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MAR 27 2018

3C Court of Appeals

To whom it may concern,

My name is Genuine Truth BANNER. I would like to file for appeal on the charges I pled "No contest" under Alford rules on January 23rd 2018. The charges are Kidnapping x5 (2016A4210103273-2016A4210103277), possession of a weapon during a violent crime (2016A4210103279), Armed Robbery x2 (2016A4210103272; 2016A4210103278), and BANK Robbery (2016A4210203486).

The reasons I would like to appeal are as follows:

- ① It is disputed as to whether or not my Miranda rights were violated. The body camera footage will show that I was illegally seized by the arresting officer "Notebaum". Upon my arrival, I was immediately questioned and ordered not to move without ever having been informed of my rights by him. Unfortunately, the footage was never subpoena'd by my attorney.
- ② The property where the evidence was found was illegally searched. According to the incident report by the arresting Officer "Notebaum", he admits to stepping foot onto the property to verify the vin number of an automobile he believed he saw hours before, near the scene of the crime that happened hours later. As verified by court transcripts, Mr. Notebaum already had eyes on the automobile and property where it was parked. As verified by testimony and pictures, the car was not parked in the driveway which would be considered curtilage. Instead, it was parked on the grass on the side of the house. Therefore, because the car was parked, no one was in or around it or even at the home where it was parked at the time and because per "Notebaum's testimony that "eyes" were on it already, the "automobile exception" does not apply to his egregious violation of the 4th Amendment.

② Continued

The state would argue that they had probable cause to come to the property. They would even argue that they were called to the property for something entirely unrelated. Those points are moot. Probable cause does not work as an argument because, had procedure been followed, once the automobile was located, found to be parked and driverless on private property, a search warrant should have been requested with the search to follow. In fact, even if the state did not have probable cause, the same procedure could and should have been followed.

Being called for an unrelated cause doesn't work because Mr. Notebaum's incident report as to why he was at the property in the first place makes no mention of the "unrelated cause". Instead, it mentions an investigative motive into the Bank Robbery.

The fact is, that Mr. Notebaum was entirely unsure as to whether or not the car he saw at the property was the same as the one he saw near the scene of the crime only a few hours prior. In fact, there was even dispute about the color of the car. Unfortunately for the state, in order to immediately see if it was the same car, Mr. Notebaum had to violate the 4th amendment by stepping foot on private property without a warrant. According to his incident report he "verified the vin number..." and then called and requested a search warrant based on what he found. The car, being on private property, without a driver and not within curtilage was illegally searched.

Interestingly enough, the "Spillman data" 911 phone call recording reporting the unrelated incident will verify that the Spartanburg County police were already informed of the location and the vin number of the vehicle they claim was involved in the crime in question. This then, being fact, even further magnifies the the lack of legality in Mr. Notebaum's initial "verification" / search of the vehicle.

② Continued

Because Spartanburg County Police were already

Informed and aware of the vehicle's vin number and location, there was absolutely no reason to commit a "search" or "verification" of vin without a warrant especially when "eyes" were put on it already. They could have easily sent a few deputies (as they did) to keep "eyes" on it, finding it driverless and therefore not immediately mobile, requested a warrant and then commenced with a search.

Instead, Mr. Netebaum (for no logical reason at all) decided to "verify"/search things on his own, thereby violating the 4th amendment. He then, was either brave or ignorant enough to put it in his incident report. Due to his very clear violation of the 4th amendment the evidence collected should have never been admissible in court. My Motion for suppression of evidence should have never been denied. Furthermore, as verified by court transcripts, the judge stated that he recognized that there was or may have been a violation, but stated that he considered whatever violation committed, to be "minimal". The bricks that pave the path of liberty are minute. The small things count. Unfortunately for me, the Judge's statement conveyed the message that my rights don't matter and that the details that construct the 4th amendment are too small to be recognized.

As it stands, I am sentenced to 20 years at 85%. For something I should have never been held responsible for. I am asking that the case and this letter be reviewed for the possibility of Appeal on my motion to suppress's outcome. I would have filed sooner, but I am currently at Kirkland Receiving & Intake and am not allowed access to any library or anything of the sort. It was either by dumb luck or divine intervention that I met someone here from my hometown in Michigan who knew who I should contact and how.

Thank you!

Genuine T. BANNER

375165, AI-08

Kirkland Correctional Institution

4344 Broad River Rd.

Columbia, SC 29210

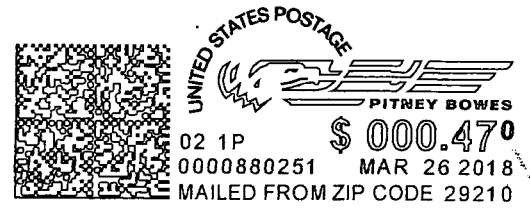
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Court of Appeals

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MAR 26 2018

**KIRKLAND R&E CENTER
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MAR 28 2018

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