

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

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JUL 17 2017

Appeal from Spartanburg County

S.C. SUPREME COURT

Roger L. Couch, Circuit Court Judge

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ANTHONY BERNARD CHAPMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001230

---

APPENDIX

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# INDEX

|                                                                                                                |     |
|----------------------------------------------------------------------------------------------------------------|-----|
| INDEX .....                                                                                                    | i   |
| TRIAL TRANSCRIPT DATED OCTOBER 5, 2010 .....                                                                   | 1   |
| MOTION FOR RECONSIDERATION .....                                                                               | 117 |
| LETTER FROM MR. CHAPMAN TO MS. M. HOPE BLACKLEY DATED DECEMBER 26,<br>2010.....                                | 118 |
| LETTER FROM MS. HOPE BLACKLEY TO MR. ANTHONY CHAPMAN DATED<br>JANUARY 4, 2011 .....                            | 119 |
| LETTER FROM JUDGE COLE TO MR. ANTHONY CHAPMAN DATED JANUARY 25,<br>2011.....                                   | 120 |
| LETTER FROM JUDY R. BOGAN TO MR. ANTHONY CHAPMAN DATED JANUARY 31,<br>2011.....                                | 121 |
| LETTER FROM JUDGE COLE TO MR. MICHAEL D. BROWN DATED FEBRUARY 23,<br>2011.....                                 | 122 |
| LETTER FROM MR. ANTHONY CHAPMAN TO MS. M. HOPE BLACKLEY DATED<br>APRIL 25, 2011 .....                          | 123 |
| MOTION FOR PRODUCTION OF DOCUMENTS .....                                                                       | 124 |
| LETTER FROM MR. ANTHONY CHAPMAN TO MR. MICHAEL D. BROWN DATED<br>MAY 28, 2011 .....                            | 126 |
| LETTER FROM MR. ANTHONY CHAPMAN TO MS. M. HOPE BLACKLEY DATED MAY<br>28, 2011.....                             | 127 |
| LETTER FROM SOUTH CAROLINA COURT OF APPEALS TO MR. ANTHONY<br>CHAPMAN DATED SEPTEMBER 9, 2011 .....            | 128 |
| LETTER FROM MR. ANTHONY CHAPMAN TO MR. MICHAEL D. BROWN DATED<br>SEPTEMBER 20, 2011 .....                      | 129 |
| ORDER OF DISMISSAL FILED OCTOBER 12, 2011.....                                                                 | 132 |
| LETTER FROM MR. ANTHONY CHAPMAN TO MS. ROSALYN FRIERSON AT COURT<br>ADMINISTRATION DATED OCTOBER 28, 2011..... | 133 |

|                                                                                |     |
|--------------------------------------------------------------------------------|-----|
| REMITTITUR .....                                                               | 134 |
| APPLICATION FOR POST-CONVICTION RELIEF .....                                   | 135 |
| MOTION FOR DISCOVERY .....                                                     | 142 |
| RETURN.....                                                                    | 145 |
| POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JANUARY 21, 2014 .....         | 152 |
| APPLICANT'S EXHIBIT #1 (MOTION FOR RECONSIDERATION) .....                      | 228 |
| APPLICANT'S EXHIBIT #2 (CORRESPONDENCE WITH CLERK) .....                       | 229 |
| APPLICANT'S EXHIBIT #3 (LETTER TO CLERK) .....                                 | 231 |
| APPLICANT'S EXHIBIT #4 (APPELLATE DOCUMENTS) .....                             | 233 |
| APPLICANT'S EXHIBIT #5 (PRINTOUT OF CLERK OF COURT'S FILE) .....               | 236 |
| APPLICANT'S EXHIBIT #6 (SEARCH WARRANT) .....                                  | 238 |
| APPLICANT'S EXHIBIT #7 (APPLICANT'S LETTER TO SLED AND RESPONSE) .....         | 243 |
| APPLICANT'S EXHIBIT #8 (FORENSIC ANALYSIS REPORT) .....                        | 244 |
| POST-HEARING MEMORANDUM OF LAW FILED BY APPLICANT .....                        | 245 |
| POST-HEARING MEMORANDUM OF LAW FILED BY THE STATE .....                        | 252 |
| ORDER GRANTING RULE 29 HEARING AND HOLDING PCR RULING IN ABEYANCE ...<br>..... | 257 |
| ORDER DENYING RULE 29 MOTION .....                                             | 260 |
| ORDER OF DISMISSAL .....                                                       | 261 |
| INDICTMENTS AND SENTENCE SHEETS .....                                          | 275 |

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:  
APPLICANT'S EXHIBIT #9 (VIDEO) IT IS LISTED AS COURT'S #1 IN THE  
TRANSCRIPT HOWEVER IT WAS MARKED AS AN APPLICANT'S EXHIBIT**

1 STATE OF SOUTH CAROLINA )  
2 COUNTY OF SPARTANBURG ) IN THE COURT OF GENERAL SESSIONS  
3  
4 The State, )  
5 -vs- ) TRANSCRIPT OF RECORD  
6 Anthony Bernard Chapman, ) 2010-GS-42-0667-0669  
7 Defendant. ) October 5, 2010  
8 ) Spartanburg, South Carolina  
9

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE  
12  
13

14 A P P E A R A N C E S:

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16 Attorney for the State

17 MICHAEL DEMORRIS BROWN, ESQUIRE  
18 Attorney for the Defendant  
19  
20

21 Linda D. Moffitt  
22 Circuit Court Reporter  
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24  
25

ATTORNEY GENERAL'S OFFICE

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ORDER: TRANSCRIPT

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OTHER:

