MISCONDUCT AND PROCEEDED TO SENTENCE APPELLANT?

On. Oct. 25. 2012, Judge Cooper ordered an investigation to be conducted by SLED. On Dec. 12. 2012, The defense had inquired about the investigations into allegations and whether or not the Court would make available SLED's findings. Tr. 744 ln. 11-18. The report clearly shows proof of official misconduct that would have been benefitial to the defense, that would lead to fruitful discovery. Judge Cooper not only denied but further withheld "Extrinsic Evidence". The Appellant contends the integrity of the entire judicial system is called into question by conduct such that was engaged by Judge Cooper.

V. DID THE TRIAL COURT JUDGE ERR WHEN HE REFUSED TO ALLOW APPELLANT TO OBJECT?

The Appellant contends when the trial court judge stated that he was ready to procede to bring in the jury, further stating "I don't think anything you [Appellant] could say would stop me from doing that". Tr. 614 ln. 19-25, and then by stating "I'm not going to listen to him." Tr. pg 616 ln. 7. The record clearly shows vicious, inflammatory arguement that resulted in prejudice.

According to Chief Justice Jean Toal in the South Carolina Appellate Court Practice, the III. ISSUE PRESERVATION AT TRIAL. (5) Other Exceptions. The failure to timely object does not waive an issue for appellate review where such an objection would have been futile. See State v. Pace, (holding to make contemporaneous objection to judges comments excused where judges tone and tenor made it clear that any objection would have been futile.) The Appellant was allowed to object post-trial, beginning on Tr. pg. 715 ln. 11, pg 716, 717, 718, 719, 720, 721 and pg. 722.

According to the aforementioned rule, the eight page objection which is backed up by case laws supporting allegations of the intentional official misconduct should be considered an issue for Appellate review.

DISCUSSION

Appellant is asking the Court to reverse the judgement, on the basis that he was denied the right to a lawyer of his own choosing. See Powell vs. Alabama, 287 U.S 45, 53 S. Ct 55, (1932)(reversing conviction because of, among other things, defenants were appointed before given an opportunity to hire thier own.)

Under Rule 3.8(b) S.C.A.C.R, Special Responsibilities of a prosecutor, make reasonable efforts to assure the accused has been given reasonable opportunity to obtain counsel.

Under Rule 7.3 S.C.A.C.R (comment 1).

The prospective client, who may find it difficult to fully evaluate all available alternatives with reasoned judgement and appropriate self-interest in the face of the lawyers presence and insistance upon being retained instantly. The situation is fraught with the possibility of undue influence, intimidation and overreaching. See Colorado vs. Connelly, 479 U.S. 157, 107 S. Ct. 515, (U.S 1986)(holding that the Federal Constitution requires a court to

to suppress a confession when the defendants mental state, at the time he confessed, interfered with his "rational intellect" and his "free will" the very admission of the evidence in a court of law being sufficient state action to implicate the due process clause of the United States Constitution.)

The Appellant contends that government officials pusuant a fraudulant warrant seized his legal documents. See State v. Hill 245 S.C. 76, 138 S.E 2d 829, (holding a search warrant issued on basis on information and belief stated affiant had been informed by informer but set forth no other sources of affiants information was nullity.)

The warrant was issued in violation of Article 1, Section 16 of the Constitution of South Carolina as well as the Fourth Amendment to the Constitution of the United States and not issued in conformity with sections 4-414 and 4-415 of the Code of Laws of South Carolina with the result of the warrant anullity.

See. U.S vs. Fisher, 711 F 3d 460, CA 4 (Md) (2013)(The Supreme Court has held that

government misrepresentations constitute impermissible conduct. Unquestionably, if defendant had proof of officers misconduct, a fraudulant warrant, he would have filed a motion to suppress, and the motion may well have been successful, without the testimony thier likely would have been no prosecution at. all.)
See State v. Ellefson, 224 S.E. 2d 666, 266 S.C. 494. (S.C 1976). (holding when a pretrial detainee remains in custody, he is not disrobed of his constitutional rights and laid bare for the zealous investigation of his case. He is cloaked with the presumption of innocence.) (Additionally, the search impinged upon the appellant's First Amendment right, as incorporated by the Fourteenth Amendment, to be able to communicate without the uninvited ears and eyes of the government.)
See Black vs. United States, 385 US. 26, 87 S.Ct. 190, 17 L.Ed 2d 26 (1966). (It is certainly true that where there is gross misconduct of the part of the government, no prejudice need be shown.)

In this case the Appellant can show with "reasonable probability" that a member of the prosecution team intentionally eavedropped on confidential defense plans, Solicitor Ron Moak made the statement "Your Honor, we "anticipate" the arguement that the defendant was under the influence of "meth fumes". Tr. pg. 72 ln 4-6. In Attachment 8 in the SLED report under "Confession Recant" the Appellants intention at that time was to claim "meth fumes" in other words "delirious from chemicals", not from ingestion of drugs. See Rec. on app. pg. 850. In State v. Quattlebaum, 338 S.C. 441, 527 S.E. 2d 105 (2000), (deliberate prosectorial misconduct raises a irrebuttable presumption of prejudice. The content of the protected communication is not relevant. The focus must be on the misconduct.)

Because a deputy solicitor of the Fifth Circuit Solicitors Office eavesdropped on privileged defense plans and material between his attorney, reversal of Appellants conviction and disqualification of the Fifth Circuit to prosecute the

Appellant at his new trial. The courts bear the ultimate responsibility for maintaining judicial integrity and high standards of professional conduct among members of the bar, and for protecting and defending the constitutional rights of the accused. The integrity of the entire judicial system is called into question by conduct such as that engaged in by the deputy solicitor and investigating officers in this case. The participation at trial of a prosecutor who eavesdropped on the accused and his attorney tarnishes us all. We will not tolerate deliberate prosecutorial misconduct which threatens rights fundamental to liberty and justice. 30K947 K. Law Key, Refusal to Exercise Discretion. Ruling which reveals that trial judge who was vested with discretion did not, in fact, exercise discretion, is error of laws. Appealing party is entitled to have matter considered and passed on as discretionary matter where trial clothed with discretion rules as a matter of law. In this case, the trial judge declined to investigate

allegations of intentional withholding of evidence, extrinsic evidence which is per se, fraud upon the court.
See Chewning v. Ford Motor Co. 354 S.C. 72, 579 S.E.2d 605, S.C.(2003)(holding the intentional concealment of documents by an attorney constitute "extrinsic fraud" and allows a judgement to be set aside due to a fraud upon the court, as such conduct by an attorney effectively precludes the opposing party from having his or her day in court.) Because fraud upon the court is an affront to the administration of justice, a litigant who has been defrauded need not establish prejudice in order to set aside a judgement.

Fraud upon the court is a "serious allegation involving corruption of judicial processes itself. There is no statue of limitations when a party seeks to set aside a judgement due to fraud upon the court. Bryan v. Bryan, 220 S.C. 164, 66 S.E.2d 609(1951)(holding extrinsic fraud is necessary in order to secure equitable relief vacating a prior judgement.)

In this case, the existance of extrinsic evidence, See Attachment's 1 and 8 in the SLED report, is again, proof of fraud upon the court. "Extrinsic Evidence" is fraud that induces a person not to folly present a case or deprives a person of the of the oppotunity to be heard. Relief is granted for extrinsic evidence on the theory that the fraud prevented a party from fully exhibiting and trying his case, there never has been a real contest before the court on the subject matter of the action.

The fifth amendment protects us all from illegal searches and being put in prison without due process. The government must follow the law.

CONCLUSION

For the foregoing reasons, Appellant Gregory V. Smith respectfully requests reversal of his convictions, his sentence vacated and disqualification of the 5th Judicial Circuit to retry his case.

Respectfully Submitted,
Gregory V Smith

GREGORY V. SMITH

This 24th day of March, 2014.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Kershaw County
G. Thomas Cooper, Jr., Judge

THE STATE,

RESPONDENT,

V.

GREGORY V. SMITH

APPELLANT.

APPELLATE CASE NO. 2012-213666

DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

Five documents to support factual background.

I certify that this designation contains no matter which is irrevelant to this appeal.

March 24, 2014

Gregory V. Smith

Gregory V. Smith #353514
LCI CA-08
P.O. Box# 205
Ridgeville, S.C. 29472
Pro-se Appellant

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Kershaw County
G. Thomas Cooper, Jr., Judge

THE STATE,

RESPONDENT,

V.

GREGORY V. SMITH

APPELLANT.

APPELLATE CASE NO. 2012-213666

CERTIFICAE OF SERVICE

The undersigned pro-se appellant hereby certifies that a true copy of the pro-se brief of Appellant and Designation of Matter in the above referenced case has been served upon Salley W. Elliott, Esq., at the Rembert Dennis Building, 1000 Assembly street, Room 519, Columbia S.C. 29201 and a copy has also been served to The South Carolina Court of Appeals at 1015 Sumpter Street, Colombia S.C. 29201, on this 24th day of March, 2014.

Gregory V. Smith
pro-se Appellant

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Kershaw County
G. Thomas Cooper, Jr., Judge

THE STATE,

RESPONDENT,

V.

GREGORY V. SMITH

APPELLANT.

APPELLATE CASE NO. 2012-213666

SUPPLEMENTAL RECORD ON APPEAL

GREGORY V. SMITH #353524
Pro-se Appellant

L.C.I CA-08
P.O. Box #205
Ridgeville, S.C. 29472

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Sr. Ass. Deputy Attorney General
Office of the Attorney General
P.O. Box #11549
Columbia S.C 29211

Attorneys for Respondent

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THE STATE OF SOUTH CAROLINA

OFFICE OF THE PUBLIC DEFENDER
FOR THE
FIFTH JUDICIAL CIRCUIT

KERSHAW COUNTY COURTHOUSE
1121 BROAD STREET
CAMDEN, SOUTH CAROLINA 29020

TEL (803) 425-7237

FAX (803) 425-8807

March 22, 2012

Gregory V. Smith
KCDC

Dear Mr. Smith:

Please, rest assured that I am defending you. You must remain calm and be patient. General Sessions cases in this county take an average of eighteen months from start to finish. Serious cases, such as murder cases, take longer than average.

The telephone call Mr. Tetterton received the day you were arrested was from Brett Perry, the deputy solicitor for Kershaw County. I thought I had told you that. Mr. Perry tried unsuccessfully first to reach me, then my assistant PD, and then called Tetterton. Mr. Perry, quite properly, I think, wanted you to have legal representation from the get-go. I understand completely that you have problems with what Mr. Tetterton did or did not do for you, but that is not my concern. The alleged crime is my concern.

Try to keep focused more on the crime charged, and less on Mr. Tetterton and subsequent events. OK?

Very truly yours,

Neil Riley

C. J. Neil Riley, Attorney at Law
Chief County PD

(Exhibit A4)

1096

Discovery Checklist

✓ Warrant	____ Photo Line Up
✓ Ticket	✓ Advice of Rights Form
✓ Incident Report	____ Defendant's Statement
____ Case Summary	____ Co-Defendant's Statement
____ Investigative Report	✓ Witness ✓ Statement
✓ Supplemental Report	✓ Witness ✓ Statement
✓ Search Warrant	✓ Witness ✓ Statement
____ Arrest Report	____ Victim ____ Statement
✓ Booking Report	____ Victim ____ Statement
____ Bond Form	____ Medical Records
____ Indictment	____ List of Physical Evidence
✓ Rap Sheet	✓ Photographs
____ Driving Record	✓ Other SLED FORENSIC REPORT
____ Drug Analysis	✓ Other UNIFORM HAZARDOUS WASTE FORM
✓ Chain of Custody Form	✓ Other ATF TRACE SUMMARY
____ Rape Protocol	✓ OTHER CAD REPORT
	✓ OTHER 4 CD'S AVAILABLE

Defendant GREGORY SMITH Case # M099445, M100402, M100403

ASOL PERRY Prepared by L.TRUITT Date 8/10/2011

Receiving Attorney WILLIAM TETTERTON

(Exhibit A) 1097

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

COLUMBIA DIVISION

Gregory V. Smith, Plaintiff, v. P.E. Spivey, Jail Director, Individual and Official Capacity; and Chris Phillips, Detective, Individual and Official Capacity, Defendants.	Civil Action No. 1:12-29-RBH-SVH **RESPONSE TO PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS ON BEHALF OF DEFENDANT PHILLIPS**

TO: GREGORY V. SMITH, *PRO SE* PLAINTIFF:

Pursuant to Fed.R.Civ.P. 34, Defendant Phillips responds to Plaintiff's Request for Production of Documents, as follows:

REQUEST # 1:

"1. Copies of all documents, that were confiscated by you, from my room, F-6 at Kershaw County Detention Center on or about August 15, 2011. Documents include all personal correspondance [sic] and legal documents and writings."

RESPONSE #1:

This Defendant asserts that said documentation, which is mischaracterized to some extent in this request, is not currently in this Defendant's possession, as said documentation was taken pursuant to a valid Search Warrant, and is being maintained as part of an on-going criminal investigation of the Plaintiff.

Further responding, this Defendant is in the process of trying to obtain copies of the requested documentation, in a good faith effort to meaningfully participate in the discovery process. However, this Defendant is not aware of whether or not this Defendant will be able to obtain copies of that documentation or not.

REQUEST # 2:

"2. Copy of any written documents that was a cause of your involvement in confiscating any items from my room."

RESPONSE #2:

This Defendant objects to this request on the grounds that said documentation is part of an on-going criminal investigation of the Plaintiff, and involves documentation received from and identifying a cooperating informant. This Defendant asserts that the production of the requested documentation at this point could jeopardize the on-going criminal investigation of the Plaintiff, and could further jeopardize the safety of the cooperating informant.

REQUEST # 3:

"3. Produce name or names of individual(s) who informed you to search plaintiffs room and confiscate his property."

RESPONSE #3:

Please see this Defendant's response to request # 2.

REQUEST # 4:

"4. Produce documentation that gives justifiable reason that individual(s) who informed you to search plaintiffs property are individuals who can be trusted."

RESPONSE #4:

Please see this Defendant's response to request # 2.

REQUEST # 5:

"5. Produce urine drug test results that were tested in your presence, not mine, on August 15, 2011."

RESPONSE #5:

This Defendant objects to this request as overly vague, and a mischaracterization of what actually occurred. Further responding, and without waiving said objections, this Defendant asserts, upon information and belief, that the Plaintiff's medical records from the Kershaw County Detention Center are being produced to the Plaintiff through Co-Defendant's responses to Plaintiff's requests for production, and that the requested documentation may be contained therein.

REQUEST # 6:

"6. Produce documents that authorize you to confiscate plaintiffs legal discovery and legal notes that out line his planned defense in his upcoming trial."

RESPONSE #2:

This Defendant objects to this request on the grounds that said documentation is part of an on-going criminal investigation of the Plaintiff, and involves documentation received from and identifying a cooperating informant. This Defendant asserts that the production of the requested documentation at this point could jeopardize the on-going criminal investigation of the Plaintiff, and could further jeopardize the safety of the cooperating informant.

REQUEST # 3:

"3. Produce name or names of individual(s) who informed you to search plaintiffs room and confiscate his property."

RESPONSE #3:

Please see this Defendant's response to request # 2.

REQUEST # 4:

"4. Produce documentation that gives justifiable reason that individual(s) who informed you to search plaintiffs property are individuals who can be trusted."

RESPONSE #4:

Please see this Defendant's response to request # 2.

REQUEST # 5:

"5. Produce urine drug test results that were tested in your presence, not mine, on August 15, 2011."

RESPONSE #5:

This Defendant objects to this request as overly vague, and a mischaracterization of what actually occurred. Further responding, and without waiving said objections, this Defendant asserts, upon information and belief, that the Plaintiff's medical records from the Kershaw County Detention Center are being produced to the Plaintiff through Co-Defendant's responses to Plaintiff's requests for production, and that the requested documentation may be contained therein.

REQUEST # 6:

"6. Produce documents that authorize you to confiscate plaintiffs legal discovery and legal notes that out line his planned defense in his upcoming trial."

RESPONSE #6:

On the date in question, this Defendant had a Search Warrant, issued by a detached Magistrate Judge, under which this Defendant was acting. This Defendant does not currently possess a copy of that Search Warrant or the return to that Search Warrant. Further responding, this Defendant is in the process of trying to obtain copies of the requested documentation, in a good faith effort to meaningfully participate in the discovery process. However, this Defendant is not aware of whether or not this Defendant will be able to obtain copies of that documentation or not.

REQUEST # 7:

"7. Produce authorization documentation that legaly [sic] allows you to keep plaintiffs legal discovery and not return them."

RESPONSE #7:

Please see this Defendant's response to request # 6.

REQUEST # 8:

"8. Produce documentation that would allow you to take property that plaintiff had in his possession that was not a security threat."

RESPONSE #8:

Please see this Defendant's response to request # 6.

DAVIDSON & LINDEMANN, P.A.

BY: _____

JAMES M. DAVIS, JR.
DANIEL C. PLYLER
1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8222
(803) 806-8855

Counsel for the Defendants

Columbia, South Carolina

July 18, 2012

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Gregory V. Smith, Appellant.

Appellate Case No. 2012-213666

Appeal From Kershaw County
G. Thomas Cooper, Jr., Circuit Court Judge

Unpublished Opinion No. 2014-UP-459
Submitted November 1, 2014 – Filed December 17, 2014

APPEAL DISMISSED

Appellate Defender Benjamin John Tripp, of Columbia; and Gregory V. Smith, pro se, for Appellant.

Attorney General Alan McCrory Wilson and Senior Assistant Deputy Attorney General Salley W. Elliott, both of Columbia, for Respondent.

PER CURIAM: Dismissed after consideration of Appellant's pro se brief and review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.[1]

APPEAL DISMISSED.

WILLIAMS, GEATHERS, and McDONALD, JJ., concur.

---

[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

RECEIVED
JAN - 6 2015
ATTORNEY GENERAL'S OFFICE

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 05, 2015

The Honorable Joyce McDonald
PO Box 1557
Camden SC 29021-1557

REMITTITUR

Re: The State v. Gregory V. Smith
Lower Court Case No. 2012GS2800074, 2012GS2800076
Appellate Case No. 2012-213666

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Gregory Smith, 353524
Salley W. Elliott, Esquire
Alan McCrory Wilson, Esquire
Benjamin John Tripp, Esquire
The Honorable G. Thomas Cooper, Jr.

ATTORNEY GENERAL'S OFFICE
RECEIVED 1-5-15
ADMINISTRATIVE INSTRUCTIONS
_____FILE _____OPEN _____END
_____HAVE _____COPIES MADE
_____ROUTE TO _____
_____ORDER _____TRANSCRIPT
_____PEN RECORDS _____CLERK RECORDS
_____OTHER: _____

FORM 5

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF Kershaw)

GREGORY VINCENT SMITH #353524) 2015-CP-28-002
Full name and prison number (if any) of Applicant.)

v.) APPLICATION FOR

State of South Carolina) POST-CONVICTION RELIEF

FILED FOR RECORD
2015 JAN -2 PM 12:46
KERSHAW COUNTY
CLERK OF COURT

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lieber Correctional Institute (Currently) Kershaw County Detention Center (pre-trial)
2. Name and location of Court which imposed sentence 5th Cir., Camden S.C.
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
   (a) 2012-GS-28-0074 Murder
   (b) 2012-GS-28-0076 Manufacturing Meth 1st Off
   (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
   (a) 12-12-12 30 years
   (b) 12-12-12 5 years consecutive

Revised 3/2003

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty ✓

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

Yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Court of Appeals

ii. _____

iii. _____

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2015 JAN -2 PM 2:46
JOYCE H. MCDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

(b) the result in each such Court to which you appealed:

i. Appeal Dismissed

ii. _____

iii. _____

(c) the date of each such result:

i. Filed Dec. 17, 2014

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. None Known

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) See Attachment.

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) See Attachment.

(b) _____

(c) _____

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2015 JAN -2 PM 2:46
CLERK OF COURT
KERSHAW COUNTY, S.C.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____

(d) any other petitions, motions or applications in this or any other Court? No

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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2015 JAN -2 PM 2:47
JOYCE HUDSON
CLERK OF COURT
KERSHAW COUNTY, S.C.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

(yes)

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. Official Misconduct of Law Enforcement

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. 1983 civil law suit

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Newly discovered Evidence / Brady violation

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____

(b) your trial, if any? Neil Riley (yes)

(c) your sentencing? _____

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Benjamin John Tripp (yes)

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. CJ. Neil Riley, 1121 Broad Street, Camden S.C. 29020

ii. Ben Tripp, P.O Box 11589, Columbia S.C. 29211

iii. _____

(b) the proceedings at which each such attorney represented you:

i. Jury Trial

ii. Appeal

iii. _____

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2015 JAN -2 PM 2:47
JEAN H. TOAL
CLERK OF COURT
KERSHAW COUNTY, S.C.

19. State clearly the relief you seek in filing this application:

Reverse conviction, vacate sentence, acquittal

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)
) VERIFICATION
County of)

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Gregory V. Smith

SWORN to and subscribed before me this 30th day of December, 2014.

Ludrean Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

FILED FOR RECORD
2015 JAN -2 PM 2:47
JAMIE [illegible]
CLERK OF COURT
KERSHAW COUNTY, S.C.

Revised 3/2003

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Gregory Smith
Applicant

SWORN or affirmed to and subscribed before me this 30th day of December, 2014.

Luchean Bryant
Notary Public

My Commission Expires: May 26, 2020

FILED FOR RECORD
2015 JAN -2 PM 2:47
JOYCE HERALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

Revised 3/2003

10. (a) Applicant was denied the right to effective assistance of counsel - guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and by Article I, §§ 3 and 14 of the South Carolina Constitution - during the guilt-or-innocence phase of his jury trial.

FILED FOR RECORD
2015 JAN -2 PM 2:57
JOYCE [illegible]
CLERK OF COURT
KERSHAW COUNTY, S.C.

11. (a) Supporting facts: Trials counsels performance during the guilt-or-innocence phase was both unreasonable and prejudicial. See Strickland v. Washington, 466 U.S 668 (1984). Counsel's acts or omissions included but not limited to, the following:

1) Counsel failed to object to the prosecutions irrelevant remarks and misrepresented facts.

2) Counsel failed to adequately investigate 4th Amendment violations which would have illuminated official/prosecutorial misconduct.

3) Counsel failed to adequatly cross-examine States witnesses.

④ Counsel denied applicant's request for expert witnesses, legal reference and case citings.

⑤ Counsel failed to adequately investigate the facts and circumstances surrounding the death of the victim. Counsels failure to conduct such an investigation deprived the jury of critical information relevant to an accurate assessment of eye witnesses testimony.

FILED FOR RECORD
2015 JAN 22 PM 2:47
RICHLAND COUNTY, S.C.

10(b). Applicant was denied the right to effective assistance of counsel - guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and by Article I, §§ 3 and 14 of the South Carolina Constitution - during the sentencing phase of his trial.

11(b) Supporting facts: Trial counsels performance during the sentencing phase was both unreasonable and prejudicial. See Strickland v. Washington, 466 U.S. 668 (1984). Counsels acts or omissions included but not limited to, the following:

① Counsel completely abandoned applicant when trial court inquired him to conduct a SLED investigation in official/prosecutorial misconduct leaving the individuals involved in misconduct to lead investigations.

② Counsel failed to object on all possible grounds to inflammatory and irrelevant evidence presented by the prosecution. As a result of counsels failure to make all appropriate objections, applicants sentence is unreliable.

10(c). Applicant was denied the right to effective assistance of counsel - guranteed by the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and by Article I, §§ 3 and 14 of the South Carolina Constitution - during the guilt-or-innocence phase of his jury trial.

11(c). Supporting facts: Trial Counsels performance during the guilt-or-innocence phase was both unreasonable and prejudicial. See U.S vs Cronic, 466 U.S 648, 104 S.Ct 2039,

2015 JAN -2 PM 2:47
CLERK OF COURT
FERGUSON COUNTY, S.C.
FILED FOR RECORD

80 L. Ed 2d 657, (1984). Counsels performance was impeded by official/prosecutorial misconduct which deprived applicant fair trial, included but not limited to, the following:

2013 JAN -2 PM 2:47
CLERK OF COURT
FLORENCE COUNTY, S.C.
NOT FOR RECORD

10. Applicant claims in the context of this case, in which, the surrounding circumstances made it so unlikely that any lawyer could provide effective assistance that ineffecteness is properly presumed without inquiry into actual performance at trial.

10.(d). Applicant was denied his due process rights as secured by the Fourth and Fourteenth Amendments because of the cumulative effect of several instances of deliberate official/prosecutorial misconduct.

11.(d). Supporting facts: Prosecutors during all phases of this case acted unreasonable and prejudicial. See Brady v. Maryland, 373 U.S 83, 83 S. Ct. 1194 (1963) along with South Carolina Rule 5. Prosecutors acts or omissions included but not limited to, the following:

① Intentional concealment of Brady material showing law enforcement officials misconduct.

② Intentional concealment of S.C Rule 5 material concerning promises, rewards, and inducements made to "snitchs".

③ Deliberate deception of court and jurors by presentation of known false evidence.

④ Appealed to juror prejudices.

⑤ Encouraged juror identification with crime victims.

Applicant respectfully requests this court to grant leave to amend P.C.R application according to additional information which is revealed through discovery.

I GREGORY V. SMITH state pursuant to 28 U.S.C 1746 under penalty of perjury that the foregoing is true and correct.

Gregory V Smith

⑤ Dec. 30. 14

2015 JAN -2 PM 2:47
CLERK OF COURT
KERSHAW COUNTY, S.C.
FILED FOR RECORD

RE: PCR Application

TO: Clerk of Court,

Please find a PCR application along with a 5 page attachment.

I request a clock stamped copy to be sent to:

GREGORY VINCENT SMITH #353524
LIEBER CORRECTIONAL INSTITUTE
P.O Box #205
RIDGEVILLE S.C. 29472

FILED FOR RECORD
2015 JAN -2 PM 2:46
JOYCE HOOD
CLERK OF COURT
KERSHAW COUNTY, S.C.