INDEX

|    | <u>WITNESSES</u>                    | <u>PAGE</u> |
|----|-------------------------------------|-------------|
| 1  |                                     |             |
| 2  |                                     |             |
| 3  | MATT HUTCHINS (SW)                  |             |
| 4  | Direct examination by Mr. McCarty   | 8           |
| 5  | Cross-examination by Mr. Brown      | 17          |
| 6  | Redirect examination by Mr. McCarty | 30          |
| 7  | Recross-examination by Mr. Brown    | 41          |
| 8  | STEVE COOPER (SW)                   |             |
| 9  | Direct examination by Mr. McCarty   | 53          |
| 10 | Cross-examination by Mr. Brown      | 58          |
| 11 | ANTHONY BERNARD CHAPMAN (DW)        |             |
| 12 | Direct examination by Mr. Brown     | 63          |
| 13 | Cross-examination by Mr. McCarty    | 70          |
| 14 | Redirect examination by Mr. Brown   | 76          |
| 15 |                                     |             |
| 16 | Guilty plea -- page 85.             |             |
| 17 |                                     |             |
| 18 |                                     |             |
| 19 |                                     |             |
| 20 |                                     |             |
| 21 |                                     |             |
| 22 |                                     |             |
| 23 |                                     |             |
| 24 |                                     |             |
| 25 |                                     |             |

|    |                 |                    |            |            |
|----|-----------------|--------------------|------------|------------|
| 1  | <u>EXHIBITS</u> |                    |            |            |
| 2  | <u>NO.</u>      | <u>DESCRIPTION</u> | <u>ID.</u> | <u>EV.</u> |
| 3  | S-1             | Search warrant     |            | 5          |
| 4  | S-2             | Documents          |            | 86         |
| 5  |                 |                    |            |            |
| 6  |                 |                    |            |            |
| 7  |                 |                    |            |            |
| 8  |                 |                    |            |            |
| 9  |                 |                    |            |            |
| 10 |                 |                    |            |            |
| 11 |                 |                    |            |            |
| 12 |                 |                    |            |            |
| 13 |                 |                    |            |            |
| 14 |                 |                    |            |            |
| 15 |                 |                    |            |            |
| 16 |                 |                    |            |            |
| 17 |                 |                    |            |            |
| 18 |                 |                    |            |            |
| 19 |                 |                    |            |            |
| 20 |                 |                    |            |            |
| 21 |                 |                    |            |            |
| 22 |                 |                    |            |            |
| 23 |                 |                    |            |            |
| 24 |                 |                    |            |            |
| 25 |                 |                    |            |            |

Motion

1 (Proceedings October 5, 2010)

2 THE COURT: This is the State vs. Anthony Bernard  
3 Chapman, Indictments No. 2010-GS-42-0667;668;669.

4 Mr. McCarty is here on behalf of the state; Mr. Brown  
5 is here on behalf of the defendant.

6 Mr. Brown, have you got some motions to have resolved  
7 prior to jury selection?

8 MR. BROWN: That's correct, Your Honor.

9 The defense would request that the Court entertain a  
10 Jackson vs. Denno hearing in regards to a statement that  
11 was given at some point to my client in the course of these  
12 indicted cases.

13 THE COURT: All right. Any others?

14 MR. BROWN: Your Honor, there's an issue as relates to  
15 the validity of the search warrant which began the  
16 indictments involved in this case.

17 THE COURT: All right. Mr. McCarty.

18 MR. McCARTY: Your Honor, if I could ask Mr. Brown to  
19 maybe state with a little more particularity what he's --  
20 in what regard he's challenging the search warrants so that  
21 I might be able to --

22 THE COURT: Have you got the search warrant with you?

23 MR. McCARTY: I certainly do, Your Honor. Would you  
24 like it marked as an exhibit, Your Honor?

25 THE COURT: Yeah. Is that the original or a copy?

Motion

1 MR. McCARTY: That's a certified copy, Your Honor, in  
2 the clerk's office or from the magistrate clerk's office,  
3 Your Honor.

4 (Search warrant marked State's Exhibit No. 1.)

5 THE COURT: All right. Mr. Brown, you're challenging  
6 the validity of the search warrant on its face?

7 MR. BROWN: That's correct, Your Honor.

8 THE COURT: All right. Tell me in what manner you  
9 wish to challenge it.

10 MR. BROWN: Your Honor, in regards to the manner in  
11 which the search warrant was even obtained. Allegedly  
12 there was some confidential information that was shared at  
13 some point by law enforcement, we understand to the  
14 magistrate involved, to obtain the search warrant.

15 However, it's also our understanding that there should  
16 have been an associated case that began the threshold of  
17 these charges.

18 My client wasn't served with that, the notice of those  
19 charges, until the search warrant was executed and after  
20 the possible information, as well as any drugs, were found  
21 in this case.

22 One of our contentions will be that the search warrant  
23 based upon the underlying information wasn't ripe.

24 Secondly, any information that was garnered to obtain  
25 the search warrant wasn't properly disclosed to the

Motion

1 magistrate.

2 MR. McCARTY: Your Honor, I may be able to address  
3 just one of those issues just by myself.

4 When the search warrant was executed on August the  
5 3rd of 2009, at that time simultaneously they were  
6 serving -- executing a search warrant, as well as serving  
7 Mr. Chapman with Warrant No. M-115173, Your Honor, which  
8 was a charge for distribution of marijuana.

9 That offense occurred actually on June 18th of 2009 if  
10 I am correct on that date. So that was -- if that's any  
11 answer to Mr. Brown's question why he may not have notice  
12 that there was an undercover operation occurring previously  
13 simultaneously to the execution of the search warrant, he  
14 was also served with the arrest warrant in a previous  
15 charge from a previous offense date, Your Honor.

16 THE COURT: He was served with this search warrant.  
17 He was also served with an arrest warrant for distribution  
18 of what?

19 MR. McCARTY: I believe it's marijuana, distribution  
20 of marijuana, Your Honor.

21 THE COURT: For the offense occurring on June 18th of  
22 2009?

23 MR. McCARTY: Yes, sir, Your Honor.

24 THE COURT: Which was about ten days, excuse me, about  
25 one month, a little over a month --

## Motion

1 MR. McCARTY: Yes, sir, approximately.

2 THE COURT: -- prior to this warrant being obtained.

3 MR. McCARTY: That is correct, Your Honor.

4 THE COURT: The search warrant being obtained.

5 MR. McCARTY: That's correct, Your Honor.

6 THE COURT: Okay.

7 MR. McCARTY: That would just at least answer, you  
8 know, maybe where the, the warrant itself came from.

9 I'm prepared to place an officer on the stand with  
10 regards to addressing the information contained in his  
11 affidavit, Your Honor.

12 THE COURT: Okay.

13 MR. McCARTY: Your Honor, the state would call Officer  
14 Matt Hutchins.

15 MR. BROWN: Your Honor, also in the interest of the  
16 defense, out of an abundance of fairness we would ask any  
17 of the officers that plan to testify in either one of these  
18 matters, that they be sequestered.

19 MR. McCARTY: I believe he will be the only officer to  
20 testify. He's the affiant on the search warrant.

21 THE COURT: Okay. Nobody else will be testifying?

22 MR. McCARTY: Not in that regard, Your Honor. With  
23 regard to the Jackson vs. Denno I believe -- Investigator  
24 Cooper, Lieutenant Cooper, was actually present and heard  
25 the warnings being advised the defendant. He might have

9  
Matt Hutchins  
Direct examination by Mr. McCarty

1 some knowledge as to how they were given. But with regard  
2 to this specific issue he has no testimony to offer.

3 THE COURT: All right. Who would testify in the Denno  
4 hearing?

5 MR. McCARTY: I believe --

6 THE COURT: Mr. Hutchins?

7 MR. McCARTY: Mr. Hutchins and Lieutenant Cooper, Your  
8 Honor.

9 THE COURT: All right. Well, ask Lieutenant Cooper to  
10 step outside, because we're going to take Mr. Hutchins'  
11 testimony, all of it at once.

12 MR. McCARTY: Yes, sir.

13 MATT HUTCHINS, having been  
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. McCARTY

16 MR. McCARTY: If it please the Court.

17 THE COURT: Yes, sir.

18 Q If you will, would you please introduce yourself?

19 A I'm Investigator Matt Hutchins.

20 Q And where do you work?

21 A Spartanburg County Sheriff's Office.

22 Q How long have you worked there?

23 A I've been employed by the sheriff's office since 2002.

24 Q And how long have you been or are -- you're in the  
25 narcotics division, is that correct?

Matt Hutchins  
Direct examination by Mr. McCarty

1 A That's correct.

2 Q How long have you been in the narcotics division?

3 A Since 2003.

4 Q Since 2003. Do you have any prior law enforcement  
5 experience with -- besides the sheriff's office?

6 A I do. In 1998 I was hired as a magistrate court  
7 constable.

8 In 2000 I was employed as a lake warden where I  
9 attended the criminal justice academy and became certified  
10 there. And then in 2002 came to the sheriff's office.

11 Q Investigator Hutchins, were you involved in a case  
12 involving Anthony Chapman?

13 A I was.

14 Q Were you specifically involved in the execution of a  
15 search warrant on August the 3rd of 2009?

16 A I was.

17 Q If you can, briefly tell us. What's your protocol for  
18 obtaining a search warrant? How do you go about obtaining  
19 one?

20 A Initially, during the investigation you develop  
21 probable cause. Once probable cause for a search warrant  
22 is believed to be there an affidavit is then typed.

23 You basically describe the property sought, put the  
24 description of the premises to be searched and put the  
25 affidavit, the probable cause listed in the affidavit.

Matt Hutchins  
Direct examination by Mr. McCarty

1 Q Investigator Hutchins, do you have a copy of the  
2 search warrant that was executed at [REDACTED] in front  
3 of you?

4 A [REDACTED] in Spartanburg County.

5 Q Mike Drive in Spartanburg County. And that's a copy  
6 of it in front of you, am I correct?

7 A It is.

8 MR. McCARTY: Your Honor, that would be a copy made  
9 from the copy provided to the Court.

10 Q Let me talk to you for a second, Investigator  
11 Hutchins, about your affidavit.

12 What did you believe that you might find at [REDACTED]  
13 [REDACTED]?

14 A Marijuana, a Schedule I controlled substance,  
15 fertilizers, any items used in manufacturing marijuana --  
16 scales, baggies, electronic media, U.S. currency, diaries,  
17 ledgers, paraphernalia and any --

18 Q You're going to have to slow down.

19 A Okay. Marijuana, a Schedule I controlled substance,  
20 fertilizer, any item used in the manufacture of  
21 marijuana -- scales, baggies, electronic media, U.S.  
22 currency, diaries, ledgers, paraphernalia and any item  
23 related to the drug trade.

24 Q Why did you believe that you might find those items at  
25 [REDACTED]?

Matt Hutchins  
Direct examination by Mr. McCarty

1 A I'll read it from the affidavit that was printed --  
2 presented to the magistrate at the time.

3 "Within the past 72 hours of the date 7/28 of '09 a  
4 confidential reliable informant working for the Spartanburg  
5 County Sheriff's Office observed marijuana being  
6 manufactured behind the residence and on the curtilage area  
7 described above. The C.R.I. knows the premises described  
8 above to be the residence of Anthony Chapman. On 6/18 of  
9 '09 the C.R.I. acting under the direction of the  
10 Spartanburg County Sheriff's Office purchased a quantity of  
11 marijuana from Anthony Chapman at the premises described  
12 above using Spartanburg County Sheriff's Office recorded  
13 funds. The C.R.I. observed additional marijuana being  
14 stored at the premises at that time. At the time of  
15 purchase the C.R.I. observed marijuana being grown behind  
16 the premises described above. The C.R.I. knows marijuana  
17 by sight, smell, packaging and texture. The C.R.I. has  
18 provided information to the Spartanburg County Sheriff's  
19 Office in the past that has led to the arrest of subject  
20 and the confiscation of illegal contraband."