Respectfully Submitted
Gregory V. Smith
Dec. 30. 14

Ridgeville S.C
12-30-14

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF KERSHAW	)	DOCKET NO.: 2015-CP-28-002
GREGORY VINCENT SMITH, SCDC # 353524	)	
	)	
Applicant,	)	
v.	)	AMENDED APPLICATION FOR POST-CONVICTION RELIEF
	)	
STATE OF SOUTH CAROLINA,	)	
Respondent,	)	
	)	

Based upon further investigation and research, the Post-Conviction Relief Application filed on behalf of the above named Applicant is hereby Amended as follows:

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

a) Ineffective assistance of counsel for failure to object when the potential jurors were allowed to announce in open court their experiences with violent crime. Tr. P. 33-45.

b) Ineffective assistance of counsel for failure to object or request a new jury panel when the Court clearly informed the jurors that the Defendant's witness list only included three witnesses. Tr. P .53

c) Ineffective assistance of counsel for failure to adequately challenge the admissibility of the Applicant's statement provided to law enforcement.

d) Ineffective assistance of counsel for failure to object when a witness offered as an expert in "methamphetamine and meth labs and the effects of meth on the human body" was asked to testify in the Denno hearing regarding the witness' perception of the Defendant's statement on video and whether or not the Applicant appeared to be under the influence of anything or was able to understand and knowingly and voluntarily waive Miranda. Tr. P 86-89

e) Ineffective assistance of counsel for failure to advise client that he was able to testify regarding the admissibility of the statement and still retain his 5th Amendment right to remain silent regarding the allegations.

f) Ineffective assistance of counsel for failure to object when the Solicitor impermissibly informed the jury of alleged statements by the Defendant which were not ruled as admissible during the Denno hearing and later not admitted into evidence during the trial. Tr. Pg. 172

g) Ineffective assistance of counsel for failure to object when the prosecutor elicited prejudicial, irrelevant and highly inflammatory statements from witness Samantha Steeprock. Tr. Page 183, ll. 4-11, page 190 l. 25, page 191 l. 1-12, page 203 ll. 18-25, page 204 ll. 1-18.

h) Ineffective assistance of counsel for failure to object to leading questions by the prosecutor. Page 199, ll. 20-25, Page 201 ll. 17-25 and Page 202 ll. 1-5, Page 233.

i) Ineffective assistance of counsel for opening the door into the allegations that the Applicant and Steeprock were involved in bringing contraband into the jail. Tr. P. 216, 232 ll. 1-11.

j) Ineffective assistance of counsel for failure to object to impermissible victim impact testimony. Tr. Page 233-235.

k) Ineffective assistance of counsel for failure to adequately cross examine the forensic pathologist, Dr. Janice Ross, and witness Samantha Steeprock.

l) Ineffective assistance of counsel for failure to object to admissibility of handwritten notes. Tr. P. 368- 369.

m) Ineffective assistance of counsel for failure to object to incorrect factual references in trial testimony. Tr. Page 164, 171, 551.

n) Ineffective assistance of counsel for failure to adequately cross examine Investigator Phillips regarding paperwork seized from the Applicant during the pendency of his charges and the underlying search warrant. Tr. Page 567-572.

o) Ineffective assistance of counsel for failure to challenge the Kershaw County Solicitor's Office's involvement in prosecuting this case prior to trial after his legal materials had been confiscated as evidence.

p) Ineffective assistance of counsel for failing to be adequately prepared to effectively cross examine Morris Nixon and correct misleading statements made by the prosecutor regarding Nixon's pending charges.

q) Ineffective assistance of counsel for failing to object when the Judge instructed the jury that they would have to decide between the charges offered for three possible convictions without telling them that they could find the defendant not guilty. Tr. P. 617-619.

r) The cumulative effect of trial counsel's errors are significant enough to undermine the reliability of the results at trial.

Respectfully Submitted,

Kristy G. Goldberg
Attorney for Applicant

Columbia, South Carolina

This 19th Day of August, 2016.

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW	)	IN THE COURT OF COMMON PLEAS DOCKET NO.: 2015-CP-28-002
GREGORY VINCENT SMITH, SCDC # 353524 Applicant, v. STATE OF SOUTH CAROLINA, Respondent,	)	CERTIFICATE OF SERVICE

I certify that on this date I served the Amended Application for Post-Conviction Relief in this case on The State of South Carolina by delivering a copy of this application to the Office of the Attorney General via U.S. mail at Post Office Box 11549, Columbia, South Carolina 29211-1549.

Kristy Goldberg
Attorney for Defendant

Kristy Goldberg
Law Office of Kristy Goldberg, LLC.
1720 Main Street, Suite 303
Columbia, SC 29201
803-667-6633
803-799-4059 (fax)
kristy@kristygoldberglaw.com

Columbia, South Carolina
This 19th day of August, 2016

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT
Gregory Vincent Smith, #353524 Applicant, v. State of South Carolina, Respondent.	2014-CP-28-0002 **RETURN**

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed April 16, 2014, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Kershaw County. Applicant was indicted at the January 2012 term of the Court of General Sessions for Kershaw County for Murder (2012-GS-28-0074) and Manufacturing Meth First Offense (2012-GS-28-0076). Applicant was represented by Neil Riley, Esq. Applicant preceded to trial on January 7, 2011. He was convicted as indicted. The Honorable G. Thomas Cooper sentenced Applicant to consecutive terms of thirty years for Murder and five years for Manufacturing Meth.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected by Benjamin Tripp, Esq. Following the submission of a brief pursuant to Anders v. California, 386 U.S. 738 (1967), the South Carolina Court of Appeals dismissed the appeal. State v. Smith, No. 2014-UP-459 (filed December 17, 2014). The Remittitur was issued on January 5, 2015.

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject conviction(s), the transcript from Applicant's trial hearing, Applicant's records for the Department of Corrections, and Applicant's appellate

records. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance Counsel, in that;
   a. Counsel's "performance during the guilt or innocence phase was both unreasonable and prejudicial",
      i. "Counsel failed to object to the prosecutions irrelevant remarks and misrepresented facts"
      ii. "Counsel failed to adequately investigate 4th amendment violations which would have illuminated official/prosecutorial misconduct"
      iii. "Counsel failed to adequately cross-examine State's witnesses"
      iv. "Counsel denied [A]pplicant's request for expert witnesses, legal reference and case citings"
      v. "Counsel failed to adequately investigate the facts and circumstances surrounding the death of the victim.
   b. "Counsel's performance during the sentencing phase was both unreasonable and prejudicial"
      i. "Counsel completely abandoned [A]pplicant when trial court inquired him to conduct a SLED investigation in official/prosecutorial misconduct leaving the individuals involved in misconduct to lead investigations"
      ii. "Counsel failed to object on all possible grounds to inflammatory an irrelevant evidence presented by the prosecution."
2. Due Process Violations, in that;
   a. "Counsels performance was impeded by official/prosecutorial misconduct which deprived [A]pplicant fair trial"
      i. "[T]he surrounding circumstances made it so unlikely that any lawyer could

provide effective assistance that ineffectiveness is properly presumed without inquiry into actual performance at trial"

3. Brady Violations, in that;
   a. "Prosecutors during all phases of this case acted unreasonable and prejudicial"
      i. "Intentional concealment of Brady Materials showing law enforcement officials misconduct"
      ii. "Intentional concealment of S.C. Rule 5 material concerning promises, rewards, and inducements made to 'snitchs'"
      iii. "Deliberate deception of court and jurors by presentation of known false evidence"
      iv. "Appealed to juror prejudices"
      v. "Encouraged juror identification with crime victims."

III.

Applicant's first claim is an allegation of ineffective assistance of trial counsel. Respondent contends that Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel

rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Respondent construes the remaining allegations as denial of due process of law. The Applicant's allegation claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must specifically set forth the grounds upon which the application is based. Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon the Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held.

Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since Applicant has failed to make even a prima facie showing, Respondent would submit that this allegation should be dismissed for failing to meet the requirements of the Uniform Post-Conviction Procedures Act. This allegation is so vague that it is impossible for the State to respond.

V.

Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code □17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VII.

Each and every allegation contained within the application not either expressly admitted, qualified or explained is hereby denied.

VIII.

WHEREFORE, having made its Return, Respondent requests that a hearing be held solely on the claims of ineffective assistance of counsel.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General

By: _____
ATTORNEYS FOR RESPONDENT

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3/3, 2016

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF KERSHAW	)	
	)	
	)	2015-CP-28-00002
	)	
GREGORY VINCENT SMITH, #353524	?	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Kristy G. Goldberg, Esquire
Law Office of Kristy Goldberg, LLC
1720 Main Street, Suite 303
Columbia, SC 29201

DATED this 3rd day of March, 2016.

Jenna C. Brown, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF KERSHAW	)	No. 2 015 CP 28 002
GREGORY VINCENT SMITH	)	
	)	
Petitioner	)	
	)	
versus	)	TRANSCRIPT OF RECORD
	)	
	)	
STATE OF SOUTH CAROLINA	)	

Columbia, South Carolina

September 1, 2016

B E F O R E :

HONORABLE JOSELYN NEWMAN, Judge Presiding

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

For the Petitioner: KRISTY G. GOLDBERG, Esq.

For the State: JESSICA E. KINARD, Esq.
Assistant Attorney General

Reporter Present: CRYSTAL HOLMES

HARRIET P. BENNETT
Reporter, S. C. Court Administration
46 Regency Oaks Drive
Summerville, S.C. 29485

I N D E X

	Direct-Redirect	Cross-Recross
GREGORY V. SMITH		
By Ms. Goldberg	4- 30	
By Ms. Kinard		23
CORNELIUS J. RILEY		
By Ms. Kinard	32- 82	
By Ms. Goldberg		50

EXHIBITS

		FOR ID	IN EV
Applicant Exhibits:			
2	Mixon Statement		80
3	Video		8
4	Photograph of gun and holster	69	

(The within matter came before the Court for hearing on September 1, 2016)

(The audio begins with swearing of the following witness)

GREGORY VINCENT SMITH, being duly sworn, testified as follows:

CLERK: Please be seated and state your name, spelling your last name.

WITNESS: Gregory Vincent Smith, S M I T H.

DIRECT EXAMINATION

BY MS. GOLDBERG:

Q. Mr. Smith, where are you currently housed?

A. At Lieber Correctional Institute.

Q. And what sentence are you serving?

A. Thirty on the murder charge consecutive to the methamphetamine charge of five.

Q. Do you recall when you were arrested?

A. May 20th.

Q. Of what year?

A. Of 2011.

Q. After you were arrested did you stay in jail or did you bond out?

A. I stayed in jail the entire time.

Q. And when was your trial?

A. I believe it was October 22nd.

Q. Okay.
A. Of 2012.
Q. So you were in jail during that time over a year?
A. A year and a few months, yes.
Q. Who was your attorney at trial?
A. Cornelius Riley, Mr. Riley.
Q. Was Mr. Riley appointed or did you hire him?
A. He was appointed.
Q. Was he always your attorney?
A. Not at the beginning.
Q. Who was your first attorney?
A. William Peterton.
Q. Was Mr. Peterton appointed or hired?
A. I have no idea.
Q. How did he come to be your attorney?
A. I have no idea.
Q. Okay.
A. I did not appoint him and I did not retain him.
Q. Well, how did he-- what was your first interaction with him?
A. I was in custody maybe two or three hours tops. I got back from the hospital to the detention center when they came and got me and took me to the Sheriff's Department, and I met him there.
Do you want me to keep going?

Q. Yes, please.
A. Okay, we went into a back room and basically he told me that or went around the two drug charges they were fixing to arrest me for; that I'm looking at like forty years.

So he said I can get you fifteen if you explain that you did not mean to shoot this person. I can get you fifteen years, and that was just a few hours after I was arrested.

I was under duress: That was a very strenuous day and I was not thinking well or in my right mind, and more than -- no more than thirty days after making that statement I decided I was going to recommend myself for trial, and I was trying to educate myself on how to pick a jury and . .
Q. Okay.
A. . . go through the motions.
Q. Let's back up a little. You've explained your conversation with Mr. Peterton, and let me ask you this. This was the day of your arrest. Correct?
A. Just a few hours after I was arrested.
Q. Okay, and was this on a weekend?
A. I believe it was on a Saturday possibly.
Q. Okay.
A. I believe.
Q. You believe that occurred on a Saturday?
A. I believe it was.

Q. Okay, and Mr. Peterton walked up to you and introduced himself?
A. Yes.
Q. And what did he say or who did he say he is?
A. He said he was an attorney and he was alone; that he used to be a Solicitor for X amount of years and he knew the ins and outs and all of that.
Q. That's what he said to you?
A. That's what he told me.
Q. All right, that's how he introduced himself?
A. Yes, maam.
Q. What did he say about why he was talking to you?
A. . .
Q. Did he explain why he was there?
A. He didn't. The only thing I can basically remember that he said to me was did they gunshot residue you, and I said yes.

He said, didn't your mother ever tell you to wash your hands, and it went from there, and basically I made a fifteen year plea bargain, thinking that I was going to get the forty or I would never have done that.

Q. Okay.
A. I didn't know who he was and I had never been in any trouble like that ever, so I was . .
Q. So he gave you the background about his being . .

A. Not really. He took me in the back room and he said he had ties with the Solicitor's Office; that he used to be a Solicitor and he could get me fifteen years.

Q. Did you ask for an attorney?

A. I told them I would not speak to them without an attorney. I did not ask for an attorney. I did not request one at that point in time.

I hadn't had enough time to think about who I would want or what.

Q. There is a video of the statement you provided to law enforcement with Mr. Peterton present.

Did you see that video?

A. Yes.

Q. You saw it during the trial as well?

A. I remember being there, yes.

Q. You remember seeing that video?

A. Yes.

MS. GOLDBERG: Your Honor, the Applicant has pre-marked Exhibit Number 3, a copy of the video, and we would move that into evidence.

THE COURT: Any objection?

MS. KINARD: No objection.

THE COURT: All right.

(Copy of video admitted without objection into evidence as Applicant or Petitioner's Exhibit 3)

MS. GOLDBERG: I don't know when Your Honor might want to watch it, if you would find it necessary at this time . .

THE COURT: I can watch it after we conclude the testimony.

MS. GOLDBERG: Thank you.

BY MS. GOLDBERG:

Q. Tell me about, Mr. Smith, your state of mind when you gave that statement?

A. . .

Q. Did you understand what you were doing?

A. I didn't understand. The officer went over Miranda with me two different times and I told him both times I did not understand and I was not going to sign it.

So then he passed it to the attorney and the attorney kept saying that -- kept going through the Miranda process and saying do you understand, and I looked at him straight in his face on that video and I said then if I tell you what you want to hear then you won't be my attorney any more -- my exact words.

Q. Right.

A. Oh, no, Mr. Smith. I'm your attorney so sign it.

Q. So he promised you that he was your attorney?

A. He did.

Q. And what did he promise you he could get you?

A. Fifteen years.

Q. Okay.
A. He explained to me that the meth lab would be about twenty years and the other would be about twenty years, so he told me I was facing forty years, up to forty years.
Q. How did the situation you were in make you feel at the time?
A. All alone. I had never been in trouble before in my life until all of a sudden they picked me up. And I wasn't in the best of shape after being on methamphetamine. For a long period of time I wasn't in that good a shape, so I wouldn't say I was all there or thinking straight.
Q. What was going on in your mind during that conversation with Mr. Peterson?
A. The only thing going through my mind was the fifteen years at that point, and once I went back to the detention center I would say it was maybe thirty days after that or so before I started to come around and do a little bit of my own investigation that I said there is no way I should have ever agreed to that.

I knew I shouldn't have taken that deal, and then by then it was too late because now anybody that even mentioned anything about my trial would get the statement.
Q. In the video that you watched is there anything about the fifteen year deal on the video?
A. No, on the video there is not.

Q. Where did that conversation take place?
A. That was in the back room at the Sheriff's Department.
Q. Why were you taken back there?
A. To talk to the attorney.
Q. In private?
A. Yes.
Q. During your jury trial, did anyone ever present testimony or evidence about why you did the things that you did prior to the trial?
A. They never did. I was -- I basically sat through the Jackson-Deno and I didn't even realize what was going on. It was already over and by that time it was admitted into evidence.

If I had known I could have gotten on the stand and explained what I am explaining today I would have.

Q Did your lawyer ever tell you you could plead guilty or you could testify in a trial if you went to trial?
A. No, maam, it was never discussed.
Q. He never told you that that was an option?
A. No, maam.
Q. What ultimately happened with Mr. Peterson's representation of you?
A. He came to me one day at the detention center with a CD in his hand and said, well, you've gone and done it now; you've told the jailhouse snitch everything. Now your

attorney-client privileges are -- it no longer exists because you have already confessed to someone else, everything you confessed to me, and that -- I figured that right there -- that he was going to get on the stand.

Q. Did he tell you . .

A. I told him I was not going to take the bargain and I would estimate a week or two later that he came up to me again and he said, look, they are going to load these charges on you -- they are fixing to load you up with contraband charges so you better take this deal.

So I said, okay, I'll take the deal, and I had no intention of doing it then so as soon as I got to the hearing -- he took me to the hearing the next day, and at that hearing when we were in this back room he said he had a paralegal and a witness here; that once you sign this document for the fifteen years -- I said, I'm not signing anything, sir.

Then we went up in front of the Judge and I said, I want him removed; I've fired him two or three times already; I want him removed and that's how I finally -- then he said -- he told me you're going to get appointed a new lawyer, and he said good luck.

Q. Was he trying to talk you into that guilty plea by telling you the charges were being loaded up against you?

A. Yes.

Q. Was there ever any contraband found?
A. Never was.
Q. Did he tell you that when he was trying to talk you into pleading guilty, that there was contraband found?
A. Yes, but none was found. My urine was clean, my belongings were clean. Everything was clean.
Q. During your statement to law enforcement and with your attorney, were you officially told that you would talk first and then charges would be made against you?
A. I don't remember. I don't remember anything like that being said.
Q. Okay.
A. I do remember the officer saying during the middle of the interview you didn't mean to kill her, did you. That was during the interview. I'm not making that up.
They were conjoling me the whole time.
Q. Now, if you had testified during a jury trial or during a Jackson-Deno hearing, is there anything else you would have told the jury that you haven't told us here today?
A. I would -- I think I have pretty much covered it, the way it was, the way I felt.
Q. The way you felt?
A. Yes,
Q. And the reasons you gave a statement, you covered that as well?

A. Yes, maam.
Q. Now, at some point while you were in jail with your charges pending was a search warrant was issued for your cell. Correct?
A. Yes.
Q. And who was your attorney at the time that happened?
A. Mr. Peterson.
Q. Did you talk to your attorney about that after it happened? Did you tell him about that?
A. He claimed he had no idea that was going to happen.
Q. But you told him about it afterward?
A. Yes.
Q. When Mr. Riley started to represent you on these charges did you tell him about that?
A. Of course.
Q. Did he do any kind of investigation into that?
A. No.
Q. And when was this matter investigated by SLED?
A. After the trial was completely over. The Judge -- Mr. Cooper had said -- he has asked me about it and then he said he believed there was a Fourth Amendment violation and he wanted it to be checked out by SLED.

He said, Mr. Riley, do you understand what I'm saying? I want you to check it out, and Mr. Riley did not. It was left in the hands of (inaudible) to investigate it, and, of

course, you can assume the outcome.

Q. In that investigation did SLED take pictures and documents. Correct?

A. Yes.

Q. And the SLED report actually named material that was confiscated from your cell?

A. It sure does.

Q. Okay, when did you first see that?

A. Fifteen months after I was convicted. I went to a direct appeal and my direct appeal -- I believe my attorney was trying to get the SLED report and Mr. Cooper would not give it to him so he put my appeal in abeyance.

While it was in abeyance Donald Zelenka had ordered Mr. Cooper to give it up and that is when I first saw what was in it.

Q. Did you produce that as a part of your appeal?

A. Yes.

Q. It was put in as a part of your appeal. Correct?

A. Yes.

Q. As an actual exhibit to your appeal. Correct?

A. Yes.

Q. After the appeal was filed and the report was put in, what concerns did you have regarding that?

A. Well, an Exhibit, Exhibit One was the actual search warrant, and . .

Q. Hold on just a minute.

(Brief pause)

MS. GOLDBERG: Your Honor, he's talking about page -- do you have a copy of the appeal, Your Honor?

THE COURT: Yes, maam.

MS. GOLDBERG: He is talking about page . .

THE COURT: I have it.

MS. GOLDBERG: Thank you.

BY MS. GOLDBERG:

Q. Go on.

A. What I saw, the affidavit in support -- it was a failed drug screen and this was a twelve P.M. during the filing of the return.

Q. Let me back that up. Go into a bit more detail.

A. Okay.

Q. You referred to the Exhibit Number 1 and what was that?

A. The search warrant.

Q. And what about that?

A. Well, the warrant said at twelve o'clock when he was filling out the return I had failed the drug screen in support, but in reality the drug screen did not come back until one thirty that afternoon, and it was clean.

Q. So the drug screen was the basis for the search warrant. Right?

A. It was in support of the search warrant, yes,maam, and it was clean of everything.

Q. The failed drug screen was mentioned to support the search warrant or as part of the basis for the search warrant. Correct?

A. Yes.

MS. GOLDBERG: Your Honor, since that information is contained in the SLED report I would ask for a stipulation from the State.

MS. KINARD: Certainly this information was not available to Mr. Riley at the time of trial.

THE COURT: I am not sure a stipulation is necessary since the information is in the record at this time.

MS. GOLDBERG: Thank you, Your Honor. First of all, it would go to the issues of the offense, I would think, the issues actually before the Court.

Second of all, this was after-discovered information that Mr. Smith could have found useful at the time of the trial.

As well, it is our allegation that Mr. Riley could have and should have looked into it. He was instructed to do so and he could have obtained the information prior to the trial.

THE COURT: I'm sure we will get into that more fully in this proceeding, so let's continue.

MS. GOLDBERG: I would like to direct the Court's attention to page 1007 of the transcript, as a follow-up on this.

(Brief pause)

MS. GOLDBERG: For the record, that concerns the drug test Mr. Smith was referring to, what he discovered by way of the search warrant.

And I would state for the record that the search warrant was dated August 15, 2011, prior to trial.

BY MS. GOLDBERG:

Q. All right, Mr. Smith. When Mr. Riley started representing you -- I may have asked you this before -- when Mr. Riley started representing you, did you tell him about the things you have told us here today and what you had done yourself?

A. I did, and I told him about the lawsuit that I had -- that eventually followed the 1983 lawsuit before trial.

Q. You mentioned the federal case to him?

A. That's what I'm talking about. To get my legal material back before trial.

Q. You were really concerned about helping yourself at all times. Right?

A. My legal materials came up, yes.

Q. You were challenging that, correct?

A. Yes, maam.

Q. Okay, the federal case, what was that about? I know

that is not in this jurisdiction, but the paperwork was taken from your cell?

A. Uh hm. Yes.

Q. Why did you have the paperwork in your cell?

A. What was the concern?

Q. Yes.

A. The concern was it was my Rule Five. I had all my personal notes about my investigation to represent myself. I had started opening statements. I had made requests for details on picking a jury. I had made that known to Mr. Peterson and at that time on August 6th I sent him a detailed fax and told him that I was going to trial, and just a few days later everything disappeared.

Q. Your discovery was in there as well?

A. Everything. His Brady Motion and Rule Five and case law I had. I was studying case law and I was using that as a reference because it told me what I needed to do; to thoroughly cross examine witnesses through psychological evaluations and such. I was using that.

Q. And you said your handwritten notes were confiscated?

A. Of course.

Q. Did those include possible defenses you may have been considering?

A. Of course.

Q. Was it ever addressed with the Court, the fact of that

and the potential problems that . .
A. Mr. Riley and I brought it to the Court's attention at the very beginning and they told him to object to any material that he felt was a part of the confiscated material but the State never really released it and he never had it. So how could you even object to something that is not in his possession.

We did not get a copy of -- we got the State's copy which did not have Peterson's paperwork in it. It had a lot of things missing and that was supplied -- after the State made their case, it was way too late so there was nothing we could do.

Q. Did you have any additional concerns about that, the State having that paperwork and as far as conversations he had with yourself related to witnesses?

A. Oh, yes.

Q. What was that?

A. I had affidavits that I didn't bring with me that -- when I was -- after they took my stuff from the cell I was put in solitary and he had parts of some of my paperwork that was in my room, my roommate at the time.

What he had I never did find out. I thought it was awfully convenient that he put in a letter to law enforcement on the 16th, the day after my paperwork was stolen. I thought that was kind of ironic.

Q. Now, going to your trial, do you remember or recall that?
A. Yes.
Q. Do you recall when the jury was picked? Were you present?
A. I was there.
Q. All right, and do you recall jurors being -- do you recall potential jurors being asked about their experience with violent crimes?
A. Yes.
Q. Okay.
A. I remember that, that part. Yes, definitely.
Q. Do you recall them answering that question?
A. Yes, but not explicitly. I remember that part.
Q. Generally?
A. Yes.
Q. Can you tell the Court if you remember if those answers were given to the Judge in private at the bench or were the answers given out loud?
A. It was in the open.
Q. Do you think that may have hurt or prejudiced the jury in any way; the potential jurors?
A. I think -- now that I reflect on it I believe there is a possibility. I didn't pick up on it at the time.
Q. Did your lawyer object or do anything or ask the Judge

to do anything on the record?
A. To my knowledge I do not think so.
Q. Now, do you remember that in your case the police were able to obtain a gun and holster to be placed into evidence in your trial? Do you remember that generally?
A. Uh hm.
Q. Do you remember the photograph of the gun and holster in the trial or some presentation of it as an exhibit?
A. The -- one thing that was kind of different, when I got my Rule Five there were no photos.
Q. Had you ever seen the pictures?
A. Not personally, no.
Q. Did you ever see the gun and holster that was taken into evidence?
A. Did I see them? Yes.
Q. When they were obtained by the police, did you ever see them?
A. The gun was brought in in a box and had a trigger lock on it and passed to the jury, and after members of the jury handled them the question came up was my fingerprints on there. It was too late at that point.. Nobody ever did take fingerprints off the weapon.
Q. The holster was not admitted into evidence?
A. No, it was not.
Q. Do you know why not?

A. I don't have any idea.
Q. Do you recall hearing that it was lost?
A. I think Mr. Riley brought that up.
Q. Are you familiar with the gun and holster that were photographed to be placed in evidence?
A. I was there.
Q. Were you initials anywhere on them?
A. Definitely not.
Q. Did you ever tell anyone that was your gun and holster?
A. No.
(Transcription note: This was the end of that segment of the hard drive. The next segment began in the following language.)
CROSS EXAMINATION
BY MS. KINARD:
Q. Good afternoon, Mr. Smith.
A. Good afternoon, maam.
Q. I want to go back to the beginning.
A. Okay.
Q. You told us about a plea offer made to you of fifteen years?
A. Uh hm. Yes, maam.
Q. Was that the only offer presented to you?
A. That was the only offer presented from him. I cannot

say whether he had any backing with the Solicitor's Office on that. He promised me that -- he promised me that I would be out before I was sixty-five.

Q. So in other words that is what he told you that he probably could get you?

A. And he did. He did get that.

Q. So that became the offer?

A. Yes.

Q. And that's when you went to Court with him to do that?

A. Yes, that's when I was relieving him.

Q. How long was Mr. Peterson your attorney?

A. I want to say it was somewhere mid-October of 2011 and he came in on May 28th. So it was May, June, July . .

Q. You were arrested May 28?

A. Yes, maam.

Q. And you say it was October so about five months?

A. Yes.

Q. How long were you without an attorney after that?

A. I was never without an attorney. Mr. Riley came in and he was appointed that same day, and that's when Mr. Peterson said that Mr. Riley is going to be your attorney and good luck.

Q. Okay.

A. His exact words.

Q. Now, you mentioned writing letters yourself?

A. Yes, maam.

Q. Tell me about the efforts you made yourself?
A. I wrote a letter to SLED regarding the evidence. I was diligently writing letters to gather information on how to present my case.

Kershaw County Detention Center does not have any type of legal or law library. I did not get to a law library until after I was convicted.

Q. And were you doing some type of legal research during the time you were represented by Mr. Peterton?
A. Yes, maam.
Q. Did you ever attempt to fire Mr. Riley?
A. I did.
Q. Describe what happened?
A. I went in for -- I believe his name was Mr. Goldstein, I believe . .
Q. Or Goodstein?
A. Gold something.
Q. Goldsmith?
A. Goldsmith. That's it. I'm sorry. That's correct. He asked me if I wanted to relieve Mr. Riley and I said to Mr. Goldsmith that I think Mr. Riley is going to come around to where I could get what I wanted from him, and I said, could I get a continuance for thirty days and he said no.