21 Q Investigator Hutchins, in the first paragraph on your  
22 affidavit you said that the C.R.I. who was working at the  
23 time for the sheriff's office observed the marijuana being  
24 manufactured.

25 What was your understanding of that or what did you

Matt Hutchins  
Direct examination by Mr. McCarty

1 mean by, "observed marijuana being manufactured"? What did  
2 you understand the C.I. to mean by saying marijuana was  
3 being manufactured?

4 A Marijuana was being grown on the property, actually  
5 growing on the property described.

6 Q Okay. And so that's why you might also look for  
7 things like fertilizer and those types of items in this  
8 search warrant, requesting that you might find those types  
9 of items there, is that correct?

10 A That's correct.

11 Q Let me ask you about with regard to -- you have two  
12 kind of incidences, one that occurred within 72 hours of  
13 July 28th, is that correct?

14 A That's correct.

15 Q And that's when a confidential informant who was  
16 working with the sheriff's office informed you of this  
17 knowledge that he has.

18 A That's correct.

19 Q Was there anything else? Or let me ask you about  
20 particularly with regards to that confidential informant.

21 Had you used that confidential informant prior to this  
22 date when you received that information from him?

23 A Yes, sir.

24 Q Had you been able to prior to that occasion deem him  
25 to be reliable or her to be reliable?

Matt Hutchins  
Direct examination by Mr. McCarty

1 A Yes, sir. Through the information they had given in  
2 the past, another case, cases, the information had led to  
3 the arrest of subject and confiscation of illegal  
4 contraband.

5 Q So prior to you receiving that information this  
6 confidential informant, whoever he or she is, had worked  
7 for you, and those cases resulted in an arrest of an  
8 individual for charges.

9 A Yes, sir.

10 Q The next incident you kind of talk about occurred, as  
11 the judge noticed a little bit earlier, about a month prior  
12 to that, is that correct?

13 A That's correct.

14 Q With regard to that buy I notice in your affidavit you  
15 stated that that was a purchase of marijuana, correct?

16 A That's correct.

17 Q And this confidential informant that you used at that  
18 time purchased it from [REDACTED], is that correct?

19 A That's correct.

20 Q Investigator Hutchins, were you the case agent on the  
21 underlying distribution case that occurred on June 18th of  
22 2009?

23 A I was.

24 Q When that information -- and let me ask you there.  
25 With that confidential informant had you already deemed

Matt Hutchins  
Direct examination by Mr. McCarty

1 that informant to be a reliable source of information?

2 A Yes, sir.

3 Q Did that person, did he or she, provide you  
4 information in the past that through your investigation led  
5 to the arrest of a person for charges relating to  
6 controlled substances?

7 A Yes, sir.

8 Q Investigator Hutchins, do you recall if the same  
9 confidential informant was used in both instances, or were  
10 there two confidential informants that you possibly were  
11 aware of that provided you this information regarding  
12 Mr. Chapman's house or at [REDACTED]?

13 A It was the same informant.

14 Q Thank you.

15 MR. McCARTY: Your Honor, I don't know if Mr. Brown is  
16 challenging anything with regard to particularity of the  
17 residence or if his was just the affidavit. I can continue  
18 on with the particularities regarding the description of  
19 the premises to be searched if the Court would like.

20 THE COURT: Well, is there any -- are you just  
21 challenging the affidavit, Mr. Brown, or are you  
22 challenging the entire warrant?

23 MR. BROWN: Your Honor, I'm challenging the affidavit  
24 in itself, Your Honor.

25 THE COURT: Okay. He's just challenging the

Matt Hutchins  
Direct examination by Mr. McCarty

1 affidavit.

2 MR. McCARTY: Thank you. If I may have just one  
3 moment, Your Honor.

4 (Pause.)

5 THE COURT: While you're looking through that let me  
6 ask you one question so I'll be clear on it.

7 In the affidavit it says on 6/18/09 the C.R.I. acting  
8 under the direction of the sheriff's department purchased a  
9 quantity of marijuana.

10 Was that a controlled purchase supervised by the  
11 sheriff's department?

12 THE WITNESS: Yes, sir.

13 MR. McCARTY: If I may follow up.

14 Q With regard to what the judge just asked you there,  
15 with it being a controlled purchase, was that purchase  
16 recorded on any type of audio or video recording equipment?

17 A Yes. The C.R.I. was equipped with an audio and video  
18 recording device.

19 Q And after that purchase occurred did you view that  
20 video tape?

21 A I did.

22 Q Were you able to make a determination as to whether or  
23 not Anthony Chapman was on that video tape?

24 A I was.

25 Q I am sorry?

Matt Hutchins  
Direct examination by Mr. McCarty

1 A I did.

2 Q And was he?

3 A Yes.

4 Q Thank you.

5 MR. McCARTY: Your Honor, with regard to the affidavit  
6 I have no further questions of Investigator Hutchins at  
7 this time.

8 THE COURT: Let me ask this. Mr. Brown may ask it.

9 But the 6/18/09 purchase is the purchase that was the  
10 subject of the warrant that was served on Mr. Chapman on  
11 August the 3rd -- was it?

12 MR. McCARTY: August 3rd, correct, Your Honor.

13 THE COURT: August 3rd.

14 THE WITNESS: I'm sorry, Your Honor. Can you repeat  
15 that?

16 THE COURT: The 6/18/09 purchase that's referenced in  
17 the search warrant --

18 THE WITNESS: Yes, sir.

19 THE COURT: -- I was also informed that he was served  
20 with a warrant for distribution of marijuana on August the  
21 3rd.

22 THE WITNESS: Yes, sir.

23 THE COURT: Was that distribution that was the subject  
24 of that warrant that was served on him on August the  
25 3rd the same one that's referenced in the search warrant?

Matt Hutchins  
Cross-examination by Mr. Brown

1 THE WITNESS: Yes, sir.

2 THE COURT: Okay. All right. Mr. Brown.

3 CROSS-EXAMINATION

4 BY MR. BROWN

5 Q You stated in your affidavit that you presented to the  
6 magistrate on July 28th that you had information from the  
7 C.R.I. in the past 72 hours.