He said, but what I'm going to do is I'm going to give you a chance to decide. Casey Manning is coming in next

month, and you can go in front of Mr. Manning and tell him whether you want to retain Mr. Riley.

Well, when Mr. Casey did come in Mr. Perry's -- the rumor around the jailhouse was that Mr. Perry's grandmother died so I did not get to see Mr. Manning. I did write him a letter and explained it and I wrote to Mr. Goldsmith and explained to him that I was not able to go in front of Casey Manning and it did not happen.

Q. You had asked Judge Goldsmith for a continuance?

A. He would not grant the continuance. It's in the transcript. He told me he would not grant the continuance.

Q. So he did not make a ruling?

A. He did not make a ruling. He was going to leave it up to Mr. Manning.

Q. Okay, what transactions. Why did you want to relieve Mr. Riley? You mentioned you thought he might come around.

A. I didn't feel he was representing me to the fullest.

Q. What did he not do that you asked him to do?

A. For one thing, he didn't pay any attention to my legal material being taken. None of that.

He did help me with a little bit of case law on the cases that I wanted because I couldn't get -- I was told if I wanted any legal assistance it would have to be through my attorney, and I didn't feel he was representing me.

Q. So you are saying you didn't trust him?

A. I didn't fully trust him. I thought I would give him a chance when I asked for the thirty day continuance but then it was denied. It was denied.

So in the end I would end up with nothing on whether to decide to relieve him or not. To relieve him as my counsel or not.

Q. When you met with Mr. Riley did he have a copy of the discovery or anything concerning the search warrant?

A. Not to my knowledge. I know he didn't have the search warrant.

Q. Okay. He didn't have it?

A. And that's a vital piece of impeaching evidence right there.

Q. The original discovery from the Solicitor's Office, do you know if he had a copy of that? The other documents from them?

A. Not to my knowledge. What he brought to me was Samantha Stewart's statement. He brought me smidges of statements and basically he told me it was all going to be relying upon that statement; that you can't take the statement back and so I never challenged it in Court. I would have had I known . .

Q. That was your statement?

A. I would have challenged it and asked for a Jackson-Deno if I understood it but I never got that understanding.

Q. Did Mr. Riley ask for one?

A. Yes.

Q. Do you recall the questions he asked of witnesses?
A. Not really, no. Not right now. I mean, I can't.
Q. Do you wish you had done more at that time?
A. Yeah. I wish I'd gotten on the stand and been able to give my side of the story.
Q. Okay.
A. I did complain about Mr. Peterton to Mr. Riley quite a few times and he told me forget about it; put it aside; we're not going -- worry about the statement, don't worry about Mr. Peterton.

That is basically -- that's basically what it was like then.

Q. The documents received, did you receive them before you went to trial?
A. No, I did not.
Q. When you met with Mr. Riley, do you think he had the discovery?
A. Not to my knowledge.
Q. Did you see in the transcript where it says your attorney got the documents?
A. I didn't have the documents.
Q. Do you know what Mr. Riley had?
A. Honestly, no. He mentioned that he would make sure I got anything that I was missing, and the only thing I was missing was the third statement of (inaudible), the statement

of the snitch and Mixon's statement -- both statements.

He had told me we would meet and he would see that I got everything but we didn't.

Q. Was that ever brought up at trial?

A. No. No, it was not.

Q. You were asked about a gun and a holster and it was -- it came up at trial?

A. That's correct.

Q. Did it come up at trial that you put your initials on the holster?

A. Correct.

Q. Did you ever say that you created this holster?

A. I may have said that I made it but I never ever said I put my initials on it.

Q. Isn't it true that you actually told law enforcement about it?

A. I did. I did.

Q. So you admit it?

A. Yes, I still admit it. I was told to get off the property and hide that gun.

Q. Who told you that?

A. Mr. Tyler.

Q. I have no further questions.

THE COURT: Any Redirect?

MS. GOLDBERG: Just briefly.

REDIRECT EXAMINATOIN

BY MS. GOLDBERG:

Q. Mr. Smith, when Mr. Peterton told you that he could get you fifteen years, did he tell you he had been a Solicitor?

A. He told me he had twenty-some years as a Solicitor and he promised me he could get me that fifteen years, and once I came down and I started figuring it out I didn't come up with a defense. I completely . .

Q. You testified that you believe that Mr. Riley did not have or didn't do anything about the search warrant?

A. Yes.

Q. And, in your words, that was a vital piece of impeaching evidence?

A. Yes, maam.

Q. Why?

A. Because when Mr. Phillips was on the stand he explained to the jury how he had been in law enforcement for eighteen years and he had a PHD and Masters and all kinds of good credentials, but someone who has those credentials wouldn't have gone to a magistrate judge to tell him things that were not true to get a search warrant and then turn around and take my paperwork.

I believe that should have been brought up.

Q. Is he the person who got the search warrant?

A. Yes, and the arresting officer.

Q. Was he the lead investigator who appeared at your trial?
A. They changed it around at trial and gave it to somebody else but as Mr. Riley noted the officer who was the lead investigator just sat there. He never even got to testify or nothing. They left it all to Phillips.
Q. But he would have been the one who got the search warrant as well?
A. Mr. Phillips?
Q. Yes.
A. Yes.
Q. But you believe the search warrant should have been used to attack his credibility?
A. Yes. He was the one who interviewedi me with Peterton so I mean he's combined in everything that has to do with this trial, and by him lying to that judge I feel that should have been information to impeach him.
Q. That was your feeling?
A. And I still feel that way.
Q. You also said that at some point Mr. Riley told you that you can't take the statement back?
A. Yes.
Q. Is that what he told you?
A. Basically.
Q. Did he . .
A. He said that's what they've got and that's what -- he

said that's what they've got and we have to work from there.
Q. Did he ever tell you he would challenge that?
A. No, he never discussed that.
Q. He didn't tell you that you could challenge it at trial?
A. No.
Q. Did you know what a Jackson Deno hearing was before your trial?
A. I had no idea at the time but now I do. I didn't know at the time.
Q. Did the two of you ever discuss any strategies you could use during the trial?
A. No.
Q. No further questions.
THE COURT: Any Recross?
MS. KINARD: Nothing further.
THE COURT: All right, you may return to your seat in the Courtroom.
(Witness excused from stand)
MS. GOLDBERG: We would have no further witnesses.
THE COURT: You may call your first witness.
MS. KINARD: The State would call Cornelius Riley.
CORNELIUS RILEY, being duly sworn, testified as follows:
CLERK: Please be seated and state your full name for the record, spelling your last name.

WITNESS: Cornelius J. Riley, R I L E Y.

DIRECT EXAMINATION

BY MS. KINARD:

Q. Mr. Riley, how long have you been practicing law?

A. Just under thirty years.

Q. I want to go over some background information before we go into the facts.

A. Sure.

Q. I understand you're retired now but how long did you practice?

A. Just under thirty years.

Q. How much of that was the practice of criminal law?

A. The last nine years I was a full time Public Defender. I was in the lowcountry in private practice for fifteen years and I was a part time Public Defender down there as well for two or three years but just part-time.

Q. So a large part of your practice of law was in criminal work?

A. Yes.

Q. Do you recall how you became involved in this case?

A. What was the question?

Q. Do you recall how you became involved in this case?

A. I don't remember the exact date, no.

Q. Do you remember the circumstances of it?

A. Well, I understand -- it had been my understanding that

Mr. Peterson was handling this case and then I was probably in Court when Peterson was relieved. The Presiding Judge probably appointed it at that time to the Public Defender's Office for Kershaw County.

Q. So it wasn't an accidental meeting but you just happened to be in the background at the time and the Judge appointed you?

A. Well, it was always my practice to stay in Court all the time General Sessions was going on unless I was representing a client somewhere else or talking to a client.

Q. So you were then appointed to represent Mr. Smith?

A. Yes.

Q. When did you meet with Mr. Smith? Do you remember the first time you met with him?

A. I don't remember the first meeting.

Q. But you met with him at the detention center?

A. Yes.

Q. During the time of your representation did you meet with Mr. Smith very often?

A. As often as I could, yes. Being a murder case I took it very seriously.

Q. During your meetings what kind of things would you discuss?

A. Well, of course we went over -- the first thing I always do is get background information from my client, and

secondly go over what the State has.

It's important to keep a client's attention focused on the fact that the State has the burden of proof so one's approach as to a defense has to be based on what they've got.

So we spent a lot of time talking about that. He had -- in most of our meetings, although I don't remember the dates or anything of the first meeting, but he seemed to want to talk about two things which he thought were critical.

One was Mr. Peterton who was his previous defense counsel. Number two was the fact that a search warrant had been executed on him at the Kershaw County Jail and his meaningful papers were seized.

The only way to discuss or analyze other things was -- it was a difficult task every time we met.

Q. Did you have an opportunity to discuss the elements of the charges he was facing when you met with him?

A. Yes, I'm sure we did. That was my standard practice.

Q. And did you discuss with him his constitutional rights, including (inaudible)?

A. Say again?

Q. Did you talk to him about his constitutional rights and that he would give them up if he pled guilty but that he had a a right to have a jury trial?

A. Oh, sure. Yes.

Q. And did you discuss with him the facts of the case?

A. Yes.
Q. Did he tell you anything that you recall that did not line up with what he has testified to here today?
A. Nothing that was blatantly contradictory of the facts he just finished discussing here today, no.
Q. Okay.
A. We discussed his defenses although that is not something that has been discussed here today a whole lot so far.
Q. Talking about defenses, what was your working theory of a defense?
A. Well, after talking to him -- of course, Mr. Smith said he didn't do the shooting; that it was Mr. Tyler who did the shooting, and that Tyler basically conveyed the weapon to him and told him to get rid of it which Mr. Smith did.

That was basically his account of what happened so we battled that back and forth a lot between us, you know, every time we met.

There were certain things about that that were problematic, of course, first and foremost being the other person who said she was there in the room, Samantha Seabrook, and witnessed Mr. Smith shooting the victim in her account.

The fact of the holster with the gun that was held --it was a leather holster that had been made by Mr. Smith and had his initials on it, and the fact that he without hesitation led the police to the place where it was.

There was also the -- what would be the police officer's testimony -- I think it was Phillips. No, it wasn't Phillips. It was somebody else -- who first arrested Mr. Smith alongside of the road and a comment Mr. Smith made to him with regard to whether he could give him a bottle of cold water rather than a bottle of hot water.

You know, all of those things were what I tried to keep Mr. Smith's attention focused on.

Q. And was it his position that he didn't do it; that Mr. Tyler did it?

A. Yes.

Q. And was there a problem addressing Mr. Tyler's role in this?

A. Mr. Tyler had died on the way to the jail later on. They had arrested him for public disorderly conduct.

Q. Was that the same day Mr. Smith was arrested?

A. Yes.

Q. Did you have a discussion with him about Mr. Tyler's role in what had happened?

A. I did.

Q. And how did that discussion go?

A. How did what?

Q. How did that discussion go?

A. . .

Q. Did you think that would be successful?

A. I didn't think it would be successful because that was a position he took right at the beginning and I felt that the State had too many pieces of evidence that contradicted that.

Plus they had -- I mean, they had -- the really key witness they had, since she claimed to have been in the trailer at the time of the shooting, Samantha's testimony.

Q. Now let's talk a little bit about the statement that Mr. Smith provided.

A. Uh huh.

Q. Did you hear that statement?

A. Yes, maam.

Q. And it was played at trial?

A. Yes, maam.

Q. Did you hear it prior to the trial as well?

A. Yes.

Q. Why did Mr. Smith not testify during the Deno hearing?

A. Well, to be honest with you I can't recall. I know the issue of whether he was to testify at the Deno hearing was something that we had discussed. Right at the tail end of -- I'm sorry. I'm thinking of something entirely different regarding Samantha but there is -- when I read over the trial transcript there is a point where I asked the Court's indulgence and that was in order to -- honestly in hindsight I remember that was an opportunity for me to confer

with Mr. Smith about whether he would or would not testify in the Deno hearing.

If I recommended one way or another to him, I don't recall. I don't know if I left it entirely up to him or if he asked me for a recommendation. I just don't remember.

Whatever he decided I wouldn't have said, no, I'm not going to do that.

Q. Did you trust him to testify well in his own behalf?

A. I didn't doubt his ability to testify, no. I knew that he would immediately talk about Mr. Peterton and his jail cell being tossed.

Q. Do you think that weighed into your decision to not have him testify?

A. Not to do what? For him not to testify during Deno? I -- Possibly. I can't recall.

Q. Is it your understanding that the fifteen year offer that Mr. Peterton submitted -- was that still on the table?

A. No. By that time it had been withdrawn.

Q. Is it your recollection that that was a formal offer from the Solicitor?

A. Oh, I don't think that -- knowing Mr. Peterton, he wouldn't have conveyed it unless it was from the Solicitor's Office.

Q. Is that right?

A. Yes.

Q. All right.
A. With his background and past history as a Solicitor, he wouldn't have made that up so it had to be there.
Q. When you began representing Mr. Smith, do you recall your first meeting?
A. I can't recall the first meeting.
Q. Was it at the detention center?
A. Yes.
Q. And during the course of your representation, did you meet with him often?
A. As often as possible.
Q. Now, we've heard a lot about that search of Mr. Smith's cell and the seizure of his documents?
A. Yes.
Q. In the big picture of this trial did you feel that was an important issue to bring up?
A. No.
Q. Can you explain why?
A. It wasn't -- that was all related to the suspected possession of contraband by an inmate, namely Samantha. I did not really understand how it could amount to anything but that she was somehow providing him with methamphetamines while he was in jail, but I don't know the mechanism or understand how.
I don't know how it could amount to anything but that

is what it was related to. The search warrant and the seizure was pertaining to that issue. He was never charged with possession of contraband. Possession of contraband was not a pending charge against him.

The material that was seized consisted -- or at the time I ended up getting my hands on it, it consisted mostly of Rule Five discovery material that Mr. Smith seemed to already have.

You know, I can't explain it. I had taken them but he seemed to have that already.

Secondly, it consisted of handwritten notes that basically were the kind of notes an attorney would make in preparing for a trial. In other words, they were his trial prep notes. He was obviously planning when he wrote those notes to represent himself.

None of that material that was confiscated was seen by anybody in the Solicitor's Office. They didn't have that.

Q. How do you know the Solicitor did not get those?

A. Well, for two reasons. Number one, they never gave me the impression of that in any discussions or negotiations before trial.

There were no slips of the tongue or inadvertent admissions that there was anything that they had seen in that material confiscated from Greg's cell.

As an example, there were no slips where somebody said,

well, Greg wrote that in his trial notes -- nothing of that sort.

Number two, they are officers of the Court and nothing I saw led me to believe there was any red herring. I had no reason to think they were being deceitful.

Q. Let me make sure I understand. You and Mr. Smith reviewed the box of that before trial?

A. Yeah. No, I think it was -- if I remember correctly I think it was at some point after we had already started it. You know, Judge Cooper ordered everything there be copied be turned over ASAP and the trial -- I can't remember the chronology but the trial was cut short one day and I spent the whole time with Mr. Smith going over it all page by page at the detention center.

Q. When was that? You had already started the trial or was it that you had gone over the information before the trial?

A. I think Judge Cooper ordered that before -- when the State rested but before a decision was made by Mr. Smith and I regarding presenting a defense.

Q. Okay. There was some discussion about possible defense theories regarding his exposure to methamphetamine?

A. No.

Q. Was that ever a theory of yours?

A. The problem with -- it was something that I thought

about. I don't remember discussing it with Greg, but the problem I had with that was that the day of his arrest he was taken to the Kershaw County Hospital and was given a clean bill of health by the examining physician; that he was oriented as to time and space, in possession of his faculties, clear-headed and all that sort of thing.

I would have -- plus, Judge Cooper ruled that he saw no evidence in the video-taped confession that Greg was befuddled, unable to articulate or think rationally.

I didn't think I would be able to make much traction in making that argment.

Q. Ms. Goldberg questioned Mr. Smith about questions of the jury about experience with violent crimes.

A. I'm sorry.

Q. The Judge in his voir dire questioned the jury about their experience with violent crime.

A. Yes.

Q. Do you remember that questioning during voir dire?

A. You're asking me did the Judge ask the jury pool that question?

Q. Yes, did he?

A. Did he? Yes.

Q. Is that a question that was important to ask?

A. Yes, very important in dealing with the trial of a violent offense. Yes.

Q. Is it usual for jurors to be allowed to answer that question verbally before the entire jury pool?
A. No.
Q. Did they . .
A. I'm sorry. I've lost your train of thought. Usually that is one of the questions where jurors come up privately to answer or talk to the Judge about.
Q. Is that normal practice?
A. Yes, and the defense and prosecution lawyers stand nearby so that they can hear what the potential jurors have to say to the Judge.
Q. Do you recall if that happened during Mr. Smith's trial when the question was asked?
A. I don't recall.
Q. If they were not allowed to come up to answer would that result in contamination of the jury pool?
A. It's not a terribly big problem but it would have been a problem, yes.
Q. All right.
MS. KINARD: May I ask the Court's indulgence?
THE COURT: Yes, maam.
(Brief pause)
BY MS. KINARD:
Q. During the trial did Mr. Smith ever speak without your knowledge or permission to the Court?

A. Would you repeat?
A. During the trial did Mr. Smith ever speak without your knowledge or permission to the Court?
A. Yes, on at least one occasion that I know of.
Q. Did he ever tell you that he was not satisfied with your representation?
A. Yeah. In a round-about way, yes. He never came out and actually said that but what Mr. Smith just testified to -- I think he said -- I think he used words like he didn't feel I was giving it my best. I remember him saying that to me.
Q. Did you ever have conversations with him to try to assuage his concerns or ask for suggestions?
A. Yes, maam.
Q. How did those go?
A. I think he -- whatever the particular points were, we always discussed them and I always felt he was comfortable with my explanations.
Q. You always felt he understood your conversations?
A. Yes.
Q. Do you . .
A. Mr. Smith is one of the most intelligent clients I ever had. He is a very smart man.
(Brief pause)
THE COURT: Anything further?

BY MS. KINARD:

Q. To return to his statement, did you ever tell Mr. Smith that the statement is there and we have to work from that point forward?

A. Could I ask you to repeat it?

A. Mr. Smith stated during his testimony that you told him you would have to deal with the statement because the statement was there and you needed to work from that point forward. Is that correct?

A. It's correct that's what he testified, but if I used those exact words I don't know.

If I did use those words, if I did say that to him -- I can't deny what he's testified to in Court today as being his accurate recollection.

What I was thinking of was that we need to prepare -- to hope for the best and prepare for the worst. If the video-tape or confession was ruled admissible, then we've got to deal with it, prepare for it and strategize accordingly.

Q. Other than the Jackson v Deno hearing, did you have any strategy for keeping out that confession?

A. Well, other than that, no, except to play hard tack about it.

Q. Did Mr. Smith ever say he wanted to issue a second statement?

A. Did he ever say what?
Q. Did he ever say he wanted to issue a second statement to address that?
A. Not that I remember.
Q. Would you have advised him against that?
A. Yes.
Q. Regarding your decision or your joint decision, did you have discussions about his giving testimony?
A. . .
Q. Whether he should present it?
A. You mean to testify in his trial?
Q. Yes, sir.
A. Yes.
Q. And did he ultimately make that decision himself?
A. Well, again, yes, and he may have asked for my opinion, yea or nay, and he asked that from the beginning, I think, but when asked for an opinion I always carefully remind my client that it is ultimately their decision, not mine.

We discussed it in jail and in Court before the decision had to be given to the Judge, conveyed to the Judge.
Q. Did Mr. Smith speak to you about wanting the Kershaw County Solicitor's Office to be conflicted out because they had the items from his cell?
A. I think that came up in some of our conversations at the detention center but I don't remember him making a big

deal out of it, out of that desire.
Q. So it didn't seem that big a concern of his that he wanted to address it? Wanted you to address it?
A. Address it with the Court . .
Q. To address the Court or for you to talk to him about whether that was enough to satisfy him?
A. Well, I never felt there was enough there to legitimately and ethically make an argument that their office ought to be knocked out of the prosecution of the case.
Q. And Mr. Smith testified that the documents that were seized could be used to impeach the officer's testimony?
A. Yes.
Q. Did you feel that was necessary?
A. Did I feel it was necessary?
Q. Did you feel that it was a possibility to use those documents to impeach the officer's credibility?
A. No. Do you mean the documents themselves or the search warrant? The execution of the search warrant?
Q. Yes, the execution of the search warrant.
A. Well, Mr. Smith said he knew I didn't have a copy of that, and I don't remember it that way but I had the document at some point in time. I think it was provided after demand was made by the Solicitor's Office.

But I remember seeing that search warrant long before the trial. His recollection and mine are different on

-- differ significantly on that score.

But, no, I mean the search warrant for his cell would not have provided me much in the way of ammunition to impeach him when he testified.

Q. Do you believe the search warrant was valid or was a product of falsification?

A. I saw no reason to doubt that they had some evidence of methamphetamine contamination in Greg's call or . .

Q. What about . .

A. Suspicions of it.

Q. What about that in combination with the results of the urinalysis that was negative but reported as positive? Did you speak to Mr. Smith about that?

A. I don't recall that but, see, this line of questioning all has to do with or deals with the contraband, the methamphetamine contraband. He was not ever charged with possession of contraband.

Q. I just want to ask you if that is something that should have been explored more, but I think your answers all go back to the red herring.

A. That's a fair characterization.

Q. And your main concern was to deal with the primary charge of murder?

A. Yes, the murder charge.

Q. Exactly. Okay, I don't think I have any further

questions for you but I will ask you to address the Court with anything else you remember that you feel is important that I have not questioned you about.

A. What was that?

Q. Please tell us if there is anything you think should have been addressed in my questions.

A. Nothing, no.

Q. Okay, thank you.

THE COURT: Cross examine, Ms. Goldberg.

MS. GOLDBERG: Thank you, Your Honor.

CROSS EXAMINATION

BY MS. GOLDBERG:

Q. I'll move a little closer to you.

A. That's a great idea.

Q. All right. Good afternoon, Mr. Riley.

A. Good afternoon.

Q. Let's see. Going to Mr. Smith's concerns and your testimony, you testified that when you met with him he would always focus on Mr. Peterton and the search warrant for his cell. Those were his main concerns?

A. Yes, maam.

Q. Okay, would you call that an obsession?

A. I don't know. To me, he had an irrational grudge as against Mr. Peterton. You know, I would say that -- I don't know how many hours but tens of them went by in discussions

about the period of time Peterton represented him, and I never understood, you know, Greg's grievance against Peterton.

Mr. Peterton got him a pretty darn good plea offer at the time Greg and I met each other.

So I can't give a definite answer as to what Greg's problem was, emotionally or mentally or whatever you would call it.

Q. Do you understand that he was upset that Peterton had coerced him into giving a statement?

A. Yes. I know he believed that.

Q. You know he believed that?

A. Yes. My client -- I just didn't think there was any coercion. I don't recollect that he had been coerced. I know Greg -- if I were to summarize my understanding of Greg's feeling it was, number one, that he attempted to coerce Greg and, number two, that he was in cahoots with the Solicitor's Office.

Number three, he didn't have or care a thing about Greg's welfare or the outcome of Greg's case. Combined with that he didn't really care about the facts of the case. He just felt there was this great deal that this guy needs to take ASAP, and he tried to convince Greg to take it. That it was his job to convince Greg to take it, and I'm summarizing Greg's view, and that Peterton got all hostile and huffy wheN Greg wouldn't take the officer. That is my summary of

Greg's view and I never really could understand not that I made an effort -- it was all ancillary stuff.

Q. An effort to do what?

A. Change his mind.

Q. How long did you say you had worked there as a Public Defender in Kershaw County?

A. Nine years.

Q. Is it typical for private lawyers to show up and represent an individual when they weren't retained?

A. No. It was not unusual if they were long time lawyers for a family or someone, but to show up out of the blue was very unusual, yes.

Q. So what happened with Peterton was unusual?

A. Yes. What was explained to me was, you know, he got -- this is not my view but as it was explained to me by law enforcement and the Solicitor's Office was, hey, you know, we've got this guy and it's an open and shut case. It is just over drugs and he shot the person. We did ask Peterton to come down and interview him; maybe we can get this thing wrapped up quickly so we don't have to prepare it to go to trial. That was essentially law enforcement's view.

Q. Looking back to the beginning of this case, prior to Mr. Smith's giving a statement, did they have any evidence against him at all?

A. Not to my knowledge, no.

Q. Okay.
A. They had -- let me think. I don't think they did a darn bit of collecting evidence or any forensic evidence at the trailer. There was a little bit before they had the gun.
Q. Knowing that Mr. Smith alleged that Mr. Peterton had coerced him into giving a statement, why didn't you bring that up at the proper time?
A. Because I didn't think it was a good course to warrant -- I didn't believe I could make a reasonable argument that it was coerced. Number two, I didn't see much chance of success for such an argument. I didn't think Peterton had coerced him.

In terms of Jackson v. Deno, I didn't see any chance of success in that argument.

Q. But you were at the point of whether or not the statement was admissible, right?
A. Yes.
Q. And you could have presented evidence by testimony of Mr. Smith?
A. Right.
Q. That would have given some chance of success if you had done that?
A. I think that is a valid argument. I probably should have gone to great lengths to persuade him to testify but

I don't know how I would have been able to go into the Peterton aspects in detail.

Q. You said another issue Mr. Smith always wanted to testify about was the search warrant, right?

A. Yes.

Q. What was his problem with that?

A. Well, as he testified today, this afternoon, he felt the search warrant was defective and he resented it. He felt that even inmates have an expectation of privacy to some degree, but anyway he felt violated that all of his stuff had been taken. You know, I think those two points were the key to why he was so upset.

And as of the point where I got involved they hadn't returned any of that stuff to him. They said they were keeping it as evidence.

Q. Did you say you had a copy of the search warrant at some point?

A. I think I said in answer to the AG's question -- it's on the record but what I think I said was that I think I recall having seen the search warrant. Okay?

If I said I saw it then that's what I said. From my vantage point it didn't seem the search warrant was something that at that point related to the trial.

Q. Had you seen the drug test results at the time of trial?

A. Drug test results -- you mean on the urine?
Q. Yes.
A. I don't remember.
Q. Do you remember if you've ever seen the results before today?
A. Yes, because I think it . .
Q. They passed it around, but as far as the search warrant I think I said I recall seeing the search warrant. If I definitively said I saw it then, you know, that's what I said.
Q. Really, I'm just asking what your recollection is. I'm not trying to . .
A. I had seen it at some point but, there again, it is all related to the tossing of his cell, searching for contraband which was not a pending charge.
Q. Do you recall asking for the drug test result?
A. I should be under my standard Rule Five request but I don't remember asking for anything over and above the boilerplate language that's in the Rule Five request.
Q. Do you understand the same officer who got the search warrant was the investigator in the case?
A. Sure.
Q. The same officer who took the statement about the murder was the investigating officer?
A. Sure.
Q. The investigator getting the search warrant lying to

the Court, you don't think that he should have been challenged as to his credibility?

A. You want to show me where he lied in the search warrant?

Q. Okay.

A. I mean, I guess that's a bone of contention.

Q. Okay, do you have the transcript in front of you?

A. . .

Q. Let me give you the . .

A. Yes, I have the whole thing, or I have volumes two and three. Volume one is down here.

Q. On page 757. Volume three.

A. All right.

Q. If you will read from paragraph 12.

A. Okay.

(Brief pause)

A. Where the arrow points to?

Q. Yes.

A. A CI advised Greg Smith was accepting mail from his girlfriend laced with amphetamines. A random drug test was conducted on eight fifteen -- I can't make out the word after a date. I think it's this was positive for amphetamines. Or that was positive for amphetamines, further supplemented by oral testimony.

Q. Page 767.

A. That's what we just looked at, 757.
Q. Seven sixty-seven.
A. Oh, sure.
Q. What is on page 767?
A. It's a copy of the affidavit for prisoner's contraband . . .
Q. The warrant? Taken out by Phillips.
A. The warrant, yes.
Q. And look for the sentence toward the bottom that begins March 15, 2011.
A. March 15, 2011, drug screen was issued for Mr. Smith and tested positive for methamphetamines A search warrant was then executed. So this is responsive to your question. (Reading from transcript document) Arrest warrant for Samantha.
Q. And that was taken out by Phillips?
A. I can't read that, but that's Phillips' signature.
Q. Look at the top of the affidavit.
A. Yes, it's him.
Q. And I don't mean to jump around on this but if you'd go back to page 762.
Okay. If you would just read the first paragraph?
A. (Witness reading from transcript)
Q. Then finally, page 1087.
A. Now, that is the urinalysis result.
Q. Did you ever see this before?

A. Yes, I saw this before when I was going through these things. It didn't make a significant impression on me, but yes, maam. If I saw it back then, I don't know.
Q. Could you give the date it was collected?
A. Date is 8 15 -- collected 8 15.
Q. What time?
A. Twelve noon.
Q. And does it give a date for the result?
A. Yes, the exact same date as the search warrant was supposedly executed is the report.
Q. Right. You don't think that was something that should have been used to cross examine the officer?
A. Yes, maam. I do.
Q. You do think so?
A. Yes, maam. Can you -- it doesn't matter.
Q. Go ahead.
A. Give me just a second.
(Brief pause)
A. I agree with you if that's what you're pointing out. I think that's what you're pointing out.
They could not take the contraband -- the effort by law enforcement to make a charge of contraband cannot be taken seriously. I think that's a fair statement.
You know, I've repeated several times that he hadn't been charged with that.

Q. Do you recall that Ms. Seabrook was charged with contraband?
A. Yes, maam.
Q. You do?
A. I do.
Q. And that was one of the charges that was pending on her at the time she testified, Samantha Seabrook?
A. Yes, but I didn't represent her.
Q. At the trial you said you don't recall whether jurors talked about their experiences with violent crime?
A. I believe so.
Q. In open Court in the presence of other jurors?
A. I'm not sure.
Q. You just don't remember?
A. No.

MS. GOLDBERG: Beg the Court's indulgence.

THE COURT: Yes, maam.

(Brief pause)

Q. During the opening statements -- I believe a statement was made in Court by the State that Defense would make the argument that the Defendant was under the influence of methamphetamines at the time he made the statement.

Do you know where the State got that information from?

A. No, I don't. Maybe from Samantha.
Q. And the State spent a great deal of time detailing any

. .

A. I believe that statement was made in opening statements.

Q. The State spent a great deal of time detailing any possible defenses that Mr. Smith might have?

A. Uh hm. Yes.

Q. Is that a fair statement?

A. Yes.

Q. And the State tried to offer someone from the Sheriff's Department who had bought drugs as an expert witness in methamphetamine and meth labs, the effect of someone on meth?

A. Yes.

Q. And do you recall that?

A. I recall seeing it here but I didn't remember it or what went on about it in Court.

Q. You never objected to her being offered as an expert?

A. No.

Q. She wasn't a medical doctor, was she?

A. No.

Q. She wasn't a psychiatrist?

A. No.

Q. What was your reason for not objecting to her being qualified as an expert?

A. I don't know why I didn't but I didn't.

Q. She was . .

A. If I could just throw this out?
Q. Okay.
A. I don't know why I didn't from the perspective of today but I guess there was nothing in what they presented in terms of her credentials that triggered anything in the presentation of her credentials that triggered an alarm bell in my mind.

I mean, that is a fair assumption to make that only an MD could testify as to the effects of methamphetamine on someone. I am sure someone who just -- well, to pick out an example -- someone who used methamphetamines more than once would know what the effects are.
Q. But she didn't say she was a meth user?
A. No, I don't believe she did.
Q. But the State asked her to view the tape and did she believe the person giving the statement was under the influence of meth and would he understand what he was doing in waiving Miranda from what she saw on the video?
A. . .
Q. They asked her to testify to those things from what she saw in the video. Did you object to that?
A. I don't know. The transcript would show that I didn't object to it.
Q. And the Solicitor I believe stood in front of the jury in his opening statement and said the Defendant had given a

second statement or story saying he didn't do it and that he would try to blame someone else. That's what the Solicitor told the jury.

Was that ever in the discovery evidence?

A. . .

Q. Was there anything in the evidence about Mr. Smith giving a second statement?

A. I don't believe so, no. Are you sure he wasn't referring to Samantha's statement?

Q. Let's just make sure the record -- let's make sure that is clear. Turn to page 172.

A. Okay.

Q. And if you'll just read it out loud beginning at line six . .

A. The first full paragraph he's summarizing. Is that what you're referring to?

Q. Yes.

A. The State's opening statement at trial?

Q. Correct.

A. Talking about Samantha -- she had told them that during visits to Greg at the jail he had said he would pin it all on Mr. Tyler. That's in her testimony, that he had said that to her.

Q. Okay.

A. That was what they had gotten from her, not from --

something they got from Greg. That was from Samantha, one of the State's witnesses.
Q. But that was not objected to?
A. I didn't know what Samantha was going to testify to.
Q. That was the basis for that?
A. Yes.
Q. And if Samantha did not testify to that during the trial, do you think you should have moved for a mistrial?
A. If she did not do what?
Q. Did not testify that he said that -- that Mr. Smith had made that statement.
A. Well, yeah. At that time I could have addressed that. Had that happened, yes. I would have made an objection or a motion earlier. You're asking a hypothetical.
Q. Please turn to page 167.
A. All right.
Q. Was there a statement to the jury that the Defendant at the time of arrest said he was going to jail for the rest of his life?
A. Uh huh.
Q. And he asked for a cold bottle of water?
A. Uh huh.
Q. The transcript reflects that no investigators testified to that during the trial. Why didn't you object to that when it was said?

A. . .
Q. Was that your understanding of the statement that was made?
A. I remember that cold bottle, warm bottle of water thing. I remember hearing that well before the trial but I can't member where. I think -- my recollection from reading the transcript is that one of the officers said there was something about an Fing bottle of water that was warm.
Q. Do you remember who the officer was?
A. I don't remember who the officer was but that was something Phillips testified to and we went back and forth on a bottle of water.
Q. So if the testimony at trial never reflected that Mr. Smith never said I'm fixing to go to jail for the rest of my life, do you think you should have made an objection as to that statement?
A. Well, probably, but, I mean, that is -- just between you and me that is something Greg did say in one of our conversations, to the best of my recollection. I believe he used that language.

I mean, that was attorney-client privilege and it never came from me as something he said. Probably Phillips conveyed that to the Solicitor's Office, which I should have objected to in his opening statement.

You know, if it wasn't testified to during the trial.
Q. Do you recall -- please look at page 358.
A. Okay.
Q. What is that all about?
A. This is in regard to photographs that were taken inside of the trailer. Direct Examination of Officer Elliott.
Question, can you read what's on that note?
Answer, (inaudible). (Witness reading from page 358 of trial transcript)
I can't make out any more.
That's describing the photograph.
Q. A handwritten note?
A. Handwritten. I don't remember the size of the note. The dimensions of the note in that photograph I don't remember but it was fairly clear.
Q. Was there testimony about who had written the note or what it was about from any witness as to the origin of the note. Is that fair?
A. Well, you know, it was something that was confiscated -- photographed and confiscated by the law enforcement officer who was testifying
Q. And you did not object to it being admitted into evidence?
A. . .
Q. Based on relevance, authentication, anything?

A. Well, he was just describing a photograph taken inside the trailer.
Q. Okay.
A. I don't know on what basis I could have objected.
Q. If you would turn back to page 162.
A. Okay. I remember that dimensions were shown in that photograph.
I mean, Ms. Goldberg, . .
Q. Uh hm.
A. . . the note didn't have anybody's name on it.
Q. Correct
A. So it couldn't have been -- okay, I'm at 162.
Q. Would you start reading on line nine.
A. Line nine, sure. (Reading from transcript) This is Mr. Perry's opening statement.
Q. There is no testimony or evidence as to who actually wrote that note. Right?
A. Not that I remember.
Q. Or to whom the note was addressed?
A. No. Who the intended recipient was is not made clear.
Q. Correct. So why did you not object as to relevance?
A. The officer was merely testifying to the photographs that he took inside the two trailers.
Q. Did you . .
A. So he photographed the chest of drawers. Should I object

to a photograph of the chest of drawers on the basis of relevance?

Q. Okay. Do you believe . .

A. What the jury may have seen is a different story.

Q. Do you believe that the Solicitor's opening statement had any evidentiary basis at all?

A. There were. Obviously all these photographs had been examined prior to any introduction into evidence, and I put to one side the ones I objected to. I think that Judge Cooper had an opportunity to review the photographs and decide which should be admitted. I'm sure he did.

As far as the opening statement there was no reason at that time to move for a mistrial.

Q. Do you recall if the photographs were offered into evidence or were just marked for identification purposes?

A. Not really. The issue of the admissibility of the photographs had not been reached so there was no irrelevance to use your word. It hadn't happened yet.

It just seems like I would have been objecting every thirty seconds if I followed your Monday morning quarterbacking analysis.

Q. Do you think that Mr. Perry's statements affected the jury's decision?

A. Based on the outcome of the trial probably so but I'd be speculating because I don't know obviously. Probably

it was the totality of all of the evidence along with that, but I don't think a photograph of a message or a small note that says what I read would be prejudicial to Mr. Smith's case.

I don't know what small circle means but there are about twenty of them there.

Q. So some of the photographs you felt were admissible in the case offered by the State?

A. For whatever their affirmative value was.

Q. Right. Did you think they were probative?

A. I didn't think their probative value amounted to anything. Everything is probative at some point.

Q. Got you.

A. I guess even the scale of that material.

Q. Given the material or things brought out in opening statement and when the State didn't offer anything in regard to those things, did you think you could get a mistrial at the end of the State's case?

A. Well, I made one or two motions for mistrial during portions of the State's presentation of the case.

At the close of the State's case I made the standard motion for directed verdict, you know, but I don't recall my exact statements to the Court or for mistrial at that stage.

Q. Right. Do you recall -- you talked earlier about the gun and holster?

A. Right.
Q. Do you remember that it was lost before the trial?
A. Remember what?
Q. That it was lost before the trial?
A. I don't remember that.
Q. That's fine. I believe you testified that Mr. Smith knew about the gun and holster?
A. I believe so.
Q. Do you recall if it was offered at the trial?
A. No.
Q. Let me show you what has been premarked as Plaintiff's Exhibit Number 4.
A. I mean, if this is -- let's see. I'm not even sure that's the holster. I think it is, but at any rate in these photographs it's hard to make out any initials on it.
MS. GOLDBERG: For the record, the photograph being shown to the witness was offered only for identification purposes and not offered into evidence at trial.
BY MS. GOLDBERG:
Q. You said you can't see any initials on any of those?
A. You didn't show them all to me.
Q. I'm sorry.
A. Well, in those you can't see whether there are or are not any initials on the holster. Is that what you asked me?

Q. I did.
A. Okay.
Q. What evidence was there of initials on that holster?
A. Say again?
Q. What evidence was there that there were initials on that holster? Evidence that his initials were on it?
A. . .
Q. Any that you can recall?
A. I don't recall but Mr. Perry mentioned it in his opening statement, I think.
Q. Correct.
A. And there was some reference to it a little further but I don't know on what page . .
Q. Prior to the trial in your review of the evidence, do you remember seeing the holster?
A. No, I just saw that allegation.
Q. And the holster wasn't offer
A. No. To the best of my recollection, no. I think they had lost it or something.
Q. Page 618.
A. Yes, maam.
MS. GOLDBERG: For the record this is the Judge giving instructions to the jury prior to closing arguments.
BY MS. GOLDBERG:
Q. I'll give you a minute to look over that.

(Brief pause)
Q. Generally this is just the explanation of the differences between murder and manslaughter, voluntary and . .
A. Right.
Q. . . involuntary -- the difference between these three charges? They would have to find one of these three?
A. Right.
Q. Do you believe that is an accurate statement of the law?
A. An accurate statement of the law?
Q. That those were the three choices?
A. Are you asking in the abstract or in reference to this particular case
A. Did you find it objectionable after reading it?
A. No.
Q. You don't find that objectionable?
A. No.
Q. You believe the jury had four options, do you not?
A. Yes.
Q. But he is only telling the jury three options they have here?
A. As to that, there were three charges the Judge was mentioning, reading the law. An accurate reading of the law.
Q. You were -- you said in your closing that you were not arguing for a voluntary conviction, is that fair?

A. . .
Q. You were wanting all or nothing?
A. I thought there was a reasonable chance, yeah.
Q. So you were arguing for a not guilty, is that right?
A. Right.
Q. There was a statement during the testimony of Samantha Seabrook that -- she stated several times in her testimony an allegation that Gregory Smith had threatened to kill her mother at that time?
A. Yes.
Q. You remember that?
A. Yes.
Q. Why didn't you object?
A. When I went over this in preparation for today I asked myself the same question. I don't know the answer.
Q. You don't have any strategic reason for not objecting to that?
A. No.
Q. It was also elicited from her that allegedly Mr. Smith had asked her to obtain autopsy photos and to put it on a web site?
A. Yes.
Q. Why didn't you object to that?
A. You are summarizing it but I can't recall -- do you have a page number?

Q. Just a minute and let me check.

Page 203 and 204.

A. Well, this is during Mr. Perry's Direct Examination of Samantha. He's asking -- he starts out by asking her in the course of her visits with Greg did he ever ask you to do anything for him.

This is one of Samantha's answers I mean, it was Samantha who states that, but that's a very good question. I didn't see any reason to object.

Q. Did you know that was going to be brought up? Did you know that was a matter in the case, some that would be raised?

A. As of the date the statement was made by her in the Direct Examination I don't recall that having been brought up. I don't remember having seen that or read that in connection with the case.

Q. But that answer would be improper?

A. Correct. I don't remember that coming up in connection with the case.

Q. After that answer was said . .

A. Uh hm.

Q. . . there was no objection and you didn't ask for a mistrial because of the prejudicial nature of that?

A. No, but somewhere I asked for the video and asked the Court for a curative instruction. I objected and asked for

a mistrial I think.

When the Judge denied that, I asked for a curative instruction, and I think that was in relation to the opening statement or objected and asked for a mistrial, I think, and when it was denied asked for a curative instruction, and I ended up deciding against that for reasons of red-flag issues.

Q. But that was on another issue?

A. Yes, and I believe I misunderstood your question. At one point during the trial I asked for a mistrial.

Q. Was that something you think would have been prejudicial to your client?

A. In the totality of things, no. You know, I had bigger issues in this case to worry about than that.

Q. The pathologist who did the autopsy in this case -- the transcript reveals you had no cross examination questions of her?

A. Right.

Q. Is that correct?

A. Yes.

Q. You understand that the cause of death was a laceration to the brain stem as a result of a gunshot?

A. Yes.

Q. Let me show you what's been marked as Plaintiff's Exhibit Number 1. Looking at the document, can you generally

tell me what that is?

A. It's just a summary from a deputy sheriff who investigated regarding Samantha Seabrook.

Q. Would you turn to the second page of that statement. Would you look at that beginning with Greg jumped up off the couch?

A. Greg jumped up off the couch with a gun and shot Nicole in the face. She did not recall hearing the gun go off and didn't know if the bullet hit Nicole or went over her head. (Reading from Exhibit)

She said she saw Nicole grab her face and she ran out the door.

Q. Okay. Did you even question Dr. Ross as to that issue?

A. Say again.

Q. Did you even question Dr. Ross about whether that was possible or not?

A. . .

Q. Is there any reason why you didn't ask Dr. Ross if a person with a lacerated brain stem could reach up and grab her face after being shot?

A. No, I didn't ask her that.

Q. Do you recall if at the time you thought it might be an issue?

A. . .

Q. Did you realize at the time that it could be an issue in the trial?
A. No.
Q. Do you want to explain?
A. As far as the pathologist in the case, my philosophy has always been to get them off the stand ASAP. The less testimony they give in front of a jury, the better. No, I didn't want to ask whether she did or did not reach for her face or wipe something away from her body.

To object to that did not occur to me.

Q. Go ahead.
A. I mean, as a physical fact that is not -- that is not outlandish.
Q. Do you recall Ms. Seabrook in two statements she gave before that one that she denied being there?
A. Correct.
Q. That she never saw any of this happen?
A. Correct.
Q. In one she had inferred she was present but did not say anything further?
A. Right.
Q. But on July 19 . .
A. The same day she got served with a warrant.
Q. The day she got served with a warrant she finally gave the third statement?

A. Right. She didn't say this before.
Q. So in that statement she said that Nicole after the shot reached for her face?
A. Yes.
Q. And if that was physically impossible to do, do you think that should have been brought out to the jury?
A. . .
Q. In order to challenge the validity of her statement?
A. I don't know that that's true.
Q. Do you disagree with Dr. Ross?
A. You know, I don't think -- I would be surprised if an MD or pathologist testified that would be impossible. You know, there are always responses that occur or that can occur even after massive brain damage.
Q. Okay. For that reason you just never identified that as a possible question?
A. No.
Q. Okay. The transcript reflects that in the Direct Examination of Ms. Seabrook that the State never brought up the fact that she was charged with bringing contraband into the jail, that was not brought -- that issue wasn not brought to your attention until you brought it up on Cross Examination?
A. No, I don't think it was until then.
Q. Right. Why do you think that was?

A. I was trying to show the jury what a disreputable person Ms. Seabrook was, but the State would not want to do that since she was their witness.
Q. But you wanted to bring out that she had been charged with bringing contraband into the jail?
A. Yes, you would want in that kind of situation to throw up as much dirt as you can and see what sticks, or so that expression goes.
Q. Do you understand that that allegation or charge of her bringing contraband into the jail -- she was charged with bringing that in for your client?
A. Yes. I didn't say that, did I?
Q. No, you did not, and you understand why the State would bring that charge?
A. Yeah, but she could have been doing it for someone else too.
Q. But you understand there was no allegation she was doing it for someone else and that opened the door to discuss that or talk about that?
A. I understand that.
Q. Do you understand it could make your client look bad in his trial?
A. Yes, that too, but as to bringing contraband potentially however much methametamine could be put on a postage stamp -- I understood that.

Either a postage stamp or in the seal of an envelope itself. Yes, that was a potential.

I hate to keep plugging this but he had not been charged with anything pertaining to that or the methamphetamine contraband.

Q. Did you ever tell the jury that?

A. What?

Q. Did you ever tell the jury that?

A. They -- I mean, I don't recall telling them that but they knew what his charges were. He was on trial for the two charges only.

Q. You said the point of bringing that out would be to make her look bad, to attack her credibility?

A. I was trying, you know, to diminish her credibility in any which way I could think of.

Q. Was a part of your strategy also to show that she had pending charges and the State was using that to try to force her to testify?

A. I asked her in my questions -- I asked her several such things, if she was testifying quid pro quo in exchange for her testimony. Of course, she denied it. She said that there were no promises or assurances given. They always do.

Q. Do you recall (inaudible)?

A. Recall what?

Q. Do you recall Mr. Mixon?

A. Yeah, one of the snitches.
Q. I want to show you what has been previously marked as Number 2 that hasn't been introduced into evidence yet. Can you tell me if you are familiar with this?
A. Yeah, I've seen this before. It was before the trial.
Q. Was it a part of the discovery?
A. Yes.
Q. And it was his sworn statement?
A. Yes. I mean the first two pages were.
Q. What's the date on it?
A. It's 8 16 of 2011 This is not a very good copy.
Q. Correct, but it was his statement given on August 16 of 2011?
A. Yes.
MS. GOLDBERG: Your Honor, at this time I would move to admit Exhibit 2.
THE COURT: Any objection?
MS. KINARD: No objection.
THE COURT: It's admitted.
(Mixon statement admitted in evidence as Applicant's Exhibit 2 without objection)
BY MS. GOLDBERG:
Q. What's the date on it again?
A. It's 8 16 2011.
Q. Did you understand that the search warrant on Greg's

cell was done on August 15, 2011?
A. Yeah, I remember that. Yeah.
Q. Did you attempt to bring that out in examining Mr. Mixon?
A. No. You mean, the fact that it was two things back to back?
Q. Yes.
A. No.
Q. Go ahead.
A. Well, the Sheriff's Office had, I assume -- I mean, Phillips referred to a confidential informant. Mixon was talking about what Gregory Smith told him.

The Sheriff's Office, I assume, had a confidential informant. If these dates are correct and it is not just a mis-print.

Mr. Mixon had worst things to worry about, and I assume they used him and told him they would help him out on them.
Q. You pointed out the fact that he had several charges pending but did you ever point out he had an assault and battery in the first degree pending at the time he gave his statement to law enforcement?
A. . .
Q. Do you recall saying anything about that in your Cross Examination of Mixon?

A. I don't recall.
Q. You also never pointed out that the State had consented to a PR bond right after or shortly after he gave his statement?
A. You are saying the State did that?
Q. Did you know about that?
A. No. The Judge may have done it.
Q. It was with the State's consent.
A. Okay.
MS. GOLDBERG: Court's indulgence.
THE COURT: Yes, maam.
(Brief pause)
MS. GOLDBERG: I have no further questions.
THE COURT: Redirect examination.
MS. KINARD: Yes, maam.
REDIRECT EXAMINATION
BY MS. KINARD:
Q. I just want to touch back on a few things that Ms. Goldberg talked to you about.
A. Yes, maam.
Q. On page 77, this is during the testimony of Ashley Pierce page 77, you were asked why you didn't object to her presentation as an expert witness on methamphetamine?
A. Yes, maam.
Q. Do you recall -- would you read to yourself pages 77

to 84?
A. Yes.
(Brief pause)
A. Those pages you referenced make it clear to me that I had no grounds for objecting to Ms. Pierce's qualifications as an expert.
Q. You were satisfied with what she had offered and testified to?
A. Yes.
Q. Looking at page 78, was that a lengthy voir dire on your part?
A. Yes.
Q. On page 178, your questions regarding the allegation that your client made a statement that he was going to pin it on Mr. Tyler to Samantha, did she say it had actually happened or she was telling a story to the Solicitor as that it happened?
A. I was thinking that in all probability the State was going to bring that out and whether it was accepted as the gospel truth or was testified to by anybody is a separate issue.
Q. You were questioned about a chest and a photo, and do you recall that?
A. Well, I mean, the State ran them by me before -- I don't know how far before or when that occurred.

Q. Okay.
A. Their running the pictures by me or as to whether I had objections to them, okay, but I don't specifically remember exactly what was said. Some of them were objected to, I believe, but it would all be up to the Judge anyway.
Does that answer your question?
Q. Not quite, but . .
A. Well, how can I answer then?
Q. I was trying to get at whether you objected to the pictures.
A. . .
Q. I believe you said you don't recall?
A. I don't specifically recall but I think I did to most of them.
Q. Okay.
A. Remember that a lot of them were taken at the Tyler residence and showed a lot of needles, a lot of syringes, lots of bottles filled with injectible stuff. Lots of stuff I assume would contain the methamphetamine although I don't know much about it.
Q. I don't have anything further. Thank you.
THE COURT: Anything further, Ms. Goldberg?
MS. GOLDBERG: No, Your Honor.
THE COURT: Okay, Mr. Riley, you can step down.
WITNESS: Thank you, Judge.

(Witness excused from stand)

MS. KINARD: We would excuse Mr. Riley.

MS. GOLDBERG: No objection.

(Witness excused by the Court)

MS. KINARD: I have nothing further.

(Whereupon, after discussion off the record between counsel and the Court, the Court took the matter under advisement.)

-----END OF REQUESTED TRANSCRIPT OF RECORD-----

Statement Form, Part 2

and when we got there her husband (Nicole's) was sitting outside and he said [illegible] he didn't know where Nicole was, but the door is locked. I said her car is here where would she go - don't we have a key? He got a key and when he opened the door Nicole was on the couch. He grabbed her, but there was no response. An ambulance was called and he told us to leave. We went back to my brother-in-law's house and called 911 again.

I have made the foregoing statement freely and voluntarily, without fear, threat, promise of reward or hope of reward of any kind. This is to certify that I have read or had read to me the foregoing statement consisting of 2 pages and a true copy has been given to me this date.

Signature of Person Giving Statement

Witness of Signature

Pages 2 of 2 Pages

Witness of Signature

Case # _____

Samantha Steprock
Name of Person Giving Statment

246-08-7985
Social Security Number

1689 Baughman
Address

1:40 PM
Current Time and Date

Lugoff S.C 29078
City, State, and Zip Code

5-4-73 38
Date of Birth / Age

DEFENDANT'S EXHIBIT NO. 2
PENGAD 800-631-6989

Phone Number Home / Work / Cell

Sat may 28th I went to gregs To ask him to fix the locks at Brooks Ice cream. While greg and I were outside Talking about it Nicole came over Ranting and Raving So They went inside the Trailer. As we were pulling out of the driveway I [redacted]ss heard a Gun Shot. I went home and got my Brother in law and told my Neice to call 911. when I returned to Nicoles, David was outside

I have made the foregoing statement freely and voluntarily, without fear, threat, promise of reward or hope of reward of any kind. This is to certify that I have read or had read to me the foregoing statement consisting of _____ pages and a true copy has been given to me this date.

Signature of Person Giving Statement

Sgt. Steve Kafka
Witness of Signature

Pages _____ of _____ Pages

Witness of Signature

White: Original Yellow: Officer Pink: Victim

Statement Form, Part 2

I asked him where Nicole was Goodman (David) Told me They Greg and Nicole were SS arguing I Told Goodman to check on her. Because I just saw Greg walking on Koen Road. The door was locked so goodman got the key and when he opened the door I saw Nicole SS sitting up on the coach with Blood coming down her face. So I Told him to call an ambulance. He Goodman Told me to get off the property. I did not SS listen to him and called 911 anyway. I was never allowed on there property Nicole told me to not come to her house when it had Greg but odd jobs for me he always had me pick him up at the mail Box or on old english

SS

SS

SS

SS

I have made the foregoing statement freely and voluntarily, without fear, threat, promise of reward or hope of reward of any kind. This is to certify that I have read or had read to me the foregoing statement consisting of _____ pages and a true copy has been given to me this date.