8 A Yes, sir.

9 Q Was any of that information recorded?

10 A Was any of the information?

11 Q Recorded.

12 A From the C.R.I.?

13 Q Yes.

14 A No, sir.

15 Q Did you note in terms of seeking this warrant with any  
16 specificity the type of activities that the C.R.I. was  
17 engaged in within the past 72 hours of seeking this? Did  
18 you tell the judge what he was doing or what she was doing?

19 A No. I, I presented this judge with this affidavit,  
20 and that alone.

21 Q So there is no recorded information in terms of  
22 allegedly what the C.R. was doing in regards to  
23 Mr. Chapman.

24 A Other than what the C.R.I. informed me that basically,  
25 as it says, observed marijuana being manufactured behind

Matt Hutchins  
Cross-examination by Mr. Brown

1 the residence and on the curtilage area.

2 Q Did you tell the judge on what date this occurred, the  
3 day before or two days before?

4 A I presented the judge with this affidavit.

5 Q That's not my question. My question is did you tell  
6 him what day before.

7 A No, sir.

8 Q One day before?

9 A I, I presented the judge with what I had read here on  
10 this affidavit.

11 Q Okay. In regards to the 6/18 incident involving the  
12 C.R.I., how did you begin seeking a warrant in regards to  
13 that case? Same type of situation?

14 A Seeking the arrest warrant?

15 Q Yes.

16 A Typing an incident report that contained the probable  
17 cause and present it to a magistrate, and the arrest  
18 warrant was issued.

19 Q At the same time that you presented this?

20 A I don't have a copy of the arrest warrant. I don't  
21 recall right off.

22 MR. McCARTY: Beg the Court's indulgence.

23 (Pause.)

24 MR. McCARTY: Would Your Honor like to see this?

25 THE COURT: He would. Mr. Brown would like to see it.

Matt Hutchins  
Cross-examination by Mr. Brown

- 1 Q And that is an arrest warrant related to the --
- 2 A Okay.
- 3 Q -- 6/18 case?
- 4 A Uh-huh.
- 5 Q And on what date did you obtain that warrant?
- 6 A This warrant was obtained on August the 3rd of 2009,
- 7 and Judge Wall is who issued it. The search warrant was
- 8 issued on July the 28th of '09, and Judge Smith issued
- 9 that.
- 10 Q So you didn't seek this arrest warrant any time prior
- 11 to the 28th.
- 12 A The arrest warrant was sought on August the 3rd of
- 13 '09.
- 14 Q That's after July the 28th.
- 15 A That's after July the 28th.
- 16 Q Which would be contemporaneous with when you came in
- 17 with the search warrant in regards to the activities that
- 18 you allege on August the 3rd.
- 19 A The warrant was sought prior to execution of the
- 20 search warrant.
- 21 Q But Judge Wall signed it on August 3rd, right?
- 22 A That's correct.
- 23 Q And that's for the 6/18 case.
- 24 A That's for the 6/18 case.
- 25 Q And that's the same day that you issued this search

Matt Hutchins  
Cross-examination by Mr. Brown

1 warrant.

2 A No. That's not the date. That's the date we executed  
3 the search warrant, not the date the search warrant was  
4 issued.

5 Q That's the date in which you came into his residence  
6 on August 3rd.

7 A And executed the search warrant, yes, sir.

8 Q In terms of -- and I know the assistant solicitor  
9 mentioned that you had some type of information related to  
10 an audio or video.

11 A The audio and video recording of the 6/18 buy, yes,  
12 sir.

13 Q And based upon that audio and-or video you said you  
14 observed Mr. Chapman on that video, or you think it's  
15 Mr. Chapman.

16 A Yes, sir.

17 Q And based upon that audio and-or video a controlled  
18 buy, as you related to the judge, occurred.

19 A While the video was being recorded is when the buy  
20 was -- took place.

21 Q And for the entirety of that video -- how did that  
22 video end?

23 A To be honest with you, I would have to see the video  
24 to tell you exactly how that ended.

25 Q In regards to any type of videos that you would have

Matt Hutchins  
Cross-examination by Mr. Brown

1 possibly taken for a controlled buy, what are the essential  
2 elements that you look for as an officer?

3 A What we look for is we compare what the informant  
4 tells us compared to what's on the video, and we, we look  
5 at the video to verify what happened.

6 Q Are you looking for an exchange of funds?

7 A We're looking for, one, any identifying marks,  
8 anything to identify the suspect -- tattoos, scars,  
9 anything that may be an identifiable mark -- if the  
10 exchange of funds, any illegal drugs being stored, any  
11 illegal drugs being exchanged, anything of that nature.

12 Q And in order to substantiate a controlled observation  
13 or controlled buy do you seek to get something from the  
14 target in that case?

15 A In a controlled buy we, we seek to do a purchase  
16 typically.

17 Q And would your audio and-or video show that happening?

18 A It depends. The audio and videos got many variances.  
19 At some points you may get a face shot. At some points you  
20 may get whatever. I mean, we, we hope to get a crystal  
21 clear face shot, but in a perfect world that's obtainable,  
22 but we don't live in a perfect world.