Signature of Person Giving Statement

Sgt. Steve K

Witness of Signature

Pages _____ of _____ Pages

Witness of Signature

DESK OF

Inv. Justin Dill

Criminal Investigations

821 RIDGEWAY ROAD

MAILING ADDRESS: P.O. BOX 70

LUGOFF, SOUTH CAROLINA 29078

JIM MATTHEWS, SHERIFF

PHONE (803) 425-1512 FAX(803) 425-6021

July 19, 2012

Inv. Dill did transport Samantha G. Steeprock to the Kershaw County Sheriff's Office for an interview on 7/19/2012. Steeprock was mirandized and Inv. Jones was present during the interview. Inv. Dill advised Steeprock that he was not familiar with the case that we were about to speak of but did have information that Mrs. Steeprock had not been fully truthful in previous interviews about being a witness to this homicide. Mrs. Steeprock acknowledged that her story had been inconsistent but that she had been having some PTSD issues from the incident and had blocked it out. She stated that over the past few months that she had been thinking about it a lot. She recalled that the date was May 28, 2011 around 11 or 12:00 in the afternoon that day. She stated that she had been at her daughter's graduation from LE High School and that's how she knew what day it was. She went to Greg Smith's trailer to see if he could come fix some locks for someone but he did not know that she was coming by. She stated that Greg lived in a trailer on property belonging to the victim Deborah or "Nicole" as she referred to her and David or "goatman" as she referred to him. "Nicole" came down to Greg's while she was there and came in and was fussing about the "meth" that Greg was making was not coming out right and that she wanted him out. She says that Greg was lying down on the couch when "Nicole" came in, she (Steeprock) was standing in the doorway and that "Nicole" sat down on a love seat in front of the window. Samantha said that "Nicole" had cut the power to Greg's trailer that morning and that it was hot inside. She said that

Greg was sweating and looked "off the chain". "Nicole" said to Greg, "what the fuck are you gonna do shoot me?". Greg jumped up off the couch with the gun and shot "Nicole" in the face. Steeprock does not recall hearing the gun go off and didn't know if the bullet hit "Nicole" or went over her head. She said that she saw "Nicole" grab or wipe her face as she ran out of the door. She ran to the car that she had ridden in to get there where her friend Cedric Blackmon was waiting. She told Cedric that she thought the Greg had just shot "Nicole" and she called 911 as she left. She stated that she came back down to check on "Nicole" and "goatman" was out in the yard spraying flea spray on the dog. She asked where "Nicole" was and he said that she was in the trailer talking to Greg and the door was locked. Steeprock says that she thought to herself that something was wrong because she had passed Greg walking toward her house down the road on his way back. David or "goatman" opened the trailer up and they saw "Nicole" inside with blood running out of her face. "goatman" started cussing and saying that he was going to kill Greg. "goatman" told Samantha not to call 911 because of the meth lab but Samantha left and called 911 again anyway. Samantha said that Greg used a .357, a big gun like in a John Wayne movie that was round and not square like my, Inv. Dill's, gun and he also had a small gun. She further stated that the reason that she did not come back and tell the police that she had witnessed the shooting is because she was scared.

Inv. Dill did have Samantha provide a written statement to these events.

8-16-2011

IM Morris Nixon

Gregory Smith Room mate
Stated That Gregory Smith Told Me That
Sam A Friend Lady of His was going
Two Send Some mef In The Mail
And Finally The Drugs In The Mail came
Thru And Mrs Smith Start geting Happy
And Stated Fuck Yeah I am Abouth
Two Get High And on one of The Letter
It Said Look Behind All The Stamps
On The Envelopes And He Pulled Back
The Stamps on The Envelopes And It Been Well
Powder Form under It. And He Had Liquor
Mef on Two Hold Sheets of Paper
And He Take A Peace off And Start Drawing
on It And Ten minutes Later He said He Feel
Wonderful As Hell And Also Mrs The Smith
Stated Two Me Abouth His Murder Case
Mrs The Smith Told Me He Shot A Elderly
Lady In The Eye He said The Lady Had
Piss Him off And She Told Him That He Had
Need It Two Find Some Wear Else Two Live
And He Told Me That's When He Grab
His 357 And Shot Her In The Eye
And He Told Me The Gun was Purchase
From A Pawn Shop Years Ago.

To wear person and Hoo the person that [illegible]
the Gun mrs the Smith said the person Hoo
[illegible] the Gun name is crickit something
[illegible] that and mrs the Smith said its still
a Bullet in the tree and Investigators still
Havent find it. And mrs the Smith stated
two me that Sam was in the House when
[illegible] the Elderly women. [illegible] he said [illegible]
Reason why she ran because she thought he
was going to kill her two. so she panic and
flee from the seen and call the police and told
this patcher shee herd Gun shots from the
[illegible] woman and her Hasand Home.
Knowing good well shee was on the murder seen
[illegible] the Smith stated two me that him and [illegible]
[illegible] on visitation mrs the Smith told me
that Sam had back two the Reserdence
of the Decoas folks Home and took Evidence
off the crime seen he said she took stuff
officers for got two take like tubes
and stuff like Jugs you make mef in
[illegible] then he stated some officer name Howzerd
arrive on the seen and found the Elderly man
[illegible] An he gregory said that the old man
[illegible] him the car back fire and Hozerd
[illegible] him out the House because he couldn
ence something wrong and Howzerd ask him
a Mental forcation and officers ask two
[illegible] the primmerce and found a Elderly
women with a Bullet in the Eye

Case # _____

Morris Mixon
Name of Person Giving Statment

219-55-9716
Social Security Number

1909 Bolden St
Address

12:00 10-5-2011
Current Time and Date

Camden SC 29020
City, State, and Zip Code

5-19-1983
Date of Birth / Age

429-4699
Phone Number Home / Work / Cell

See Attach

I have made the foregoing statement freely and voluntarily, without fear, threat, promise of reward or hope of reward of any kind. This is to certify that I have read or had read to me the foregoing statement consisting of _____ pages and a true copy has been given to me this date.

Morris Mixon
Signature of Person Giving Statement

Witness of Signature

Pages 1 of 2 Pages

Witness of Signature

Statement Form, Part 2

IM MORRIS NIXON
GREGORY SMITH ROOM MATE
STATED THAT GREGORY SMITH TOLD ME THAT
SAM A FRIEND LADY OF HIS WAS going
TWO SEND SOME MEF IN THE MAIL
AND FINALY THE DRUGS IN THE MAIL CAME
AND FINALLY THROUGH AND MRS SMITH START GETING HAPPY
AND STATED FUCK YEAH I AM ABOUTH
TWO GET HIGH AN ON OF THE LATTER
IT SAID LOOK BEHIND ALL THE STAMPS
ON THE ENVELOPES AND HE PULLED BACK
THE STAMPS ON THE ENVELOPE AND BEEN MEF
POWDER FORM UNDER IT AND HE HAD LIQUED
MEF ON TWO HOLD SHEETS OF PAPER
AND HE TOR A PEACE OFF AND START CHEWING
ON IT AND TEN MINUTES LATER HE SAID HE FEIL
WONDERFUL AS HELL AND ALSO MRS THE SMITH
STATED TWO ME ABOUTH HIS MURDER CASE
MRS THE SMITH TOLD ME HE SHOT AN ELDERLY LADY
IN THE EYE HE SAID THE LADY HAD PISS HIM OFF
AND SHE TOLD HIM THAT HE HAD NEED IT TWO FIND SOME
ELSE TWO LIVE, AND HE TOLD ME THAT WHE GRAB
HIS 357 AN SHOT HER IN THE EYE. AND HE TOLD ME THE
GUN WAS PURCHASE FROM A PAWN SHOP YEARS AN GO.
AND HE SAID POLICE OFFICER DONT EVEN NO WHAT PERSON
AN HOO THE PERSON THAT BOUGHT THE GUN MRS THE SMITH
SAID THE PERSON HOO PURCHASE HOO NAME IS CRIKIT SOMETHING
LIKE. THAT AND MRS THE SMITH SAID IT STILL A BULLET IN
THE TREE AND INVESTIGATORS STILL HAVENT FIND IT HE GOT
MAD AND SHOT HIS DOG, AND MRS THE SMILL STATED
TWO ME THAT SAM WAS IN THE HOUSE WHEN HE SHOT THE

I have made the foregoing statement freely and voluntarily, without fear, threat, promise of reward or hope of reward of any kind. This is to certify that I have read or had read to me the foregoing statement consisting of _____ pages and a true copy has been given to me this date.

MORRIS NIXON
Signature of Person Giving Statement

Witness of Signature

Pages 2 of 3 Pages

Witness of Signature

Statement Form, Part 2

Elderly women And Said The Reason WHY SHOT
THE Elderyly woman THE Reason WHY SHE KEPT Running
Her mouth. And THAT WHY Sam Ran Because
SHE THOUGT He was going To Kill HER TWO. SO SHE Panic
and Flee From THE seen and call THE Police and Told
THIS PATCHER SHEE HERD gun SHOTS FROM THE Elderly
woman and HER HusBand House
Knowing good well SHE was on THE crime seen
and mrs THE Smith Stated Two me Tham Him
and Sam Spoke on Visittation mrs Told me THAT Sam
Head Back Two THE Reserdence of Deceas folks Home
and Took Evidence off THE crime seen He said SHE Took
Stuff officers for got Two Take Like Tubes
And Stuff Like Jugs You make mef In
And THEN He State Some officer name Hozerd
Pull Him out THE House He could Since Somethin wrong
And Hozerd ASK for Idenital forcation and officer
ASK Two check THE Reimmerce and found a Elderly
Women WITH a Bellet In THE Eye
And mr Stated Two me He wash THE gun power off His Hand

mn

mn

I have made the foregoing statement freely and voluntarily, without fear, threat, promise of reward or hope of reward of any kind. This is to certify that I have read or had read to me the foregoing statement consisting of _____ pages and a true copy has been given to me this date.

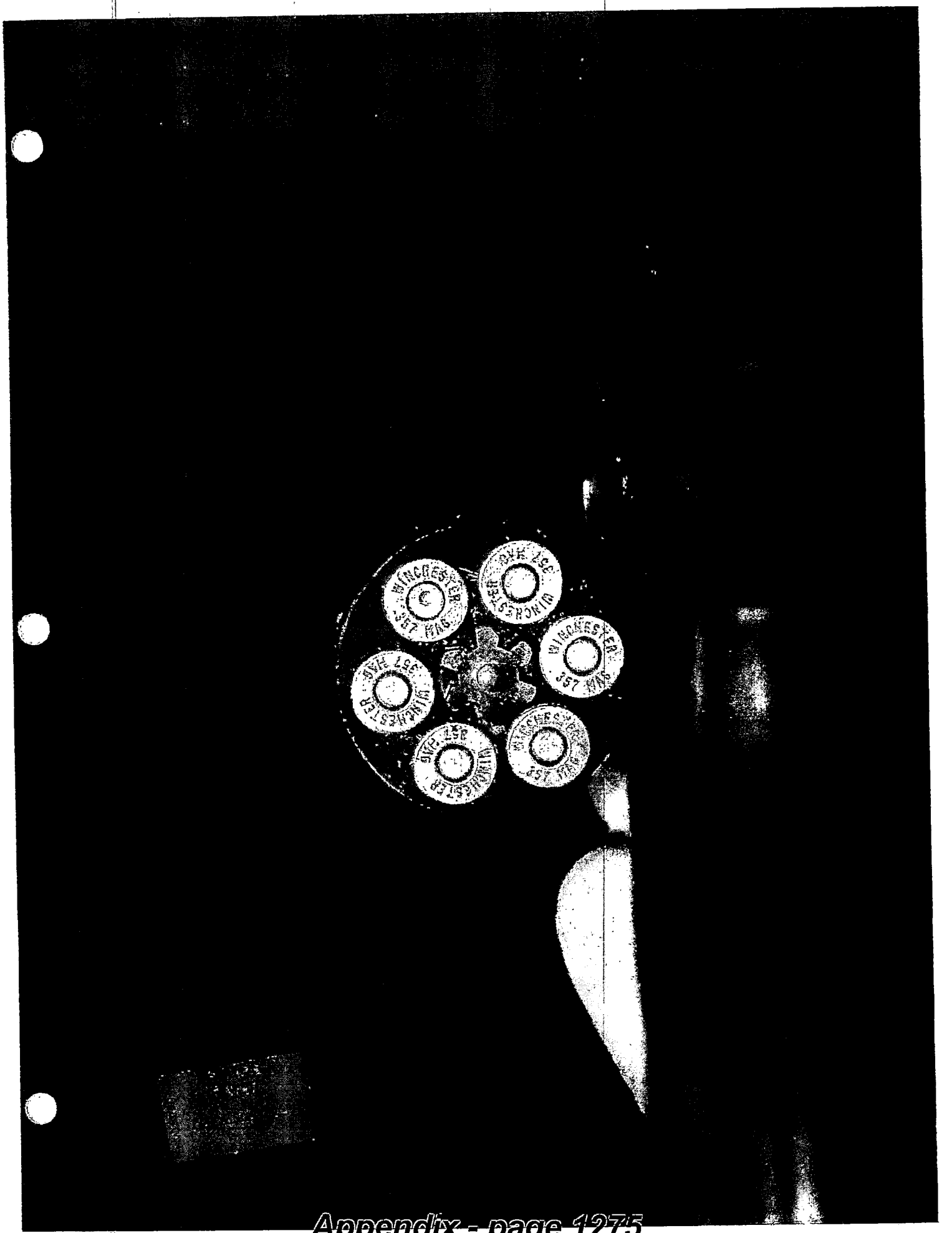
Morris Nixon
Signature of Person Giving Statement

Witness of Signature

Pages 3 of 3 Pages

Witness of Signature

STATE'S
EXHIBIT


WINCHESTER
357 MAG.

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2015-CP-28-0002

GREGORY V. SMITH (SCDC #353524)

PLAINTIFF(S)

STATE OF SOUTH CAROLINA

DEFENDANT(S)

Submitted by: NEWMAN, J.	Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

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

FILED FOR RECORD
2017 APR 24 PM 12:05
CLERK OF COURT
KERSHAW, S.C.

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

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

2757
Judge Code

April 21, 2017
Date

ATTEST: True & Correct & Certified Copy of Original on File in this Court
Jane C. Hardy
Clerk of Court — Kershaw County

SCRCP Form 4C (12/2016)

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW Gregory V. Smith (SCDC #353524), Applicant, v. State of South Carolina, Respondent.	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT Civil Action No. 2015-CP-28-0002 **ORDER** **GRANTING POST-CONVICTION RELIEF**

FILED FOR RECORD
2017 APR 21 PM 12:15
JANET C. HEARTY
CLERK OF COURT
KERSHAW COUNTY, S.C.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed January 2, 2015 and amended August 22, 2016. Respondent made its return on or about March 3, 2016. An evidentiary hearing was held on September 1, 2016, at the Richland County Courthouse. Applicant was present and represented by Kristy Goldberg, Esq. Assistant Attorney General Jessica Kinard represented Respondent.

Witnesses who testified at the hearing included Applicant; Ronald Moak, Esquire; Brett Perry, Esquire; Dr. Janice Ross; and Applicant's trial counsel, Cornelius Riley, Esquire. The Court had before it Applicant's Record on Appeal including the original trial transcript and an attached exhibit consisting of a SLED investigation report, the Kershaw County Clerk of Court records, the South Carolina Department of Corrections records, the PCR applications, the Return, and the following Applicant exhibits: (1) statements of Samantha Steeprock, (2) statements of Morris Nixon, (3) an audio recording of Gregory Smith's statement to law enforcement; and (4) photographs of a gun and a holster.

ATTEST True, Correct & Certified Copy of Original on File in this Court
Janet C. Hearty
Clerk of Court Kershaw County

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Kershaw County Clerk of Court. Applicant was indicted at the January 2012 term of the Kershaw County Grand Jury for murder (2012-GS-28-0076), manufacturing marijuana (2012-GS-28-0075) and manufacturing methamphetamine (2012-GS-28-0074). Applicant was represented by Cornelius Riley, Esq. at trial. This case was called to trial on October 22, 2012. On the first day of trial the Honorable G. Thomas Cooper granted he defense motion to sever the manufacturing marijuana charge. That offense was later Nolle Prossed by the State on May 21, 2013. On October 25, 2012, a jury convicted Applicant on the remaining murder and manufacturing methamphetamine charges, and Judge Cooper sentenced Applicant to thirty years in prison for murder and a consecutive five years for manufacturing methamphetamine.

A notice of appeal was filed and perfected by Benjamin Tripp, Esq., of the Office of Appellate Defense pursuant to Anders. Applicant also filed a *pro se* brief and a supplemental record on appeal. The South Carolina Court of Appeals affirmed Applicant's convictions and sentences by unpublished opinion. State v. Gregory Smith, 2014-UP-459 (S.C. Ct. App. filed December 17, 2014). The Remittitur was issued on January 5, 2015.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant

findings of fact and conclusions of law as required by S.C. CODE ANN. § 17-27-80 (2003).

Ineffective Assistance of Counsel

Applicant alleges he received ineffective assistance of counsel due to multiple deficiencies by trial counsel which are laid out in the Amended Application and discussed in detail in the upcoming paragraphs. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

First, the applicant must show that counsel's performance "fell below an objective standard of reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625; see Strickland, 466

U.S. at 688, 692, 104 S. Ct. at 2065, 2067 ("[T]he defendant must show that counsel's representation fell below an objective standard of reasonableness [and] . . . any deficiencies in counsel's performance must be prejudicial to the defense in order to constitute ineffective assistance under the Constitution."); see also Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006) ("PCR applicant must prove: (1) that counsel failed to render reasonably effective assistance under prevailing professional norms; and (2) that the deficient performance prejudiced the applicant's case.").

"Where counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." Watson v. State, 370 S.C. 68, 72, 634 S.E.2d 642, 644 (2006) (citing Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992)). "Counsel's performance is accorded a favorable presumption, and a reviewing court proceeds from the rebuttable presumption that counsel 'rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.'" Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (quoting Strickland, 466 U.S. at 690, 104 S.Ct. 2052). "Accordingly, when counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." Id. (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)). "Courts must be wary of second-guessing counsel's trial tactics; and where counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel." Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992) (citing Goodson v. United States, 564 F.2d 1071 (4th Cir. 1977)).

This Court will now address each allegation of ineffective assistance of counsel as follows:

A. Ineffective assistance of counsel for failure to adequately challenge the admissibility of Applicant's statement provided to law enforcement.

Prior to trial in front of the jury the parties participated in a Jackson v. Denno[1] hearing in order to obtain a court ruling regarding the admissibility of Applicant's statements to law enforcement. At the conclusion of testimony presented by the State, Applicant's trial counsel argued that "Mr. Smith's will was somewhat overborne because it took considerable explanation for him to reach the point where he was willing to sign the Miranda rights" and that "it doesn't appear to me that he is a man who is in full possession of his mental faculties." Tr. 131-132. Trial counsel went on to argue that "it's not a totally intelligently, voluntarily, and willingly uttered confession." Tr. 132. Counsel did not make any further statements or argument to suppress the statement.

Applicant argues that counsel failed to argue the fact that, rather than providing legal advice to Applicant during the interrogation, attorney William Tetterton ("Tetterton") only gave Applicant implied promises of leniency. See Ex. 2 to PCR hearing. Testimony during the evidentiary hearing revealed that Tetterton was not hired by Applicant but appeared at the Sheriff's Department at the request of someone with the State to assist Applicant in giving his statement. Applicant has provided this Court with the audio recording of the interrogation, which shows that Applicant clearly relied on the statements made by Tetterton. Applicant specifically asked what he could say to help himself and his lawyer informed him that cooperating would help him. This is not necessarily a legally accurate statement. Regarding whether or not he understood his rights including his right to counsel, Applicant repeatedly questioned whether or not Tetterton would continue to be his lawyer and help him with this matter and questioned why

[1] 378 U.S. 368, 84 S.Ct. 1774, 12 L.Ed.2d 908 (1964).

he should trust him. Applicant was repeatedly assured that Tetterton would remain his lawyer and therefore Applicant should follow his advice. Applicant did not seem to fully understand how and when his statement would be used against him. Specifically, Applicant asked if his statement could be used against him and law enforcement advised him that it depends on what he says. Tetterton did not provide any legal advice in this regard.

Applicant argues that trial counsel should have argued that the implied assurances of leniency from Tetterton affected the intelligent and voluntary nature of the waiver of rights. Statements of leniency from an individual like Tetterton, who presents as an experienced authority figure who should be trusted, are often powerful – potentially more powerful than offers of leniency by the State.

Trial counsel was ineffective for not presenting these arguments to the Court and thus not preserving such arguments for appeal. Failure of counsel to present any substantive argument to suppress the statement essentially waived Applicant's rights to challenge the statement on appeal and therefore prejudiced Applicant.

B. Ineffective assistance of counsel for failure to object when a witness offered as an expert in "methamphetamine and meth labs and the effects of meth on the human body" was asked to testify in the Denno hearing regarding the witness' perception of the Defendant's statement on video and whether or not Applicant appeared to be under the influence of anything or was able to understand and knowingly and voluntarily waive Miranda.

During the Denno hearing, the State called witness Ashley Harris to testify. Harris was a former SLED employee and current Spartanburg County Sherriff's Office employee who was qualified as an expert in "methamphetamine and meth labs and the effects of meth on the human body" without any objection from trial counsel. Tr. 76-77, 84.

Even though this witness had not interacted with Applicant at any time and had no

personal experience with him, the State used this testimony to bolster their argument that his judgment was not impaired by recent or chronic use of methamphetamine and his statement was voluntary. The State even asked the witness to review Applicant's interrogation and asked if Applicant appeared to be under the influence and whether or not exposure to these chemicals could cause someone to make false statements or misunderstand Miranda. Tr. 85-90. The State ultimately asked the witness whether or not she believed the "confession" on video was affected by the manufacture or use of methamphetamine." Tr. 90.

Applicant argues that this entire line of questioning is improper and should have been objected to, as this witness did not have the proper qualifications to testify regarding anyone's state of mind or ability to enter into a voluntary waiver of legal rights.

C. Ineffective assistance of counsel for failure to advise client that he was able to testify regarding the admissibility of the statement and still retain his 5th Amendment right to remain silent regarding the allegations.

During the evidentiary hearing, Applicant testified that trial counsel never informed him that he could testify in the Denno hearing about the circumstances surrounding his statement and still retain his Fifth Amendment right to remain silent as to his guilt or innocence. In contrast, Applicant testified that trial counsel informed him that he could not "take the statement back." Applicant testified that if he had known he could testify during the pre-trial hearing he would have testified and explained why he gave the statement to law enforcement.

Specifically, Applicant testified that he would have informed the court as follows: On the day of his arrest he was in custody for approximately twenty-three hours before he was transported to the Sheriff's Department. Applicant had told the police that he would not give them a statement without a lawyer present, but he never asked for a lawyer and wasn't planning

on giving a statement. At the Sheriff's Department he met with Tetterton in a back room. Applicant did not call or hire Tetterton and had never met him before. Tetterton introduced himself as a former Assistant Solicitor and said that he was there to represent Applicant. Tetterton told Applicant that he was looking at forty years on his pending drug charges, but that if Applicant explained that he didn't mean to shoot the victim, Tetterton could get him a fifteen-year plea bargain.

Applicant testified that he was Mirandized twice and that he, in theory, understood that he had a right to counsel, but that he did not understand where Tetterton came from or why he was involved. Applicant testified that he was under duress and overwhelmed based on the statements Tetterton made including the threat of forty years in prison and the promise of a fifteen-year sentence. He had never been in real trouble before and was not in good physical or mental shape as he was an active drug addict. He testified that he specifically relied on Tetterton's promise of a fifteen-year offer and his promise to represent Applicant on these charges.

Applicant testified that within thirty days he realized that the entire situation had "gone down the wrong way" and that he did not want a fifteen-year plea offer. Once it was clear that Applicant was inclined to pursue his innocence through a trial, Tetterton asked to be relieved from his case and abandoned him.

This Court finds that Applicant should have been advised of his right to testify during the pre-trial hearing. The Court also finds that Applicant's testimony regarding his reliance on promises of leniency would have been relevant to the trial court's analysis in weighing the voluntary nature of the waiver of his right to testify. This is clear given the fact that, in

determining that the statement was voluntary, the trial judge said "I have no evidence to the contrary" and further said the statement appeared to be obtained "without duress, without coercion, without undue influence, without reward, without promise or home of reward, without promise of leniency." Tr. 134. The Court was not able to properly weigh the testimony of Applicant in making this determination because it was not offered, and counsel was ineffective for not offering it. Because the Court was unable to fully exercise discretion in analyzing all of the available information regarding statement, Applicant was prejudiced because it is unclear whether or not the statement should have been deemed admissible before the jury. The jury was allowed to consider the statement as evidence and, as a result, this Court believes that the trial cannot be relied on as having produced a just result. Applicant's conviction should be remanded for new trial. See Strickland, 466 U.S. 668.

D. Ineffective assistance of counsel for failure to object when the Assistant Solicitor impermissibly informed the jury of alleged statements by the Defendant which were not ruled admissible during the *Denno* hearing and not admitted into evidence during the trial.

a. "Second Story"

During his opening statement to the jury, Assistant Solicitor Brett Perry told the jurors about statements allegedly made by Applicant which had been determined to be admissible by the Court during the Denno hearing. The Assistant Solicitor continued on to say the following:

> After he finds out, hey, the husband is dead, officers have to be checked out for these fumes, guess what? Suddenly he has a new story. That's right. I didn't do it anymore. No, no, no, no, I didn't do it. Her husband did it. He shot her. He killed her. I didn't do it. That confession I gave, don't worry about that. That confession wasn't real. That wasn't me talking, that was the meth fumes talking.

Tr. 173. The transcript reflects that this alleged "second story" was not addressed during the

Denno hearing at all. During the PCR evidentiary hearing, the Assistant Solicitor was asked about the evidence underlying this "new story" he mentioned. He testified that he believed that witness Samantha Steeprock ("Steeprock") testified that Applicant shared this "new story" with her. A review of the transcript shows that Steeprock mentioned during her re-direct examination that Applicant only "said he was going to say that Goat Man did it." Tr. 232. A review of the prior statements given to law enforcement by Steeprock does not reveal any information about this "new story." See, Ex. 1 to PCR hearing. No additional details regarding a "second story" are offered by any witness during the trial and no witness testifies that Applicant actually provided a statement to anyone regarding "meth fumes."

Applicant argues that trial counsel should have objected when the Assistant Solicitor made this remark in his opening statement as there does not appear to be an evidentiary basis for it. In the alternative, Applicant argues that trial counsel should have objected and requested a mistrial at the close of the State's case when no evidence was offered in trial to back up this claim by the Assistant Solicitor. This court agrees. Quite simply, the State cannot attribute words to a defendant that were never said by him. The audio recording entered into evidence shows that at the time he gave the initial statement to law enforcement, Applicant was aware of all of these facts, that the husband died, and that everyone went to the hospital for fumes. See Ex. 3 to PCR hearing. The Assistant Solicitor's comments are not reasonably inferred from the facts presented and they directly attribute quotes to the defendant that have no evidentiary basis. Attributing statements to a defendant which were never said is clearly prejudicial and, therefore, would justify post-conviction relief in this matter.

b. "Jail for the rest of my life."

As stated above, the Assistant Solicitor told the jurors in his opening statement about statements allegedly made by Applicant which had been determined admissible by the Court during the Denno hearing. Specifically, one statement offered during the Denno hearing was that Applicant had told law enforcement, "I'll tell you everything you want to know, I just want some water," and then commented that the water wasn't "F'ing cold enough." Tr. 115. However, during his opening statement to the jury the Assistant Solicitor informed the jurors that Applicant said, "I'm getting ready to go to jail for the rest of my life and you're worried about a cold bottle of water." Tr. 167.

When testimony regarding Applicant's statements was presented before the jury, two separate officers testified identically to the evidence presented in the Denno hearing. Tr. 336, 538-539. A review of the transcript shows that no witness ever testified in any stage of trial that Applicant said anything about "getting ready to go to jail for the rest of" his life.

Applicant argues that trial counsel should have objected when the Assistant Solicitor made this remark in his opening statement as there does not appear to be an evidentiary basis for it, and in the alternative, trial counsel should have objected and requested a mistrial at the close of the State's case when no evidence was ever offered in trial to back up this claim by the Assistant Solicitor. Again, this court agrees because the State cannot attribute words to a defendant that were never said by him. In this case, where the statement involves "going to jail for the rest of" his life, the effect is clearly prejudicial and, therefore, justifies post-conviction relief.

E. Ineffective assistance of counsel for failure to object when the prosecutor elicited prejudicial, irrelevant and highly inflammatory statements from witness Samantha Steeprock.

a. Prior threats

During the direct examination of witness Samantha Steeprock, the Assistant Solicitor elicited testimony to provide the jury with background information regarding the history and relationship between Applicant and Steeprock, including how long they knew each other, how well they knew each other, and other details including the fact that Applicant had lived with Steeprock and her mother for a period of time in the past. See Tr. 180-183. The Assistant Solicitor then asked the witness, "[D]id he ever make any comments to you about your mom having thrown him out?" Tr. 183. Steeprock responded, "Yeah, he said he was going to kill my mom. He said if it wasn't for me, that he would shoot her, but I didn't think nothing of it" because she didn't believe he would do it. Tr. 183. The Assistant Solicitor then brings up this matter again later in his direct examination. Tr. 190.

Applicant argues that trial counsel was unreasonable and ineffective in failing to object. This Court agrees. During the evidentiary hearing, trial counsel testified that he believes he should have objected to the testimony and he did not have a strategic reason for failing to object. The testimony offered at trial was clearly irrelevant to the case because it involved an alleged threat against a person unrelated to this case at an unspecific time in the past. As to the charges at issue in trial, this testimony did not make the existence of any fact more or less probable than it would be without the evidence. Rule 401, SCRE. To the extent that the State can argue that it was probative in some way, the potential prejudicial effect highly outweighs any possible probative value as it easily creates unfair prejudice, confuses the issues and misleads the jury.

Rule 403, SCRE.

This Court is not convinced that this testimony could or should have been deemed admissible to explain why Steeprock provided multiple statements to law enforcement changing her story. Steeprock testified that she did not believe that the threat was real and said she "didn't think nothing of it." Tr. 183. Given this testimony, the probative value of the information as it relates to Steeprock's credibility is far outweighed by the potential prejudicial affect it likely had on the jurors.

The State later emphasized this testimony in their closing argument as follows:

> He apparently had moved to the Tyler's after living some period at Samantha Steeprock's house and he had been kicked out of there for making meth at Samantha Steeprock's mother's house and made a threat to kill the mother, okay. Is that consistent with getting put out of the Tyler property and killing Nicole Tyler? You know, he already threatened to kill one family for putting him out. He did it this time. Again, that's malice aforethought. This is a murder. This is not voluntary manslaughter. This is not involuntary manslaughter.

Tr. 653-654.

Applicant argues – and this Court agrees – that this irrelevant, prejudicial and inadmissible testimony about a past event was improperly used by the State as evidence of malice. More specifically, even assuming the testimony could have been found admissible an objection should have been raised when this testimony was used as evidence of malice. A Murder conviction requires evidence of malice aforethought. While our courts have held that "there is no requirement that it must exist for any appreciable length of time before the commission of the act," it still must be *aforethought* or "thought of in advance; deliberate;

premeditated." See State v. Wilds, 355 S.C. 269, 276, 584 S.E.2d 138, 142 (Ct. App. 2003); see also Black's Law Dictionary 61(7th ed. 1999).

The fact that the State was allowed to use testimony of prior unrelated threats made regarding a different person in advancing their argument that requisite malice existed in this instance convinces the Court that it is likely "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland, 466 U.S. 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

b. Gore.com

During the direct examination of witness Samantha Steeprock, the Assistant Solicitor also elicited, through leading questions, testimony regarding conversations Steeprock had with Applicant when she visited him at the jail. Referring to Applicant, the Assistant Solicitor asked Steeprock, "[D]id he ever ask you to do anything for him," and "did he ask you about any pictures?" Tr. 203. Steeprock testified, "He told me if I would post pictures of the scene on gore.com" and explained that she was referring to pictures of the victim's deceased body. Tr. 204. Trial counsel did not object at any time. Instead, trial counsel brought up this testimony again during his cross-examination and had the witness elaborate that Applicant "asked me – to post the pictures of Nicole's dead body on gore.com. I have never saw the pictures." Tr. 227. It appears the only purpose trial counsel had in eliciting this information a second time was to explain to the jury that Steeprock never actually had possession of the photographs. Tr. 228.

This Court agrees with Applicant that this testimony was neither relevant to nor probative of any issue this case and should not have been mentioned at all by any party. It does not have any tendency to make the existence of any fact of consequence more or less probable than it

would be without this evidence. See Rule 401, SCRE. Further, the nature of the testimony regarding gore.com is highly prejudicial as it has an extreme likelihood to create unfair prejudice, confusion of the issues, and mislead the jury. Id.

The State argues in closing that this evidence shows that Applicant was "proud" of what he did. Tr. 634. To the extent that the State can argue that the evidence is admissible to show Applicant's lack of remorse, the testimony would have still been constitutionally impermissible on due process grounds. See, e.g., State v. Perry, 359 S.C. 646, 598 S.E.2d 723 (Ct. App. 2004) (citing State v. Reid, 324 S.C. 74, 78, 476 S.E.2d 695, 696 (1996), *overruled on other grounds by State v. Watson,* 349 S.C. 372, 563 S.E.2d 336 (2002)). No objection to this was made by trial counsel at any time.

This Court is convinced that this testimony was inadmissible on several grounds. The alleged request by Applicant regarding the photographs does not contain within itself a confession or admission of any kind. The only potentially relevant information that this evidence could provide to the jury would be inadmissible information, and yet no objection was made and no strategic reason has been offered to explain why defense counsel failed to object. The Court finds that this testimony was unconstitutional and highly prejudicial, and trial counsel was ineffective for failing to object. Accordingly, this Court grants Applicant's request for post-conviction relief on this ground.

F. Ineffective assistance of counsel for failure to object to leading questions by the prosecutor.

A review of the trial transcript shows that the direct examination of Samantha Steeprock was conducted by the Assistant Solicitor repeatedly asking leading questions of the witness. Tr. 199 - 205, 231-233. Trial counsel failed to object at any time during the testimony. Eventually,

the Court stepped in.

> The Court: You're continually leading this witness. I know that there's been no objection, but it's – I feel compelled to caution you about leading your witness. Ask the witness a question.
>
> Mr. Perry: Yes, Your Honor.
> The Court: But not one that always requires a yes or no answer.
>
> Mr. Perry: Yes, sir.
>
> The Court: You're putting words in the witness's mouth.

Tr. 233.

Applicant argues that trial counsel's failure to object to such repeated, objectionable conduct by the Assistant Solicitor shows a clear failure by trial counsel to effectively assist Applicant in his defense. This Court agrees.

G. Ineffective assistance of counsel for opening the door into allegations that Applicant and Steeprock were involved in bringing contraband into the jail.

Prior to trial it was alleged that Samantha Steeprock was attempting to mail Applicant envelopes and stamps laced with methamphetamine while he was housed at the jail. Tr. 763. In fact, Steeprock was charged with the crime of furnishing contraband to an inmate – specifically to Applicant. Tr. 767.

During the direct examination of Steeprock, the State appropriately never mentioned this allegation or pending charge. However, on cross examination trial counsel mentioned that Steeprock was charged with "bringing contraband into the jail" and that charge was still pending. Tr. 216. This statement opened the door and allowed the State to question Steeprock about the contraband charge and elicit testimony that Applicant asked her to mail methamphetamine to him at the jail. Tr. 231-232. It should be noted that Steeprock never admitted to actually

bringing or sending methamphetamine to the jail - she only testified that Applicant asked her to send it. Tr. 232.

Applicant argues that all of this testimony should have been inadmissible as both irrelevant and overly prejudicial under Rules 402 and 403, SCRE. During the evidentiary hearing, trial counsel testified that he mentioned the subject because he thought it would assist his case to disparage Steeprock's character, however he thought any resulting harm disparaging Applicant's character would only result in "minor damage." The Court finds this unreasonable. The evidence presented during the trial was that Applicant requested Steeprock send him illegal drugs. There was no evidence offered that she actually sent him illegal drugs. Therefore, the only character that this information would disparage would be the character of Applicant on trial. It did not disparage Steeprock's character at all and was only prejudicial to Applicant. Further, any attempt by Applicant to obtain drugs while in jail would be irrelevant to the charges before the jury. This Court agrees that counsel was ineffective for opening the door allowing this information to be presented and that deficient performance prejudiced Applicant's case.

H. Ineffective assistance of counsel for failure to object to impermissible victim impact testimony.

During the Assistant Solicitor's re-direct examination of Samantha Steeprock, he asked her about the nature of the victim's relationship with her husband and asked how Steeprock felt about the deaths of the victim and her husband. Tr. 233-235. Applicant argues that the State had no reason to offer this testimony other than to arouse the passions of the jury through impermissible victim impact testimony. While trial counsel correctly objected to the introduction of a photograph of the victim with her husband, he did not object to the line of questioning that preceded the introduction of the photograph. Tr. 235. This Court agrees that

counsel should have objected to this line of questioning on the grounds that it was irrelevant and not probative to the case before the jury and overly prejudicial.

I. Ineffective assistance of counsel for failure to adequately cross examine forensic pathologist, Dr. Janice Ross, and witness Samantha Steeprock.

During trial the State called Dr. Janice Ross with Newberry Pathology Associates as a witness regarding the autopsy of the victim, Deborah Tyler. Tr. 340. Dr. Ross was deemed qualified as an expert in pathology without objection. Tr. 342. Dr. Ross testified that a gunshot wound entered the victim at the inner corner of the decedent's left eye and traveled back and down lacerating her brainstem. Tr. 344. The official cause of death was laceration of the brainstem. Tr. 346. Trial counsel did not ask a single question on cross examination. Tr. 347.

Dr. Ross also testified on behalf of Applicant in this post-conviction relief matter. Upon questioning Dr. Ross explained that the injury in this case would have caused the decedent to become unconscious almost immediately as the laceration of the brainstem would have resulted in a cessation of nerve functioning. As a result, the decedent would immediately become limp. Dr. Ross also explained that it would not be medically possible for the victim to reach up and wipe or touch her face after being shot. None of this testimony was elicited during the jury trial because neither the Assistant Solicitor nor trial counsel asked how the laceration of the brainstem would effected the decedent or how quickly the effect would have taken place.

During the evidentiary hearing, both the Assistant Solicitor and trial counsel testified that Steeprock was the only eyewitness to the incident and she testified accordingly during the jury trial. Counsel for Applicant introduced Exhibit 1 which contained all three statements provided by Steeprock prior to trial and included within the discovery documents provided to Applicant's

counsel. See Ex. 1 to PCR hearing. It is notable that in her first two statements Steeprock did not admit seeing the shooting take place. During cross-examination counsel for Applicant referred trial counsel to the third and final statement by Steeprock within Exhibit 1, dated July 19, 2012. Specifically, he was directed to the following lines:

> Greg jumped off the couch with the gun and shot Nicole in the face. Steeprock does not recall hearing the gun go off and didn't know if the bullet hit Nicole or went over her head. She said that she saw Nicole grab or wipe her face as she ran out the door.

The record reflects that trial counsel never asked Steeprock to confirm or deny this statement or to provide further details during her cross-examination. This statement by Steeprock was not mentioned at all by any party during trial. Trial counsel also failed to ask Dr. Ross about the medical possibility of the decedent grabbing or wiping her face after being shot. During the evidentiary hearing, trial counsel testified that he never considered asking Dr. Ross about this issue and that his strategy was only to get the doctor off the stand as quickly as possible.

This Court finds trial counsel was unreasonable in failing to present and argue this potential issue at trial. Steeprock was a very important witness as she was the only alleged eyewitness to the shooting. She originally denied witnessing the shooting in two separate statements and only changed her statement after the State charged her with a contraband charge and with accessory after the fact to murder – charges which were pending at the time of her testimony at trial and later dismissed. Given these circumstances, trial counsel did attempt to challenge the credibility of Steeprock's testimony during trial but failed to use this detail in her

third statement to challenge her credibility. Applicant argues this is was significant failure by counsel.

In the PCR hearing the State did not present any reasonable strategic reason why trial counsel would have failed to cross examine Steeprock on the facts she provided in her third statement. Likewise, the State did not present any reasonable strategic reason why he would have failed to question Dr. Ross regarding the medical possibility of the decedent's ability to "grab or wipe her face" as explained in Steeprock's statement. If trial counsel had been able to use this information to show that Steeprock's account of events was inaccurate or even fabricated it is likely that the jury could have reached a different conclusion. This Court believes that Applicant has shown that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." See Strickland, 466 U.S. 668; see also Butler, 286 S.C. at 442, 334 S.E.2d at 814. As a result, this Court finds that Applicant should be granted post-conviction relief on this ground.

J. Ineffective assistance of counsel for failure to object to admissibility of handwritten notes.

During trial the State offered the testimony of Brian Elliott, a deputy with Kershaw County, who responded to the scene and took multiple photographs of the house where the meth lab was and the house where the victim lived. Tr. 359-361. Several photographs were introduced into evidence through this witness relevant to the drug charge and the murder charge.

Applicant has alleged concerns related to exhibits 57 and 58 offered into evidence by the State through this witness without objection from trial counsel. These exhibits are photographs of a handwritten note that was found inside the victim's bedroom on top of her dresser. Tr. 368. Deputy Elliott read the substance of the note to the jury. Tr. 368-369. The State then elicited

Deputy Elliott to testify as to his opinion that victim appeared to be "venting" her complaints. Tr. 369.

The exhibits were offered without objection from trial counsel. During the PCR evidentiary hearing, trial counsel was asked why he didn't object to the admissibility of these exhibits. He responded that he believed that they were relevant because they were found in the victim's room and, therefore, he did not have a valid objection to make. A review of the transcript shows that no foundational testimony was offered by the State at any time to prove the origin of the note, the author of the note, or the meaning of the note.

Applicant argues that every single item found at an incident location is not relevant *per se* and admissible at trial simply because of its proximity to a crime scene. Evidence is only relevant if it has any tendency to make a fact more or less probable than it would be without the evidence. Rule 401, SCRE. This note, found in the victim's bedroom and not at the actual crime scene, does not automatically prove any fact relevant to the murder based on the location where it was found. At first glance, the exhibits appear to have no relevance and no purpose in this trial and that alone makes them objectionable.

However, it appears that the State offered the exhibits into evidence for the purpose of providing a potential motive by Applicant. This Court finds such use of these documents is problematic given the lack of foundation provided to show where or who the note came from. It is especially concerning that during the State's opening statement the Assistant Solicitor said the following:

> In fact, she had gone to the trouble to actually make a list of all her complaints, all her grievances with Mr. Smith. It was found whenever law enforcement, you know, when through the property whenever they were there checking things out after this happened.

> She had quit a list of things that she was unhappy with Mr. Smith about.
>
> The fact that he was eating all the food, not paying rent, you know, difficult to deal with. She was upset with him. A lot of reasons why she was upset with him.

Tr. 162. The statements made by the Assistant Solicitor were not supported by the evidence offered at trial. No evidence was offered that the note was written by the victim. No evidence was offered that the note was written about Applicant. No evidence was offered regarding when the note was written. Because trial counsel was placed on notice regarding the State's intentions regarding how this evidence would be offered and characterized, he should have objected to the exhibits when they were offered into evidence as irrelevant to the charges since they lacked a sufficient foundation. Without objection, the photographs of the note were able to be viewed by the jury with no other explanation other than the one provided by the State.

This Court finds it unreasonable for trial counsel to fail to object under these circumstances. It is likely that the jury considered this evidence as proof of motive by Applicant based on the representations made by the State. Without a proper foundation, this evidence became more prejudicial than it was probative and its consideration by the jury calls into question whether or not the trial produced a just result. Accordingly, Applicant is entitled to post-conviction relief.

K. Ineffective assistance of counsel for failure to object to incorrect factual references in trial testimony.

During trial, several allegations were made that the weapon used in the crime was located in a "holstered belt" allegedly made by Applicant with "his initials on it." Tr. 164, 171, 551. Investigator Phillips also testified that Applicant admitted making the belt in his video statement.

Tr. 551. Phillips also testified that the holster was collected into evidence when it was found. Tr. 550. The State presented this information as an additional piece of evidence to incriminate Applicant.

Review of the trial transcript shows that photographs of the holster, exhibits 74-78 introduced for identification purposes, were discussed in front of the jury but were never entered into evidence and, therefore, never viewed by the jury. Tr. 427. The holster itself was not admitted into evidence during the jury trial. Trial counsel testified at the evidentiary hearing that he believed the holster had been misplaced by the State prior to trial.

This Court has been provided with a copy of the photograph exhibits offered during the jury trial and cannot discern any initials visible on the gun holster. A review of the audio statement provided by Applicant upon his arrest does not reflect any statements regarding the holster. Because the photographs and holster weren't actually offered into evidence, the jury had no reason to question the statements made by the State that Applicant's initials were on the holster, especially when these statements were not challenged by trial counsel in any way. Trial counsel never objected to these statements.

Applicant contends that these statements should have been challenged because no evidence was offered to prove this incriminating fact. This Court agrees that it would be unfair to allow the State to comment on "facts" which are not supported by any evidence, particularly when the actual evidence is available and is being withheld from the jury's inspection.

L. Ineffective assistance of counsel for failure to adequately cross examine Investigator Phillips regarding paperwork seized from Applicant during the pendency of his charges and the underlying search warrant.

In the preceding paragraphs this Order addressed the fact that trial counsel was

ineffective for introducing irrelevant and prejudicial allegations that Applicant had asked Steeprock to bring contraband into the jail. Applicant has further argued that, given the fact that trial counsel made these errors, he should have used the information effectively to Applicant's advantage.

During the cross-examination of Investigator Phillips, trial counsel questioned Phillips about confiscating all of Applicant's legal and personal papers prior to trial. Phillips admitted that he executed a search warrant on Applicant's jail cell "which included legal papers" and "personal notes, and letters from and to Samantha Steeprock." Tr. 567. Phillips testified that he took the items, separated the documents purportedly received from Applicant's attorney, and placed all documents in two separate material bags. Tr. 569-570. Phillips testified that he only reviewed the personal documents, letters, and pictures that he obtained. Tr. 571-572.

At first glance it appears that none of this testimony aided the jury in their decision making regarding the charges at issue in trial. None of this information had any "tendency to make the existence of any fact that is of consequence to the determination for the action more probable or less probable than it would be without the evidence." Rule 401, SCRE. However, Applicant argues additional information could have been used to make this information relevant and helpful to his defense.

Attached to the transcript is a SLED investigative file regarding the seizure of Applicant's paperwork from his cell. These documents could have and should have been obtained and addressed during Applicant's jury trial to assist in his defense. An incident report dated August 15, 2011 at 12:00 states that a confidential informant informed Phillips that Applicant was having Steeprock mail him stamps and envelopes laced with methamphetamine at

the jail. Tr. 763. As a result, Phillips spoke to the jail administrator who had a "field urine drug test completed on Smith" which had "a result of positive for meth." Id. The incident report states that Phillips then executed a search warrant on Smith's cell." However, the urinalysis report shows that the test was collected on August 15, 2011 at 12:00 and the results were completed at 13:02 hours with negative results for all substances. Tr. 1087.

Notwithstanding these results, it appears that Investigator Phillips obtained a search warrant from a Magistrate by stating under oath that "a random drug test was conducted on August 15, 2011 and was positive for amphetamines." Tr. 757. The search warrant then authorized Phillips to obtain "all appears and effects belonging to inmate Greg Smith to include pictures, letters, envelopes and memos" despite the fact that the allegation had only been that envelopes and stamps had been laced with methamphetamine. Tr. 756. Further, the Return to the search warrant states that the search warrant was executed on August 15, 2011 at 12:00 pm – the same time the urine sample was being collected from Applicant by a nurse. Tr. 762.

Applicant argues that trial counsel could have used the above referenced documentation (all of which was accessible as public records or Applicant's own medical file) to show that Investigator Phillips made false statements in an affidavit to the Court regarding Applicant. It could easily be inferred that Phillips used this deceptive tactic in order to place additional pressure on witness Steeprock to give a statement, or in an attempt to obtain and review Applicant's private materials including his notes made in preparation for trial. More generally, the jury could simply have been convinced that Phillips was biased, overreaching and not credible in his testimony or his judgment involved in this case. This argument could have been extended to cast doubt on Phillips' reliability and trustworthiness regarding his interactions with

Morris Nixon, Steeprock, and Applicant himself in obtaining statements. This could have affected whether or not the jury believed each of the resulting statements, especially given the fact that Morris Nixon first contacted law enforcement the day after Applicant's documents were taken from him by Phillips.

At first glance, the contraband issue appears to be irrelevant to the charges at issue in Applicant's jury trial. However, once testimony of the search warrant and contraband allegation was presented to the jury (by trial counsel), trial counsel should have been prepared to use this chain of events to substantially attack the credibility of law enforcement in a way that could have cast doubt on almost all of the substantive evidence offered against Applicant at trial. Trial counsel failed to do this and failed to offer a strategic reason as to why he failed to do this. At the time of the PCR evidentiary hearing trial counsel was unsure that he had previously seen all of this documentation prior to trial, but he did not testify that he had been denied access to any of the documentation. This Court finds that trial counsel acted unreasonably given these events and that Applicant was prejudiced as a result. Accordingly, Applicant is entitled to post-conviction relief.

M. Ineffective assistance of counsel for failure to challenge the Kershaw County Solicitor's Office's involvement in prosecuting this case prior to trial after his legal materials had been confiscated as evidence.

Applicant failed to offer any testimonial evidence that the Solicitor's office had reviewed Applicant's legal materials prior to trial. Accordingly, post-conviction relief is denied as to this allegation.

N. Ineffective assistance of counsel for failing to be adequately prepared to effectively cross examine Morris Nixon and correct misleading statements made by the prosecutor regarding Nixon's pending charges.

During trial, the State called a "jailhouse snitch" witness, Morris Nixon, to testify

regarding incriminating statements Applicant allegedly made while housed at the detention center. It appears that Nixon was also being prosecuted by the Assistant Solicitor at the same time. Testimony and exhibits offered by Applicant in the evidentiary hearing show that Nixon wrote a letter on August 16, 2011[2] detailing his conversations with Applicant. See Ex. 2 to PCR hearing. On October 5, 2011, he wrote an official statement for law enforcement. Id. The Assistant Solicitor testified that one week later, the State consented to a personal recognizance bond for Nixon on October 12, 2011.

During trial, Nixon testified that he had a second degree burglary and an "assault charge" pending. Tr. 402. The Assistant Solicitor failed to correct this statement and point out that Nixon actually had three counts of Second Degree Burglary, one count of First Degree Burglary and possession of burglary tools pending. Trial counsel had to elicit this testimony on cross-examination. Tr. 404. Instead, the Assistant Solicitor emphasized that "the" burglary occurred after Nixon gave his statement to law enforcement. Tr. 403, 416. Neither attorney ever clarified for the jury that Nixon's pending "assault charge" was actually an Assault and Battery First Degree, which was pending at the time of his statement to law enforcement. Trial counsel questioned Nixon as to whether or not the Assistant Solicitor offered him any leniency or whether he was trying to get out of jail on bond, but he never specifically elicited testimony that the Assistant Solicitor had consented to a personal recognizance bond and let Nixon out of jail soon after providing his statement. Tr. 405, 410, 414-415.

During the evidentiary hearing trial counsel testified that he did not bring up the Assault and Battery First Degree charge or the fact that the State consented to a personal recognizance

[2] Interestingly, August 16, 2011 was one day after the police searched Applicant's cell at the jail and confiscated all of his legal materials and discovery documents.

bond soon after Nixon's statement to law enforcement because he did not know these facts. It is without question that this information is available to the public in the Clerk of Court's office. These facts would have significantly aided trial counsel's argument that Nixon made false statements to law enforcement in an attempt to help himself and get out of jail. Trial counsel's failure to investigate and adequately prepare to cross examine Nixon allowed the State to mislead the jury as to Nixon's status regarding criminal charges and infer that Nixon had no bias or reason to lie. Tr. 646. Applicant was prejudiced due to the fact that this witness was not properly cross examined.

O. Ineffective assistance of counsel for failing to object when the judge instructed the jury that they would have to decide between the charges offered for three possible convictions without telling them that they could find the defendant not guilty.

Prior to closing arguments the Court provided the jury with some preliminary instructions to assist them when listening to the arguments. Notably, the Court said the following:

> Now, in South Carolina, for some reason, we don't call – we have the same thing, but we don't call it the same thing. In South Carolina, we call it obviously murder and then voluntary manslaughter. You might want to write this down. You're going to hear about it and then you're going to have to try to decide among these three different charges which one you think best suits the facts in this case.

Tr. 618. Applicant argues that this language suggests to the jury that they should pick one of three substantive options – Murder, Voluntary Manslaughter, or Involuntary Manslaughter. Further, Applicant argues that the verdict form emphasized this point; as it appears the jury was given the option of "guilty" or "not guilty" for each charge but was not given an overall option of "not guilty" of any charge. Tr. 696.

Applicant argues that it is likely that the jury may have incorrectly understood that their

job was to choose which crime Applicant was guilty of, rather than to choose whether he was guilty of anything at all. While the court does mention the option of acquittal, Applicant contends that it could have been easily construed that the court was talking about the juror's analysis on each charge. Applicant further argues that the court failed to state anything specifically informing the jury that they may find him completely "not guilty."

This Court is not persuaded by Applicant's argument on this issue. Additionally, while the Court recognizes the difficulty of making such a showing, it appears that Applicant has failed to demonstrate that any prejudice resulted from the trial court's instructions to the jury. Therefore, post-conviction relief is denied as to this argument.

P. The cumulative effect of trial counsel's errors are significant enough to undermine the reliability of the results at trial.

Applicant has raised a number of issues in his Amended PCR Application which were addressed during the evidentiary hearing. Each of deficiencies alleged, on their own, resulted in Applicant being denied effective assistance of counsel. Nonetheless, as recently addressed by the South Carolina Court of Appeals, it appears that a court in a Post-Conviction Relief matter may be able to consider the cumulative effect of counsel's errors in determining deficient performance. Walker v. State, 397 S.C. 226, 243 (2012) citing Lorenzon v. State, 376 S.C. 521, 535 (2008.)

In Walker, the applicant alleged that trial counsel failed to interview alibi witnesses and failed to cross examine the victim or call witnesses to testify about conflicting evidence as to the time of the rape incident. The applicant alleged that these errors were deficient and the cumulative effect of trial counsel's errors resulted in prejudice. The Court of Appeals held that Walker failed to demonstrate that trial counsel was deficient on either ground such that it did not

independently warrant relief under Strickland. The Court further noted, that "even if South Carolina did allow PCR based upon the cumulative prejudicial effect of two or more instances of deficient performance, Walker would still have to demonstrate 'a reasonable probability that, but for [the cumulation of] counsel's unprofessional errors, the result of the proceeding would have been different.'" Walker at 243 (citing Edwards v. State, 392 S.C. 449, 459 (2011)).