23 Q Well, did you get a crystal clear face shot in this  
24 one?

25 A I'd have to review the video to get exactly what we --

Matt Hutchins  
Cross-examination by Mr. Brown

- 1 what the identifiable marks were.
- 2 Q Have you reviewed that video?
- 3 A Not recently.
- 4 Q You knew you were coming to court today.
- 5 A Sir?
- 6 Q You knew you were coming to court today.
- 7 A Yes, sir. The video, the video will speak for itself.
- 8 Q Based upon your knowledge of that video do you know if
- 9 the video at the very end showed the C.R.I. bringing or
- 10 producing something to you or anyone else that was
- 11 associated with this case?
- 12 A I don't recall exactly what's on the end of the video.
- 13 There are perimeters. At some points videos -- the battery
- 14 may expire during the video, may cut off. I would have to
- 15 look at the video to tell you exactly what it --
- 16 Q Well, would you agree with me in order to complete a
- 17 controlled buy the C.R.I. needs to bring something back to
- 18 you?
- 19 A In order for, for me to seek a warrant for
- 20 distribution of marijuana the C.R.I. would have brought me
- 21 back marijuana.
- 22 Q And would that have been reflected in the video if you
- 23 took one?
- 24 A It depends if the battery went -- I mean, there's
- 25 perimeters. I would have to see the end of the video to

Matt Hutchins  
Cross-examination by Mr. Brown

1 tell you exactly what's reflected in it.

2 Q If that video didn't show that would it still be  
3 sufficient for you in terms of that controlled, alleged  
4 controlled, buy?

5 A If it doesn't show him handing me the marijuana it  
6 would -- the video corroborates what he told us happened in  
7 there. I -- if I personally get it from the sound, to me  
8 that's as good as a video.

9 Q But you would agree with me that the video would back  
10 you up just besides you saying that something happened.

11 A Like I said, what's on the video, I'd have to view it  
12 and tell you what's on there.

13 Q What's the purpose of you taking a video?

14 A To corroborate what went on inside that house.

15 Q And allegedly in terms of you seeking this search  
16 warrant, as well as the arrest warrant for the June  
17 18th arrest, your words corroborate -- you would say the  
18 video associated with the 6/18 case should corroborate what  
19 you say occurred.

20 A What was your last?

21 Q The video from the 6/18 alleged incident, you would  
22 say that would corroborate what you allege in seeking an  
23 arrest warrant.

24 A What occurred inside the residence, yes, sir.

25 Q And if it didn't, then that doesn't corroborate what

Matt Hutchins  
Cross-examination by Mr. Brown

1 you said happened. You would agree with that?

2 A What, what the video shows happening in the residence  
3 would be what happened in the residence.

4 Q Okay. In terms of a controlled buy, are there any  
5 funds involved?

6 A There are.

7 Q And in particular as relates to this alleged incident  
8 on 6/18 were there funds involved?

9 A There was.

10 Q And what's your normal procedure in terms of the funds  
11 involved in a controlled buy?

12 A Basically, the funds are recorded, serial numbers are  
13 recorded. The C.R.I. is given the recorded funds.

14 The C.R.I. will make the purchase with the funds, and  
15 then the C.R.I. will sign a receipt that the funds were  
16 spent.

17 Q What's the purpose of having recorded funds?

18 A On executing search warrants or arrest of the subject,  
19 if the funds are found on him to be able to say whether  
20 it's our money or not.

21 Q And in regards to what you executed on the 3rd for the  
22 6/18 warrant, did you recover any recorded funds from  
23 Mr. Chapman?

24 A I don't believe any of the funds recovered were  
25 recorded funds.

Matt Hutchins  
Cross-examination by Mr. Brown

1 Q Let me ask you this. Where do you get the recorded  
2 funds from, you know? Out of your pocket?

3 A I will sign them out from the -- either sergeant or  
4 lieutenant of narcotics.

5 Q And there should be a record of you signing that out.

6 A Yes, sir.

7 Q And if there isn't a record -- well, you would agree  
8 with me that's not a valid manner in which to begin a  
9 controlled buy. If there's no proof that -- these funds  
10 have to originate from somewhere. You understand the  
11 chain.

12 MR. McCARTY: Your Honor, I'm going to object a little  
13 bit to this line of questioning as to how it relates maybe  
14 to the affidavit.

15 We seem to be dwelling on particularities of this buy  
16 that is alleged to have occurred on June 18th, and in a  
17 procedure for basically a buy. And I thought you were  
18 really challenging the sufficiency of the affidavit itself.

19 THE COURT: Well, I'm not sure whether he's  
20 challenging the sufficiency of the affidavit or whether  
21 he's challenging the accuracy of the information contained  
22 in it. So I'm going let him go forward with it.

23 MR. McCARTY: Yes, sir.

24 THE COURT: But it does relate to information that was  
25 used for the purpose of obtaining the warrant, and it is

Matt Hutchins  
Cross-examination by Mr. Brown

1 information set forth in the affidavit. So I'm going to  
2 let him go a little bit further.

3 MR. McCARTY: Yes, sir.

4 Q So in regard that you say obtained from --

5 A Funds, funds are signed out from the sergeant or  
6 lieutenant of narcotics, yes.

7 Q And there should be a record of that.

8 A There -- I sign out money when I receive it, yes.

9 Q Okay. And if there's not a record of that, then that  
10 wouldn't be the proper procedure to even begin a controlled  
11 buy.

12 A A procedure for controlled buy, I'm not sure. Money  
13 is signed out. And once the informant signs the receipt,  
14 the receipt is then turned back in to match up with the  
15 ledger where it is signed out.

16 Q In regards to this alleged controlled buy on 6/18,  
17 when did you sign out the money?

18 A I don't have that ledger in front me. I'm not sure.

19 Q Do you have any proof of that? Do you have any proof  
20 of that anywhere?

21 A There, there is a -- the narcotic-funds ledger.

22 Q And did you share that with the solicitor's office?

23 A I don't have control of that.

24 Q You don't have any control of --

25 A I do not have. The ledger stays locked in the safe,

Matt Hutchins  
Cross-examination by Mr. Brown

- 1 and the sergeant and lieutenant has access to that.
- 2 Q Do you ever have a chance to look at it?
- 3 A When I sign out money.
- 4 Q So you have to sign the ledger.
- 5 A Yes.
- 6 Q And so there would be something with your signature in
- 7 regards to ledger-related funds.
- 8 A Yes.
- 9 Q And that would be pertinent towards getting an arrest
- 10 warrant for a controlled buy.
- 11 A Well, the signing out of money, I don't see where that
- 12 would be pertinent to getting an arrest warrant.
- 13 Q That begins your case in terms of beginning a
- 14 controlled buy. Would you agree with me on that?
- 15 A Getting, getting the money, the sign-out portion, I
- 16 don't see as the beginning. Where I as the beginning is
- 17 where he goes and actually does the buy in my opinion.
- 18 Q And in order for that to be a controlled buy that you
- 19 would assist in, that would have to be with funds that you
- 20 provide to that confidential informant.
- 21 A That's correct.
- 22 Q And those are the same funds that you have stated
- 23 would have been signed out from your sergeant or your
- 24 lieutenant --
- 25 A That's correct.

Matt Hutchins  
Cross-examination by Mr. Brown

- 1 Q -- which there would be a record of.
- 2 A Uh-huh.
- 3 Q Do you also do an undercover buy report?
- 4 A Yes, sir.
- 5 Q And who would have to sign off on that?
- 6 A That's just where we keep notes of the buy.
- 7 Q I see. And would you typically sign off on that?
- 8 A Not usually. That's just where during the buy I'll
- 9 keep notes, times, things of that nature.
- 10 Q In terms of any activities that you would observe
- 11 either from a distance or your own direct participation at
- 12 his residence, would you have made a recording of that?
- 13 Would you have recorded it once you came into issue your
- 14 search warrant? Would you have recorded your personal
- 15 activity?
- 16 A Not my personal activity. We take pictures and
- 17 photographs during the execution of the search warrant of
- 18 the evidence recovered.
- 19 Q No video.
- 20 A No.
- 21 Q In regards to you executing this search warrant on
- 22 August 3rd, did you or did you not take a video?
- 23 A I'm not aware of any video myself.
- 24 Q Did you share any of the videos with the magistrate
- 25 when you sought to get this search warrant?

Matt Hutchins  
Cross-examination by Mr. Brown

- 1 A No, sir.
- 2 Q You showed the magistrate a copy of the arrest warrant  
3 that you had generated?
- 4 A I did not obtain the arrest warrant until after the  
5 search warrant was signed.
- 6 Q But you got the search warrant in regards to an arrest  
7 or an undercover buy allegedly that took place on the 18th.
- 8 A That was one of the things in there. That's not,  
9 that's not the only thing in the affidavit. The other  
10 information is that the informant within 72 hours had  
11 observed the plants, had to observe marijuana being  
12 manufactured.
- 13 Q But in order to substantiate that when you came in  
14 on -- you gave him an arrest warrant for 6/18.
- 15 A Uh-huh.
- 16 Q And when you arrested him on that day, executed a  
17 search warrant, any arrest that you made was in regards to  
18 August the 3rd.
- 19 A The initial arrest was in reference to the arrest  
20 warrant on 6/18.
- 21 Q Not a warrant for August the 2nd?
- 22 A No.
- 23 Q Not an arrest warrant for August the 1st.
- 24 A That's an arrest warrant for the 6/18 buy.
- 25 Q Not the end of July.

Matt Hutchins  
Redirect examination by Mr. McCarty

1 A Uh-uh.

2 Q So 72 hours, you have no arrest warrant for that.

3 A No, because, as it states in there, the C.R.I.  
4 observed the marijuana growing. It doesn't say he did a  
5 buy.

6 Q So the basis of what you came in on was 6/18.

7 A And within 72 hours the C.R.I observing marijuana  
8 being manufactured behind the residence and on the  
9 curtilage area.

10 Q Okay. You sought on arrest warrant for 6/18 after you  
11 got the search warrant.

12 A The arrest warrant for 6/18, as I testified earlier,  
13 was sought on August the 3rd of 2009 in front of Judge  
14 Wall.

15 MR. BROWN: Your Honor, that's all the questions I  
16 have in regards to the affidavit.

17 THE COURT: Okay.

18 MR. McCARTY: If I can just one.

19 THE COURT: Sure.

20 REDIRECT EXAMINATION

21 BY MR. McCARTY

22 Q Just procedurally how this all went. In the course of  
23 this investigation of Mr. Chapman through the use of a  
24 confidential informant you conducted a control buy back in  
25 June, am I correct?

Matt Hutchins  
Redirect examination by Mr. McCarty

- 1 A That's correct.
- 2 Q All right. That same confidential informant, as you  
3 testified, came to you and said, hey, look I've been out to  
4 his house or [REDACTED] here recently within the last  
5 72 hours as you informed the magistrate, I've seen him  
6 growing marijuana, is that correct?
- 7 A That's correct.
- 8 Q At which time you present that information to a  
9 magistrate judge, Judge Smith, is that correct?
- 10 A That's correct.
- 11 Q And present that information to him. Then a couple of  
12 days passed before you actually execute the search warrant  
13 on the 3rd.
- 14 A That's correct.
- 15 Q Prior to actually going out and executing that search  
16 warrant did you also go to Judge Wall and say, Judge, we've  
17 got an earlier incident, here's my incident report and I'd  
18 like for you to consider issuing an arrest warrant for  
19 distribution of marijuana? Is that what happened?
- 20 A That's correct.
- 21 Q So the warrant, the search warrant, wasn't opened up  
22 and then you went and got an arrest warrant, am I correct?
- 23 A That's correct.
- 24 Q Okay. Investigator Hutchins, with regard to that  
25 earlier distribution, do you recall anything out of the

Matt Hutchins  
Redirect examination by Mr. McCarty

1 ordinary with regard to that distribution with either  
2 signing out funds or searching the C.I. before and after  
3 the buy or whether the C.I. produced any type of marijuana  
4 to you? Is there anything in your mind that you recall  
5 that was odd about that 6/18 purchase?

6 A No, sir.

7 Q Or a departure from your normal course of  
8 investigation involving things like distribution offenses?

9 A No, sir.

10 Q Thank you.

11 MR. McCARTY: Nothing further. Your Honor.

12 THE COURT: All right. Anything further on the issue  
13 of the search warrant?

14 MR. BROWN: Your Honor, I can just briefly reply in  
15 regards to the question I asked unless the Court is  
16 comfortable.