The applicant in Walker failed to prove the deficiencies in counsel's performance. In contrast, in the instant case, trial counsel's deficiency has been proven on several independent grounds. Therefore, to the extent that it is unclear whether each independent deficiency is sufficiently substantial to have caused prejudice, the errors in counsel's performance were so interrelated that the cumulative effect of prejudice was such that, but for the series of errors, the result of the proceedings would have been different.

CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has established constitutional violations and deprivations both before and during his trial. The Court further finds that trial counsel was deficient in his representation of Applicant and that Applicant was prejudiced by trial counsel's deficiencies. Therefore, this PCR application must be granted and Applicant's charges remanded to General Sessions Court.

This Court advises Respondent that a notice of intent to appeal must be filed within thirty (30) days from the receipt of this Order in order to secure appropriate appellate review.

IT IS THEREFORE ORDERED:

1. That the Amended Application for Post-Conviction Relief is GRANTED, Applicant's conviction is VACATED, and this matter is REMANDED to the Court of General Sessions; and

2. That Applicant be remanded to the custody of Kershaw County.

AND IT IS SO ORDERED this 21st day of April 2017.

Jocelyn Newman
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	Case NO.: 2015-CP-28-0002
Gregory V. Smith, #353524,	)	
	)	
Applicant,	)	**STATE'S NOTICE OF MOTION**
	)	**AND MOTION TO ALTER**
	)	**OR AMEND JUDGMENT PURSUANT**
VS.	)	**TO RULE 59(E), SCRCP**
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

Respondent now moves pursuant to Rule 59(E) and Rule 60, SCRCP, and all other applicable rules to alter or amend the judgement issued by this Court.

This matter is before this Court by way of an application for post-conviction relief (PCR). Following a hearing on the matter, this Court granted relief by order dated April 21, 2017, and filed April 24, 2017. Respondent received the order via United States Postal Service on April 27, 2017. The Court granted relief on many grounds that will be discussed in turn below.

DISCUSSION

In making this motion, Respondent reserves and incorporates all previous arguments and authority presented to this Court. The Respondent would submit that the judgment should be altered or amended based on the following:

A. Ineffective assistance of counsel for failure to adequately challenge the admissibility of Applicant's statement provided to law enforcement.

At the evidentiary hearing, trial counsel testified that he requested a Denno hearing regarding the admissibility of the statement out of an abundance of caution, but never actually anticipated that the statement would be kept out at trial. Trial counsel testified that he was unsure

how to present a reasonable argument regarding coercion by Tetterton or anyone else, though he made the argument to the best of his ability. Applicant testified that he understood this to be trial counsel's strategy.

Respondent argues that trial counsel presented his arguments and case to the best of his ability and in line with the defense strategy he had developed after his analysis of the case. "A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984). Applicant has failed to "overcome the presumption that, under the circumstances, the challenged action 'might be considered sound trial strategy.'" Id. For this reason, Applicant has failed to meet his burden to show that trial counsel was ineffective.

B. Ineffective assistance of counsel for failure to object when a witness offered as an expert in "methamphetamine and meth labs and the effects of meth on the human body" was asked to testify in the Denno hearing regarding the witness' perception of the Defendant's statement on video and whether or not Applicant appeared to be under the influence of anything or was able to understand and knowingly and voluntarily waive Miranda.

This Court erred in its failure to make a dispositive finding regarding this allegation; rather, the order only states Applicant's argument. In reconsidering this allegation, Respondent urges this Court to consider trial counsel's credible testimony that he was satisfied with the voir dire of this witness and his testimony. There was no evidence presented to show that the expert's evaluation and opinion were outside the realm of professional standards. There is no effective argument made that trial counsel's performance was deficient, and certainly no evidence that Applicant was prejudiced by trial counsel's performance. This allegation must be denied.

C. Ineffective assistance of counsel for failure to advise client that he was able to testify regarding the admissibility of the statement and still retain his 5th Amendment right to remain silent regarding the allegations.

Trial counsel credibly testified that he remembered discussing the possibility of presenting Applicant's testimony with the Applicant, but cannot recall why Applicant did not testify. Additionally, trial counsel testified that he left the decision to testify up to the Applicant. Though trial counsel further stated that he believed it may have been helpful if Applicant testified at the Denno hearing, there was not enough evidence presented to reasonably show that this testimony would have been beneficial. It is important to remember that "[r]epresentation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another." Strickland at 691. Therefore, "[j]udicial scrutiny of counsel's performance must be highly deferential." Id. at 689. Furthermore, Respondent argues that trial counsel's testimony was more credible than that of the Applicant and, therefore, should be given greater weight. This allegation must be denied.

D. Ineffective assistance of counsel for failure to object when the Assistant Solicitor impermissibly informed the jury of alleged statements by the Defendant which were not ruled admissible during the Denno hearing and not admitted into evidence during the trial.

a. "Second Story."

Initially, this allegation must be reconsidered because it does not include a proper ruling and, instead, the order states that the facts as presented "would justify post-conviction relief in this matter." Secondly, this finding is inconsistent with the record and testimony as presented at the evidentiary hearing. During the evidentiary hearing, Assistant Solicitor Brett Perry testified that he believed that witness Samantha Steeprock testified that the Applicant shared this "new story" with her. A review of the transcript shows that Steeprock mentioned during her re-direct that the Applicant "said he was going to say that Goat Man did it." Tr. 232. Certainly trial counsel was aware of this statement, and there is also a testimonial basis to justify the statement's admissibility. For this reason, trial counsel was not ineffective in failing to object to the statement in question.

b. "Jail for the rest of my life."

As with the above allegation, this allegation does not include a proper ruling and should be reconsidered for that reason. Secondly, a similar finding and argument can be made regarding trial counsel's decision not to object. Trial counsel testified that Applicant had mentioned the use of this language in private conversations with him, and he was under the distinct impression that law enforcement knew of this statement and probably told the State. Though the language may not have ultimately had a testimonial basis, trial counsel believed that the State would present this language, and testimony tends to suggest that both parties were aware of the language. Trial counsel may have exhibited deficient performance in his failure to object to this statement, but no evidence was presented to prove that it should be deemed prejudicial, and this allegation must be denied.

E. Ineffective assistance of counsel for failure to object when the prosecutor elicited prejudicial, irrelevant and highly inflammatory statements from witness Samantha Steeprock.
   a. Prior threats.
   b. Gore.com.

Respondent argues that the Court applied the wrong standard in deciding both elements of these allegations. Though Applicant's arguments make strides in attempting to prove a case of deficient performance, they do not prove prejudice. The arguments presented by Respondent can refute, if not outweigh, the arguments of Applicant in determining whether prejudice resulted from trial counsel's actions or inactions. Regardless, assuming *arguendo* that this Court finds trial counsel's performance to be deficient, it cannot be found prejudicial for two reasons. First, neither statement constitutes prejudice to the extent contemplated by Strickland as cited in the signed order. Second, as testified to by trial counsel, there was an overwhelming amount of evidence against the Applicant and, "if there is overwhelming evidence of guilt, deficient performance may

not result in prejudice." Geter v. State, 305 S.C. 365, 409 S.E.2d 344 (1991). For the above reasons, this allegation must be denied.

F. Ineffective assistance of counsel for failure to object to leading questions by the prosecutor.

Respondent argues that no evidence was presented at the evidentiary hearing to substantiate any claims of ineffectiveness based on failure to object to leading questions. All information in the order as signed refers to the trial transcript and does not reference any testimony or evidence presented at the PCR hearing. This allegation should be deemed abandoned and dismissed or, at the least, a transcript of the PCR hearing should be ordered to verify the existence or non-existence of argument on this point in order to allow this Court to make a complete ruling.

G. Ineffective assistance of counsel for opening the door into allegations that Applicant and Steeprock were involved in bringing contraband into the jail.

Applicant asserts that trial counsel's decision to question Ms. Steeprock about the allegations against her for attempting to mail him envelopes and stamps laced with methamphetamine was deficient and prejudicial, as it should have been kept out under several rules of evidence and ultimately tarnished Applicant's character before the jury. At the evidentiary hearing, trial counsel credibly testified that he believed the line of questions was important to disparage Ms. Steeprock's character and harm her credibility before the jury. He maintained that, when debating whether to question her about these charges, he balanced the potential information to be gained against risk of harm to Applicant, and decided that it would only result in "minor damage" to the Applicant. Because Ms. Steeprock was the only alleged eyewitness and a major witness for the State, Respondent argues that it was in the Applicant's best interest for trial counsel to do everything possible to prove that Ms. Steeprock was disreputable and not credible. "Courts must be wary of second-guessing counsel's trial tactics; and where counsel articulates a valid

reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel." Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531(1992).

Furthermore, this Court cannot grant relief based on the alleged violations of evidentiary rules. There was no ruling of such nature made at trial, and Applicant is substituting his judgment for that of the trial judge in his assertion that this information was more prejudicial than probative. Because it was trial counsel who introduced this information through the witness, deference should be given to his strategy in bringing in this information and he should not be found ineffective. Therefore, this allegation must be denied.

H. Ineffective assistance of counsel for failure to object to impermissible victim impact testimony.

Respondent argues that, while perhaps trial counsel should have objected to the line of questioning containing potential victim impact information, this failure to object was not ultimately prejudicial. Trial counsel made a proper objection to the introduction of a photograph, and the questioning was ended. Given Ms. Steeprock's lack of credibility and the overwhelming evidence against the Applicant, this failure to object did not prejudice him, and trial counsel was not ineffective. Therefore, this allegation must be denied.

I. Ineffective assistance of counsel for failure to adequately cross-examine forensic pathologist, Dr. Janice Ross, and witness Samantha Steeprock.

Respondent argues that this allegation does not rise to the level of ineffective assistance of counsel. Trial counsel credibly testified that his strategy with pathologists is to always get them off of the witness stand as quickly as possible, and that it is difficult to argue with their findings. Applicant's argument surrounding this allegation is that trial counsel should have used the fact that the decedent's injuries would have killed her immediately contradicted Ms. Steeprock's story and would have harmed her credibility. Trial counsel testified that he did not realize that the decedent's

injuries would have killed her instantly and prevented her from moving; therefore, he could not have cross-examined the pathologist on this fact. Respondent argues that it is not reasonable to expect a trial attorney to be aware of medical phenomena and argue for or against it in a case where there was no reason to question the post-mortem investigation. For these reasons, Respondent argues that trial counsel's reasonable, articulated trial strategy to have the pathologist testify as little as possible justifies his handling of this witness. Ms. Steeprock's credibility was damaged in many other ways, and this particular element did not prejudice the outcome of the Applicant's trial. Therefore, this allegation should be denied.

J. Ineffective assistance of counsel for failure to object to admissibility of handwritten notes.

Applicant argues that the failure of trial counsel to object to the admissibility of handwritten notes found in the victim's house was ineffective performance. Respondent argues that, though best practice may have been for trial counsel to object to these notes, his decision not to do so was not ultimately prejudicial and, therefore, he was not ineffective. In fact, trial counsel testified that he thought the photos were relevant, as they were discovered among the victim's belongings. He further testified that he had reviewed photos, including one of this note, with opposing counsel before trial and agreed to admit these into evidence. It is clear from testimony that trial counsel believed that this note was admissible and relevant, and therefore saw no valid objection. While this may have been deficient performance, it certainly did not prejudice Applicant. Applicant has failed to show that, but for this action of his attorney, there is a reasonable probability that the trial may have had a different outcome. Strickland, supra. Respondent again argues that overwhelming evidence exists to prove Applicant's guilt and, therefore, trial counsel cannot be found ineffective. Whitehead, supra.

K. Ineffective assistance of counsel for failure to object to incorrect factual references in trial testimony.

In ruling on this allegation, this Court failed to make a proper finding regarding the grant or denial of post-conviction relief, stating only that "...it would be unfair to allow the State to comment on 'facts'...." Regardless, this allegation must be denied because Applicant failed to meet the burden to require deficiency or prejudice on the part of trial counsel. Applicant argues that trial counsel should have objected to any commentary referring to the holster or photographs of the holster, as they were not admitted into evidence, thus allowing them to be presented to the jury as uncontroverted incriminating evidence. Respondent argues that these facts are irrelevant, as Applicant took law enforcement officers to the site of where he disposed of the gun and holster, rendering any commentary about whether he made the holster irrelevant. Again, overwhelming evidence exists to prove Applicant's guilt and to show that any deficiency (of which Respondent argues there was none) cannot be prejudicial. Whitehead, supra. Therefore, this allegation must be denied.

L. Ineffective assistance of counsel for failure to adequately cross examine Investigator Phillips regarding paperwork seized from Applicant during the pendency of his charges and the underlying search warrant.

Respondent argues that post-conviction relief must be denied on this ground because Applicant has failed to meet his burden in showing that trial counsel's action or inaction had a reasonable probability of changing the outcome at trial. Trial counsel testified that Applicant was obsessed with the idea that the State was out to get him, and he thought that this seizure of documents was a prime example. During the evidentiary hearing, trial counsel testified that he did not realize that the times of the search and the urinalysis synched up, but that he still did not believe that it was an issue. He testified that nothing in Applicant's cell led to new charges and the paperwork was not needed to prepare for court, so there was not much heed paid to the issue. When

the papers were analyzed by SLED, nothing relevant was found within them. Though the information regarding the search warrant and urinalysis may have been helpful if prevented at trial, trial counsel made a strategic decision not to delve into them and, ultimately, this decision did not prejudice the Applicant. Strickland, supra; Whitehead, supra. Therefore, this allegation must be denied.

M. Ineffective assistance of counsel for failure to challenge the Kershaw County Solicitor's Office's involvement in prosecuting this case prior to trial after his legal materials had been confiscated as evidence.

Relief was denied on this issue, and Respondent does not challenge that finding.

N. Ineffective assistance of counsel for failing to be adequately prepared to effectively cross-examine Morris Nixon and correct misleading statements made by the prosecutor regarding Nixon's pending charges.

This allegation must be revisited because a full finding was not made regarding this allegation, but rather the order states that "Applicant was prejudiced due to the fact that this witness was not properly cross examined." Substantively, Applicant argues that trial counsel failed to adequately represent him because he did not bring up the charges or personal recognizance bond received by Morris Nixon, a "jailhouse snitch" that testified against him. The trial transcript reflects that trial counsel did question Mr. Nixon regarding his dealings with the solicitor's office, and he also elicited corrective information on cross examination when Mr. Nixon's direct examination testimony was inaccurate. Applicant argues that, despite these efforts, trial counsel could have done more to investigate and cross-examine Mr. Nixon in order to damage his credibility. However, nothing presented by the Applicant shows that he was prejudiced by the method in which trial counsel examined Mr. Nixon. Respondent again argues that "[a] fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to

evaluate the conduct from counsel's perspective at the time." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052 (1984). Applicant has failed to "overcome the presumption that, under the circumstances, the challenged action 'might be considered sound trial strategy.'" Id. Therefore, this allegation must be denied.

O. Ineffective assistance of counsel for failing to object when the judge instructed the jury that they would have to decide between the charges offered for three possible convictions without telling them that they could find the defendant not guilty.

Relief was denied on this issue, and Respondent does not challenge that finding.

P. The cumulative effect of trial counsel's errors are significant enough to undermine the reliability of the results at trial.

Respondent argues that the finding of cumulative error is improper. Circuit courts and the appellate courts of South Carolina have declined to find that cumulative error can be a ground on which to grant post-conviction relief. The case that Applicant cites, Walker v. State, 397 S.C. 225 (Ct. App. 2012) does not definitively settle the question. Furthermore, the Court of Appeals has reiterated its stance on cumulative error by again citing to Lorenzon v. State, 376 S.C. 521, 535 (2008), as it did in Walker, though in an unpublished opinion, to reject this claim. See Bolte v. State, 2014–UP–266, filed June 30, 2014. The United States District Courts in South Carolina have also cited to Lorenzon and denied relief based on cumulative effect. See Sears v. Dunlap, C/A No. 0:13–cv–00688–TLW, signed March 21, 2014 ("...an independent claim of cumulative error has been rejected by the Fourth Circuit. See Fisher v. Angelone, 163 F.3d 835, 852 (4th Cir. 1998).").

Accordingly, trial counsel's performance was not ineffective. For the foregoing reasons, Respondent requests that the order be altered or amended.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JESSICA E. KINARD
Assistant Attorney General

By: _____
ATTORNEYS FOR RESPONDENT

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April 5, 2017

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW GREGORY V. SMITH, #353524, Applicant, vs STATE OF SOUTH CAROLINA, Respondent,	IN THE COURT OF COMMON PLEAS **2015-CP-28-0002** CERTIFICATE OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **State's Notice of Motion and Motion to Alter or Amend Judgment Pursuant to Rule 59(E), SCRCP** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Kristy Grafton Goldberg, Esquire
Law Office of Kristy Goldberg, LLC
1720 Main Street, Suite 303
Columbia, SC 29201

DATED this the 5th day of May, 2017.

F. V. Hayes

Felicia V. Hayes, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW GREGORY V. SMITH, #353524, Applicant, vs STATE OF SOUTH CAROLINA, Respondent,	IN THE COURT OF COMMON PLEAS **2015-CP-28-0002** CERTIFICATE OF SERVICE BY MAIL

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2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **State's Notice of Motion and Motion to Alter or Amend Judgment Pursuant to Rule 59(E), SCRCP** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

The Honorable Jocelyn Newman
Presiding Judge, Fifth Judicial Circuit
Post Office Box 192
Columbia, SC 29202-0192

DATED this the 5th day of May, 2017.

Felicia V. Hayes, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF KERSHAW	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
Gregory V. Smith, S.C.D.C. No. 353524,	)	C.A. No. 2015-CP-28-002
	)	
Applicant,	)	**APPLICANT'S RESPONSE TO THE STATE'S MOTION TO ALTER OR AMEND**
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed January 2, 2015 and amended August 22, 2016. Respondent made its return on or about March 3, 2016. An evidentiary hearing was held on September 1, 2016, at the Richland County Courthouse. Applicant was present and represented by Kristy Goldberg, Esq. Assistant Attorney General Jessica Kinard represented Respondent.

This Court granted relief by order dated April 21, 2017. Applicant received the State's Notice of Motion and Motion to Alter or Amend Judgment Pursuant to Rule 59(E), SCRCP on May 8, 2017. The Applicant agrees with the factual and legal conclusions and analysis within the original Court Order and would ask this Court to deny the State's motion. To the extent that any response by the Applicant is necessary, the Applicant reserves and incorporates all argument and authority previously presented to this Court in the evidentiary hearing and in the proposed Order submitted to the Court. The Applicant further responds to the State's specific submissions as follows:

A. Ineffective assistance of counsel for failure to adequately challenge the admissibility of the Applicant's statement provided to law enforcement.

The State argues that trial counsel presented his argument in the Jackson v. Denno "to the best of his ability and in line with the defense strategy." This is based on trial counsel's testimony that he "did not know how to present a reasonable argument regarding coercion." See State's Motion pages 1-2.

The Applicant would submit that *not knowing how to make an argument* is not the same as a trial strategy. Rather, trial counsel's admission that he did not know how to argue this issue admits deficiency. The Applicant asks that this Court deny the State's motion as to this issue.

B. Ineffective assistance of counsel for failure to object when a witness offered as an expert in "methamphetamine and meth labs and the effects of meth on the human body" was asked to testify in the Denno hearing regarding the witness' perception of the Defendant's statement on video and whether or not the Applicant appeared to be under the influence of anything or was able to understand and knowingly and voluntarily waive Miranda.

The Applicant has argued that it was improper for Ashley Harris, former SLED employee and current Spartanburg County Sherriff's Office employee, who was qualified as an expert in "methamphetamine and meth labs and the effects of meth on the human body" to testify regarding the Applicant's judgement and state of mind including whether or not she believed the "confession" on video was affected by the manufacture or use of methamphetamine. This Court should find that this testimony was clearly unreasonable, inadmissible and prejudicial, and it was unreasonable for counsel to fail to object so such questioning and testimony. The Court should make this finding because it is clear that the witness did not have the proper qualification to testify regarding anyone's state of mind or ability to enter into a voluntary waiver of legal rights,

much less the specific state of mind of the Applicant at the time he gave his statement. The Applicant asks that this Court grant Post-Conviction Relief on this issue in addition to the others contained herein.

C. Ineffective assistance of counsel for failure to advise client that he was able to testify regarding the admissibility of the statement and still retain his 5th Amendment right to remain silent regarding the allegations.

This Court found the Applicant's testimony to be credible when the Order Granting Post-Conviction Relief was initially issued. The State has not presented any argument or evidence to justify a change in the initial Court finding. Further, this Court initially found that counsel was ineffective in challenging the Applicant's statement, and as a result the trial could not be relied on as having produced a just result. The Applicant therefore asks this Court to deny the State's motion as to this issue.

D. Ineffective assistance of counsel for failure to object when the Solicitor impermissibly informed the jury of alleged statements by the Defendant which were not ruled admissible during the Denno hearing and not admitted into evidence during the trial.

a. "Second Story"

The Applicant requests that this Court stand by its finding that counsel was ineffective and deny the State's motion as to this issue.

b. "Jail for the rest of my life."

As to this issue, the Order Granting Post Conviction Relief states:

> "Again, this court agrees because the State cannot attribute words to a Defendant that were never said by him. In this case, where the statement involves "going to jail for the rest of" his life, the effect is clearly prejudicial and therefore again justify Post-Conviction Relief."

The Applicant would submit that this was a proper ruling and reconsideration on this

issue is not necessary.

Further, the Applicant asks the Court to deny the State's motion as to this issue. Two separate officers testified *identically* to statements made by the Applicant when he first interacted with law enforcement. Despite this reliable testimony, the Solicitor referenced additional highly prejudicial statements in his opening statement which he knew were not brought out in the Denno hearing. It is trial counsel's responsibility and duty to ensure the testimony and evidence presented to the jury matches what has been ruled admissible in the Denno hearing, and to ensure that the State does not inform the jury of any facts which do not have an evidentiary basis. It would be unprofessional, unreasonable, and ineffective for trial counsel to allow the Solicitor attribute additional words to the Applicant and not object.

The State admits that there was no testimonial basis for this statement made by the Solicitor, and admits that counsel "may have exhibited deficient performance in his failure to object to this statement." See, State's Motion page 4. The State simply argues that "no evidence was presented to prove that it should be deemed prejudicial." Id. The concern here is not the mention of a possible long prison sentence, but rather the fact that an acknowledgement by the Applicant that he is "getting ready to go to jail for the rest of his life" could easily and reasonably be seen as an admission regarding the murder and an understanding of what is to come as a result of committing the murder.

The Applicant requests that this Court stand by its finding that counsel was ineffective and that the effect was clearly prejudicial and deny the State's motion as to this issue.

E. Ineffective assistance of counsel for failure to object when the prosecutor elicited prejudicial, irrelevant and highly inflammatory statements from witness Samantha Steeprock.

a. Prior threats

The Applicant asks that this Court stand by its decision that the testimony at issue was irrelevant, highly prejudicial and inadmissible and that trial counsel acted ineffectively and unreasonably in not objecting to its admission.

b. Gore.com

The Applicant asks that this Court stand by its decision that the testimony at issue was irrelevant, misleading, highly prejudicial and inadmissible and that trial counsel acted ineffectively and unreasonably in not objecting to its admission.

F. Ineffective assistance of counsel for failure to object to leading questions by the prosecutor.

The State claims that no evidence was presented at the evidentiary hearing regarding this issue. However, this matter arises directly from the trial transcript which is a part of the record. The trial transcript contains the evidence for this issue.

The Applicant asks this Court deny the State's motion as to this issue.

G. Ineffective assistance of counsel for opening the door into allegations that the Applicant and Steeprock were involved in bringing contraband into the jail.

The Applicant would simply reiterate that the evidence presented during the trial was that the Applicant requested witness Steeprock send him illegal drugs, and that there was no evidence offered by the State that she actually sent him illegal drugs or even attempted to send him illegal drugs. Therefore, trial counsel's "strategy" to present this testimony to disparage Steeprock's character was clearly unreasonable by objective standards. The Applicant asks that this Court

stand by its decision that trial counsel acted ineffectively and unreasonably in presenting this evidence which then opened for the State to present prejudicial evidence against the Applicant.

H. Ineffective assistance of counsel for failure to object to impermissible victim impact testimony.

The Applicant asks that this Court stand by its decision that the testimony at issue was irrelevant and prejudicial and trial counsel acted ineffectively and unreasonably in not objecting to its admission.

I. Ineffective assistance of counsel for failure to adequately cross examine forensic pathologist, Dr. Janice Ross, and witness Samantha Steeprock.

The State argues that trial counsel was reasonable in his assertion that "his strategy with pathologists is to always get them off of the witness stand as quickly as possible, and that it is difficult to argue with their findings." See, State's Motion page 6. The Applicant strongly disagrees. Prevailing professional norms would dictate that it is the responsibility of trial counsel to cross-examine *all* witnesses thoroughly, effectively, and in a manner which will elicit any possible testimony that could aid a criminal defendant in his defense. It appears from the testimony of trial counsel at the PCR hearing that he did not even make an attempt to do this.

The State argues that trial counsel "did not realize that the decedent's injuries would have killed her instantly and prevented her from moving; and therefore he could not have cross-examined the pathologist on this fact." See, State's Motion page 7. The State further argues that it is not reasonable to "expect a trial attorney to be aware of medical phenomena" "when there was no reason to question the post-mortem investigation." Id.

It should be noted that the Applicant did not present, nor did he need to present, an

independent expert witness to prove this issue. All of the information was available by simply asking further questions of the pathologist who testified in the original trial. Trial counsel had an eye witness account of the facts as they allegedly took place and he did not bother to ask the pathologist whether or not those facts as stated could have been accurate, medically speaking. As a result, important medical testimony which discredits accuracy of the eyewitness's account was not presented to the jury. This is exactly the scenario where a failure by counsel to properly engage in the adversarial process results in uncertainly as to whether or not the trial produced a just result. Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The Applicant respectfully asks that the Court deny the State's motion as to this issue.

J. Ineffective assistance of counsel for failure to object to admissibility of handwritten notes.

The Applicant would reiterate that this evidence was prejudicial because it was offered by the State for the purpose of providing a potential motive, as made clear in the State's opening statement. It was unreasonable for trial counsel to then fail to object when the State offered evidence of motive without a proper legal foundation. Therefore, the Applicant requests that this Court deny the State's Motion as to this issue.

K. Ineffective assistance of counsel for failure to object to incorrect factual references in trial testimony..

A conviction results when several pieces of evidence are used by the State to prove whether or not a criminal defendant committed the act of which he was accused. In some cases every piece of evidence matters. This is such a case. Commentary was offered at trial that the Applicant made the gun holster and it had his initials on it. The State presented this information

as an additional piece of evidence to incriminate the Applicant. The photos of the holster did not show the Applicant's initials and the video of the Applicant's confession did not reveal an admission that he made the holster.

The Applicant requests that this Court deny the State's motion and uphold its finding that this testimony was improperly submitted to the jury without objection.

L. Ineffective assistance of counsel for failure to adequately cross examine Investigator Phillips regarding paperwork seized from the Applicant during the pendency of his charges and the underlying search warrant.

The Applicant believes that he has sufficiently proven to this Court with reliable documentation that Investigator Phillips obtained a search warrant from a Magistrate by falsely stating under oath that "a random drug test was conducted on August 15, 2011 and was positive for amphetamines." All of the documentation proving this fact existed and was available at the time of the Applicant's trial. Trial counsel could have obtained this documentation. If trial counsel had simply listened to his client, who the State claims was "obsessed with this issue" he would have discovered that the Applicant had a good reason for concern. It was unreasonable and ineffective for trial counsel to ignore his client and not take the simple step of obtaining this documentation. If trial counsel had obtained this documentation prior to trial he could have easily and effectively cross-examined the Investigator regarding his misdeeds and argued to the jury that the Investigator used this deceptive tactic in order to place additional pressure on witness Steeprock to give a statement to ensure the Applicant's conviction.

The State argues that trial counsel made a "strategic decision not to delve" into this issue regarding the search warrant and urinalysis. However, it would have been impossible for trial counsel to make a well-reasoned and logical strategic decision when he never even obtained the

paperwork showing the negative urinalysis and the claim of a positive urinalysis in the search warrant.

Because it is not reasonable to believe that trial counsel actually made a strategic decision in this regard, Applicant requests that this Court deny the State's Motion as to this issue.

M. Ineffective assistance of counsel for failure to challenge the Kershaw County Solicitor's Office's involvement in prosecuting this case prior to trial after his legal materials had been confiscated as evidence.

No response.

N. Ineffective assistance of counsel for failing to be adequately prepared to effectively cross examine Morris Nixon and correct misleading statements made by the prosecutor regarding Nixon's pending charges.

The Applicant rests on his previous argument requests that this Court deny the State's Motion as to this issue.

O. Ineffective assistance of counsel for failing to object when the Judge instructed the jury that they would have to decide between the charges offered for three possible convictions without telling them that they could find the defendant not guilty.

No response.

P. The cumulative effect of trial counsel's errors are significant enough to undermine the reliability of the results at trial.

The State is misguided in calling this Court's ruling improper. While cases such as Walker v. State have left the question as to whether or not Courts can grant a Post-Conviction Relief Action based on a "cumulative error" issue open and unsettled, Walker actually provides a standard for when a cumulative error case may be appropriate. The Applicant asserts that, in this case, he has clearly demonstrated "'a reasonable probability that, but for [the cumulation of] counsel's unprofessional errors, the result of the proceeding would have been different.'" Walker at 243, citing Edwards v. State, 392, SC 449, at 459 (2011.)

This trial includes a number of issues and deficiencies by trial counsel which should cause this and any other Court great concern. The Applicant believes that each individual issue was sufficiently prejudicial given the way in which the State presented its case. However, to the extent that it may be argued that some of the issues herein were not prejudicial *enough*, it should be clear to this Court that the number of errors and types of errors create no doubt that the Applicant was prejudiced by trial counsel's deficient representation as a whole. The cumulative effect of the prejudice was such that, but for the series of errors, the result of the proceedings would have likely been different. Accordingly, the Applicant requests that this Court deny the State's motion.

Respectfully Submitted,

Kristy G. Goldberg
Attorney for Applicant

Columbia, South Carolina

This 10 Day of May, 2017.

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF KERSHAW)	DOCKET NO.: 2015-CP-28-002
GREGORY VINCENT SMITH,)	
SCDC # 353524)	
Applicant,)	
v.)	
)	CERTIFICATE OF SERVICE
STATE OF SOUTH CAROLINA,)	
Respondent,)	
)	

I certify that on this date I served the Response to the State's Motion to Alter or Amend Judgment Pursuant to Rule 59€, SCRCP in this case on The State of South Carolina by delivering a copy of this application to the Office of the Attorney General via U.S. mail at Post Office Box 11549, Columbia, South Carolina 29211-1549.

Kristy Goldberg
Attorney for Defendant

Kristy Goldberg
Law Office of Kristy Goldberg, LLC.
1720 Main Street, Suite 303
Columbia, SC 29201
803-667-6633
803-799-4059 (fax)
kristy@kristygoldberglaw.com

Columbia, South Carolina

This 10th day of May, 2017

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2015-CP-28-0002

Gregory Smith (SCDC# 353524) — PLAINTIFF(S)

State of South Carolina — DEFENDANT(S)

Submitted by: _____

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

DISPOSITION TYPE (CHECK ONE)

☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ ACTION DISMISSED (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other _____

☐ ACTION STRICKEN (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____

☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

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

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

ORDER INFORMATION

Respondent's Motion to Alter or Amend Judgment is DENIED.

This order ☑ ends ☐ does not end the case.

Additional Information for the Clerk : _____

FILED IN THE COURT OF COMMON PLEAS KERSHAW COUNTY, S.C. 17 MAY 18 AM 9:10

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

Circuit Court Judge: Jocelyn Newman — Judge Code 2757 — Date May 17, 2017

For Clerk of Court Office Use Only

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

ATTEST True, Correct & Certified Copy of Original on File in this Court
Janet C. Hardy
Clerk of Court Kershaw County

SCRCP Form 4C (10/2011)

FILED FOR RECORD
2012 OCT 26 PM 3:49
JOYCE MCDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

STATE OF SOUTH CAROLINA)
)
v.)
)
)
GREGORY VINCENT SMITH)
)
Defendant.)
)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF KERSHAW

Docket No.: 2012-GS-28-0076
2012-GS-28-0074

VERDICT

WE THE JURY, ON THE CHARGE OF MURDER, WE FIND THE DEFENDANT GREGORY VINCENT SMITH:

___✓___ GUILTY

_____ NOT GUILTY

OR

WE THE JURY, ON THE CHARGE OF VOLUNTARY MANSLAUGHTER, WE FIND THE DEFENDANT GREGORY VINCENT SMITH:

_____ GUILTY

___✓___ NOT GUILTY

OR

WE THE JURY, ON THE CHARGE OF INVOLUNTARY MANSLAUGHTER, WE FIND THE DEFENDANT GREGORY VINCENT SMITH:

_____ GUILTY

___✓___ NOT GUILTY

October 26, 2012

Debra Thorpe
Foreperson

ATTEST True, Correct & Certified Copy of Original on File in this Court
Joyce McDonald
Clerk of Court
Kershaw County

FILED FOR RECORD
2012 OCT 26 PM 3:49
JOYCE MCDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	COUNTY OF KERSHAW
v.	)	Docket No.: 2012-GS-28-0076 2012-GS-28-0074
	)	VERDICT
GREGORY VINCENT SMITH	)	
Defendant.	)	

WE THE JURY, ON THE CHARGE OF MANUFACTURING METHAMPHETAMINE, WE FIND THE DEFENDANT GREGORY VINCENT SMITH:

✓ GUILTY

_____ NOT GUILTY

Foreperson

October 26, 2012

ATTEST True, Correct & Certified Copy of Original on File in this Court
Clerk of Court
Kershaw County

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Kershaw)
STATE VS.)
Gregory Vincent Smith)
AKA:)
Race: Sex: M Age: 50)
DOB: [redacted]62 SS#: [redacted])
Address: 1995 1/2 Hwy One South)
City,State,Zip: Lugoff, SC 29078)
DL#: [redacted] SID#:)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2012-GS-28-0074
A/W#: M099445
Date of Offense: 5/28/2011
S.C. Code § : 16-03-0010
CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Murder / Murder

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted. ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST: [signature] Perry, Brett 6881 SC Bar# [signature] Defendant [signature] Attorney for Defendant 6468 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____: plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. MAY 28, 2011
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3.90
TOTAL		$ 133.90

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk [signature]
Court Reporter: Krystal [signature]
Presiding Judge [signature]
Judge Code: 2126
Sentence Date: 12/12/12

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)

INDICTMENT

At a Court of General Sessions, convened on JANUARY 23, 2012, the Grand Jurors of Kershaw County present upon their oath:

MURDER

That Gregory Vincent Smith did in Kershaw County, on or about May 28, 2011, willfully, feloniously, and intentionally kill the victim, Debra Tyler, with malice aforethought, either express or implied, by means of Shooting her about the face, and the victim did die as a proximate result thereof on or about 5/28/2011 in Kershaw County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DAN JOHNSON, SOLICITOR

WITNESSES

(S) D Handy – Kershaw County Sheriff

ARREST WARRANT NUMBER

M099445

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: JAN 23 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-28-0074

The State of South Carolina

County of

Kershaw

COURT OF GENERAL SESSIONS

JANUARY TERM 2012

K96

THE STATE
vs.

Gregory Vincent Smith

Indictment for
MURDER

SC Code: **16-03-0010**
CDR Code: **0116**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

hereby appear in my own proper person and p
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
2012 JAN 24 PM 3:51
JOYCE MCDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

M-099445

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Kershaw

FILED FOR RECORD
2011 JUN -8 AM 11:04
JOYCE MCDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

THE STATE 2011-2782

against

Gregory Vincent Smith

Address: 1995 1/2 Hwy One South

Lugoff, SC 29078-

Phone: SSN [redacted]

Sex: M Race: W Height: 6 2 Weight: 160

DL State: SC DL #: [redacted]

DOB: [redacted]62 Agency ORI #: SC0280000

Prosecuting Agency: Kershaw County Sheriff

Prosecuting Officer: Dexter Handy - 7064

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of _____. The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant GREGORY SMITH on 06/07/2011

Signature of Constable/Law Enforcement Officer #42

RETURN WARRANT TO:

General Sessions
1121 Broad Street
Camden, SC 29020

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

[X] County/ [ ] Municipality of

Kershaw

AFFIDAVIT

April 21, 2003
SCCA 518

Personally appeared before me the affiant Dexter Handy who being duly sworn deposes and says that defendant Gregory Vincent Smith did within this county and state on or about 05/28/2011 violate the criminal laws of State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw in the following particulars:

DESCRIPTION OF OFFENSE Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on May 28, 2011 the defendant Gregory Vincent Smith did, with malice and aforethought, cause the death of Debra Lee Tyl by shooting her about the face with a handgun. This incident did occur at 1995 1/2 Highway 601 South which is located in Lugoff, Kershaw County, South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Kershaw

Affiant's Address 821 Ridgeway Rd.
Lugoff, SC 29078-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe t

on or about 5/28/2011 defendant Gregory Vincent Smith did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or a soon thereafter as is practicable

Sworn to and subscribed before me on 06/07/2011

(L.S.)

Signature of Issuing Judge

R. Eugene Hartis

Judge Code: ~~5562~~ 7029

Judge's Address Post Office Box 1528
Camden, SC 29020-1528

Judge's Telephone (803)425-1500

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

Appendix - page 1338

Judge _____

on _____

Type and Amount: _____

Name of Surety: _____

_____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

_____

_____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
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Telephone: _____

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Telephone: _____

Name: _____
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Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

CODEFENDANTS

_____

_____

STATE OF SOUTH CAROLINA)
COUNTY OF Kershaw)
STATE VS.)
Gregory Vincent Smith)
AKA:)
Race: WHITE Sex: M Age: 50)
DOB: [redacted]62 SS#[redacted])
Address: 1995 1/2 Hwy One South)
City,State,Zip: Lugoff, SC 29078)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012-GS-28-0076
A/W#: M100402
Date of Offense: 5/28/2011
S.C. Code § : 44-53-0375 (B) (1)
CDR Code #: 3198

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Drugs / Manufacture, distribution, etc. of methamphetamine, 1st

in violation of § 44-53-0375 (B) (1) of the S.C. Code of Laws, bearing CDR Code # 3198
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Perry, Brett 6991 SC Bar# Gregory V. Smith Defendant C. J. Kirby Attorney for Defendant 6468 SC Bar#

WHEREFORE, the Defendant is commited to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 12-12-12 (2012-GS-28-0074)
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. May 28, 2011
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$ 150.00
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 8.40
TOTAL		$ 288.40

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: _____
Court Reporter: Rebekah Smith

Presiding Judge: G. Thomas Cooper
Judge Code: 2126
Sentence Date: 12/12/12

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)

INDICTMENT

At a Court of General Sessions, convened on JANUARY 23, 2012, the Grand Jurors of Kershaw County present upon their oath:

MANUFACTURING METHAMPHETAMINE (CRANK)

That Gregory Vincent Smith did in Kershaw County, on or May 28, 2011 manufacture, or did aid, abet, attempt or conspire to manufacture, a quantity of Methamphetamine (Crank), a controlled substance under provisions of Section 44-53-110, et. seq., S. C. Code of Laws, 1976, as amended, such manufacturing not having been authorized by law, to wit: in that he/she was in possession of materials, chemicals, and ingredients used in the manufacturing of Methamphetamines at 1995 1/2 HIGHWAY ONE, KERSHAW COUNTY, SC in violation of Section 44-53-375(B), S. C. Code of Laws, 1976, as amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DAN JOHNSON, SOLICITOR

WITNESSES

(S) Kirk Wilks – Kershaw County Sheriff

ARREST WARRANT NUMBER

M100402

ACTION OF GRAND JURY

TRUE BILL

William Morris

Foreperson of Grand Jury
Date: JAN 23 2012

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2012-GS-28-0076

The State of South Carolina

County of

Kershaw

COURT OF GENERAL SESSIONS

JANUARY TERM 2012

K96

THE STATE
vs.

Gregory Vincent Smith

Indictment for
MANUFACTURING METH - 1ST OFF

SC Code: **44-53-0375 (B) (1)**
CDR Code: **3198**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

hereby appear in my own proper person and ple guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
2012 JAN 24 PM 3:51
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

M-100402

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Kershaw

FILED FOR RECORD
2011 JUN -2 AM 11:26
JOYCE MCDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

THE STATE

against

Gregory Vincent Smith

Address: 1995 1/2 Hwy. One South
Lugoff, SC 29078-

Phone: SSN:

Sex: M Race: W Height: 6 2 Weight: 160

DL State: SC DL #: [redacted]

DOB: [redacted]62 Agency ORI #: SC0280000

Prosecuting Agency: Kershaw County Sheriff

Prosecuting Officer: Kirk Willis - 7222

Offense: Drugs / Manufacture, distribution, etc. of methamphetamine, 1st

Offense Code: 3198

Code/Ordinance Sec: 44-53-0375 (B) (1

This warrant is CERTIFIED FOR SERVICE in the [ ] County/ [ ] Municipality of . The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Gregory Vincent Smith on 6-29-2011

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Bond Court
1121 Broad Street
Camden, SC 29020

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

[X] County/ [ ] Municipality of Kershaw

AFFIDAVIT

April 21, 2003
SCCA 518

Personally appeared before me the affiant Kirk Willis who being duly sworn deposes and says that defendant Gregory Vincent Smith did within this county and state on or about 05/28/2011 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Manufacture, distribution, etc. of methamphetamine, 1st

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

That on May 28, 2011 within Kershaw County, State of South Carolina, KCSO responded to 1995 1/2 Hwy. One, in response to a complaint of a disturbance. Upon arrival, responding officers found a deceased party, and indications of an ongoing functional methamphetimine lab. KCSO secured a Search Warrant for the premises.The Defendant did have in his custody and control a functional lab, on the aforesaid premises, with required chemicals and equipment, used to manufacture methamphetimine. Within the lab area, within the home of Defendant, were personal belongings, documents and photos bearing the likeness of Defendant or his identity. Prior to arrest, the Defendant did flee the crime scene.

Signature of Affiant

STATE OF SOUTH CAROLINA
[X] County/ [ ] Municipality of
Kershaw

Affiant's Address 821 Ridgeway Rd.
Lugoff, SC 29078-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe th

on or about 5/28/2011 defendant Gregory Vincent Smith did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Kershaw) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of methamphetamine, 1st

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him o her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me on 05/29/2011

(L.S.)

Signature of Issuing Judge

Roderick M. Todd Jr.

Judge Code: 5074

Judge's Address P.O. Drawer 1528
Camden, SC 29020-1528

Judge's Telephone (803)425-1500

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL

Appendix - page 1343

Judge David Dark

on 5/31/11

Type and Amount: C/S 50,000.00

Name of Surety: _____

_____

PRELIMINARY HEARING held by

Judge _____

on _____

Defendant Attorney: _____

Decision: _____

_____

_____

DISPOSITION before

Judge _____

on _____

by _____

(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

_____ _____

_____ _____

_____ _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

Name: _____
Address: _____
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Telephone: _____

Name: _____
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Name: _____
Address: _____
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Telephone: _____

Name: _____
Address: _____
_____
Telephone: _____

CODEFENDANTS

_____

_____

11:27:29 Monday, January 12, 2015

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 01/12/15
OMCOMITA RELEASE DATE SCREEN C056368
SCDC# > 353524 LOC: **LIEBER**
SMITH, GREGORY VINCENT SCDC CLASSIFICATION..: **VIOLENT**
OFFENDER TYPE...: **ADULT-STRAIGHT SENTENCE** SEXUAL REGISTRY..: **N**
SEXUAL PREDATOR..: **NOT APP**
DNA STATUS.....: **COMPLETED**
GPS REQUIREMENT..: **N**
PREA DECISION....:

CURRENT SENTENCE: **035-00-000** CONSECUTIVE SENTENCE ..: **Y**
035-00-000 CURRENT SENT START DATE: **05/28/2011**
PROJECTED COMPLETION DATES
MAXOUT DATE .....: **01/18/2044** CURRENT EWC .: **3 F 5**
YOA SIX YEAR DATE: / / CURRENT EEC .: **NOT CURRENTLY EARNING EEC**
INITIAL PAROLE DATE: **05/28/2041** NEXT PAROLE HEARING DATE: **05/28/2041**

TOTAL GT DAYS EARNED .....: **000000** LABOR CREW/WORK PROG DATE: **99/99/9999**
TOTAL EARNED WORK CREDITS ..: **000310** LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS ....: **000000** **CATEGORY 4 OR 5 OFFENSE**
TOTAL EXTRA EARNED CREDITS .: **000** SUPERVISED REENTRY DATE..: **00/00/00**
TOTAL SERVICE TIME EARNED ..: **001304** ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
RECORD SUMMARY REPORT DATED 01/12/15 C0239

SMITH,GREGORY VINCENT FBI # 689664JA8 SID# SC01758003 SCDC # 353524
OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE
INSTITUTION ..: LIEBER CORRECTIONAL INST. DORM.....: SB0043B
SECURITY/CUST.: 3 MINIMUM IN RACE....:W SEX...:M
CURR INCARC SENT...: 35 YRS 0 MOS 0 DYS PROJ MAXOUT DATE: 01/18/2044
CENTRAL MONITORING.: YES PROJ PAROLE DATE: 05/28/2041
SOCIAL SECURITY #...[redacted] EWC JOB..: WARDKEEPER ASSISTANT
EDUC PGM.: NO CURR EDUC PROGRAM
CURRENT PROGRAM..: NO CURRENT PROGRAM EWC LEVEL: 3F5 EEC LEVEL:
AGE...: 52 DATE OF BIRTH..: [redacted]/62 ASSIGNMENT..: BUILDING #4

PREVIOUS NUMBERS:
** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE YRS	MOS	DYS	COUNTY	SENTENCE START	V/NV	CATEGORY
MANUF. DIST. METH. 1ST	5	0	0	KERSHAW	5/28/2011	V	4
MURDER	30	0	0	KERSHAW	5/28/2011	V	5

PRIOR COMMITMENTS OVER 90 DAYS:

6/13/91	*POSSESSION OF WEAPON	1 YRS	0 MOS	0 DYS
9/ 1/90	*DRIVING INFLUENCE LIQUOR	0 YRS	18 MOS	0 DYS
9/29/87	*BURGLARY	0 YRS	18 MOS	0 DYS

DETAINERS (HOLD,WANTED,NOTIFY):
NO DETAINERS
NO DETAINERS
ESCAPES:
NO ESCAPE HISTORY
CRIMINAL CHARGES:
NO CRIMINAL CHARGES WHILE IN CUSTODY
NO CRIMINAL CHARGES HISTORY
ASSAULTIVE DISCIPLINARIES:
NO ASSAULTIVE DISCIPLINARY HISTORY
NON-ASSAULTIVE DISCIPLINARIES:
6/14/13 INCITING/CREATING A DIST DROPPED MAJOR
HISTORY OF MOVEMENTS:

4/11/13	LIEBER	INCARCERATED	ADMINISTRATIVE
12/12/12	KIRKLAND	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
WARDKEEPER ASSISTANT	04/16/13	0/ 0/ 0		3F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON

NO SCHOOL ASSIGNMENTS
********* END OF REPORT *********

11:29:38 Wednesday, January 21, 2015

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 01/21/15
OMCOMITA RELEASE DATE SCREEN C023981

SCDC# > 00353524 LOC: **LIEBER**
SMITH, GREGORY VINCENT SCDC CLASSIFICATION..: **VIOLENT**
OFFENDER TYPE...: **ADULT-STRAIGHT SENTENCE** SEXUAL REGISTRY..: **N**
SEXUAL PREDATOR..: **NOT APP**
DNA STATUS.....: **COMPLETED**
GPS REQUIREMENT..: **N**
PREA DECISION....:

CURRENT SENTENCE: **035-00-000** CONSECUTIVE SENTENCE ..: **Y**
035-00-000 CURRENT SENT START DATE: **05/28/2011**

PROJECTED COMPLETION DATES
MAXOUT DATE .....: **01/18/2044** CURRENT EWC .: **3 F 5**
YOA SIX YEAR DATE: **/ /** CURRENT EEC .: **NOT CURRENTLY EARNING EEC**
INITIAL PAROLE DATE: **05/28/2041** NEXT PAROLE HEARING DATE: **05/28/2041**

TOTAL GT DAYS EARNED .....: **000000** LABOR CREW/WORK PROG DATE: **99/99/9999**
TOTAL EARNED WORK CREDITS ..: **000312** LABOR CREW DISQ REASON:
TOTAL EDUCATION CREDITS ....: **000000** **CATEGORY 4 OR 5 OFFENSE**
TOTAL EXTRA EARNED CREDITS .: **000** SUPERVISED REENTRY DATE..: **00/00/00**
TOTAL SERVICE TIME EARNED ..: **001313** ISS.....:

PFKEYS: 5:HISTORY OF DATE CHANGES

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
RECORD SUMMARY REPORT DATED 01/21/15 C0239

SMITH,GREGORY VINCENT FBI # 689664JA8 SID# SC01758003 SCDC # 00353524
OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE
INSTITUTION ..: LIEBER CORRECTIONAL INST. DORM.....: SB0043B
SECURITY/CUST.: 3 MINIMUM IN RACE....:W SEX...:M
CURR INCARC SENT...: 35 YRS 0 MOS 0 DYS PROJ MAXOUT DATE: 01/18/2044
CENTRAL MONITORING.: YES PROJ PAROLE DATE: 05/28/2041
SOCIAL SECURITY #...: [redacted] EWC JOB..: WARDKEEPER ASSISTANT
EDUC PGM.: NO CURR EDUC PROGRAM
CURRENT PROGRAM..: NO CURRENT PROGRAM EWC LEVEL: 3F5 EEC LEVEL:
AGE...: 52 DATE OF BIRTH..: [redacted]62 ASSIGNMENT..: BUILDING #4

PREVIOUS NUMBERS:
** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE YRS	MOS	DYS	COUNTY	SENTENCE START	V/NV	CATEGORY
MANUF. DIST. METH. 1ST	5	0	0	KERSHAW	5/28/2011	V	4
MURDER	30	0	0	KERSHAW	5/28/2011	V	5

PRIOR COMMITMENTS OVER 90 DAYS:

6/13/91	*POSSESSION OF WEAPON	1 YRS	0 MOS	0 DYS
9/ 1/90	*DRIVING INFLUENCE LIQUOR	0 YRS	18 MOS	0 DYS
9/29/87	*BURGLARY	0 YRS	18 MOS	0 DYS

DETAINERS (HOLD,WANTED,NOTIFY):
NO DETAINERS
NO DETAINERS
ESCAPES:
NO ESCAPE HISTORY
CRIMINAL CHARGES:
NO CRIMINAL CHARGES WHILE IN CUSTODY
NO CRIMINAL CHARGES HISTORY
ASSAULTIVE DISCIPLINARIES:
NO ASSAULTIVE DISCIPLINARY HISTORY
NON-ASSAULTIVE DISCIPLINARIES:
6/14/13 INCITING/CREATING A DIST DROPPED MAJOR
HISTORY OF MOVEMENTS:

4/11/13	LIEBER	INCARCERATED	ADMINISTRATIVE
12/12/12	KIRKLAND	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
WARDKEEPER ASSISTANT	04/16/13	0/ 0/ 0		3F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON

NO SCHOOL ASSIGNMENTS
********* END OF REPORT *********

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Kershaw)
STATE VS.)
Gregory Vincent Smith)
AKA:)
Race: Sex: M Age: 50)
DOB: [redacted]62 SS#: [redacted])
Address: 1995 1/2 Hwy One South)
City,State,Zip: Lugoff, SC 29078)
DL#: [redacted] SID#:)

INDICTMENT/CASE#: 2012-GS-28-0074
A/W#: M099445
Date of Offense: 5/28/2011
S.C. Code § : 16-03-0010
CDR Code #: 0116

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Murder / Murder

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [signature] 6991 [signature] [signature] 6468

Perry, Brett SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. May 28, 2011

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 3.90
TOTAL		$ 133.90

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E begining _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____

$ _____ paid to Public Defender Fund

Other: [illegible] True, Correct & Certified Copy of Original on File in this Court [signature] Kershaw County

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: [signature]

Court Reporter: [signature]

Presiding Judge [signature]

Judge Code: 2126

Sentence Date: 12/12/12

SCCA/217 (03/2011)

STATE OF SOUTH CAROLINA

COUNTY OF Kershaw

STATE VS.

Gregory Vincent Smith

AKA:

Race: WHITE Sex: M Age: 50

DOB: [redacted]62 SS#: [redacted]

Address: 1995 1/2 Hwy One South

City,State,Zip: Lugoff, SC 29078

DL#: [redacted] SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012-GS-28-0076

A/W#: M100402

Date of Offense: 5/28/2011

S.C. Code § : 44-53-0375 (B) (1)

CDR Code #: 3198

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Drugs / Manufacture, distribution, etc. of methamphetamine, 1st

in violation of § 44-53-0375 (B) (1) of the S.C. Code of Laws, bearing CDR Code # 3198

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Perry, Brett	6991	Gregory V. Smith	C. Kirby	6468
	SC Bar#	Defendant	Attorney for Defendant	SC Bar#

WHEREFORE, the Defendant is commited to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment of $ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 12-12-12 (2012-GS-28-0074)

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. May 28, 2011

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship,transport,possess,or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 47.9 (Public Def/Prob)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$ 150.00
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
Proviso 90.5 (SCCJA Surcharge)	$5	$ 5.00
3% to County (if paid in installments)		$ 8.40
TOTAL		$ 288.40

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E begining

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____

$ _____ paid to Public Defender Fund

Other: [illegible] Correct & Certified [illegible] original on file in this [illegible] Kershaw County

☐ Appointed PD or appointed other counsel, § 47.12 requires $500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: [signature]

Court Reporter: [signature]

Presiding Judge [signature]

Judge Code: 2126

Sentence Date: 12/12/12

SCCA/217 (03/2011)