17 THE COURT: I mean, I don't need you to rehash  
18 anything else, but if you've got some extra questions you  
19 can ask him.

20 MR. BROWN: No questions, Your Honor.

21 THE COURT: None.

22 All right. Now, Mr. Hutchins is going to testify also  
23 on the issue of the statement?

24 MR. McCARTY: That's correct, Your Honor.

25 BY MR. McCARTY

Matt Hutchins  
Redirect examination by Mr. McCarty

- 1 Q Investigator Hutchins, when you went to [REDACTED]  
2 on August 3rd of 2009 did you meet the defendant at that  
3 residence?
- 4 A I did.
- 5 Q Where was he initially located?
- 6 A To the right side of his house in the driveway. I  
7 believe he was washing a vehicle.
- 8 Q Mr. Chapman was washing a vehicle?
- 9 A Yes, sir.
- 10 Q Did you identify yourself as a law enforcement  
11 officer?
- 12 A We did. And we had our standard gear that's clearly  
13 marked on.
- 14 Q If you will just because I'm sure not myself what the  
15 standard gear is.
- 16 A It's a raid vest, got sheriff on the front and sheriff  
17 on the back, badge around our neck.
- 18 Q And sheriff's in big letters?
- 19 A Yes.
- 20 Q Yellow or gold stitching?
- 21 A On the chest on the front and all the way across the  
22 back on the back.
- 23 Q Who accompanied you to execute this search warrant?
- 24 A Myself, Lieutenant Cooper and Investigator Dwight  
25 Garcia.

Matt Hutchins  
Redirect examination by Mr. McCarty

1 Q When you met Mr. Chapman you stated you informed him  
2 who you were, is that correct?

3 A That's correct.

4 Q At that time was Mr. Chapman detained or put into any  
5 type of investigative custody?

6 A He was arrested on the arrest warrant.

7 Q So you informed him at that time that you had an  
8 arrest warrant for him, is that correct?

9 A Yes, sir.

10 Q Did you advise him the nature of the offense for which  
11 he was being arrested?

12 A Yes, sir.

13 Q What's your procedure or rather not really what was  
14 your procedure, but what did you do with Mr. Chapman once  
15 you advised him he was being placed under arrest?

16 A I then Mirandized him.

17 Q Well, let me ask you. Did you put him in handcuffs?

18 A He was placed in handcuffs, yes.

19 Q Was he placed in handcuffs in front of his back or  
20 behind his back?

21 A I believe he was placed behind his back, yes, sir.

22 Q Once he's placed in handcuffs is he removed from the  
23 immediate area where he's at and taken to a different  
24 location, or was he left there beside the car for which he  
25 was washing?

Matt Hutchins

Redirect examination by Mr. McCarty

1 A He was beside the car initially.

2 Q All right. Is that where you advised him of what is  
3 known as Miranda warnings?

4 A It is.

5 Q And, as I stated Miranda warnings, you're familiar  
6 with those warnings or advisements, is that correct?

7 A Yes, sir.

8 Q Are you the officer that advised Mr. Chapman of those  
9 warnings or advisements on that day?

10 A I am.

11 Q How did you go about doing that? Did you use a form  
12 or did you verbally?

13 A Verbally.

14 Q Did you -- don't use a card or anything to read them  
15 to him.

16 A No, sir.

17 Q Do you remember the advertisements that you gave to  
18 him on that day?

19 A I do.

20 Q If you would, would you repeat to the Court what you  
21 advised Mr. Chapman with regard to his constitutional  
22 warnings or advisements?

23 A "You have the right to remain silent. Anything you  
24 say can and will be used against you in a court of law.  
25 You have the right to have an attorney present while you

Matt Hutchins  
Redirect examination by Mr. McCarty

1 are being questioned. If you cannot afford an attorney one  
2 will be appointed for you prior to questioning if you so  
3 wish. You have the right to stop answering questions at  
4 any time. Do you understand these rights?" And at that  
5 point I -- if they shake their head, I say I need a verbal  
6 answer, yes or no.

7 Q Did Mr. Chapman respond as to whether or not he  
8 understood his rights?

9 A He did.

10 Q And did he respond in the affirmative?

11 A He stated he understood his rights by saying yes.

12 Q Thank you.

13 Did you advise Mr. Chapman at that time that he -- you  
14 had a search warrant to execute at his residence?

15 A He was advised of that.

16 Q Let me ask you this. When you were giving those  
17 advisements was Lieutenant Cooper in your presence when you  
18 were advising Mr. Chapman of those same warnings?

19 A He was.

20 Q Did Lieutenant Cooper do any further advisement or  
21 anything like that with Mr. Chapman?

22 A As far as his rights, no, sir.

23 Q All right. Upon advising Mr. Chapman that you had a  
24 search warrant for his residence, could you describe what  
25 you did in regard to that? Did you clear the residence to

Matt Hutchins  
Redirect examination by Mr. McCarty

1 see if anyone else was there?

2 A He advised us that no one else was else there. Myself  
3 and Lieutenant Cooper went through the residence just to  
4 make sure there was no, no one else at the residence.

5 Q Did you attempt to engage Mr. Chapman in any  
6 conversation about what you might be able to find at the  
7 house or at [REDACTED]?

8 A After we cleared the residence Lieutenant Cooper and I  
9 observed some things while we was clearing the residence  
10 that were in plain view.

11 Lieutenant Cooper and I went downstairs and  
12 interviewed Mr. Chapman in reference to any illegal  
13 narcotics that may be located in the residence. At that  
14 point upon looking out the back door I observed plants  
15 suspected to be marijuana growing in buckets in the back  
16 yard.

17 He had waived his rights and agreed to talk with us.  
18 Chapman stated or Mr. Chapman stated that he had reefer  
19 growing in the back yard and in the chest of drawers in the  
20 bonus room.

21 I asked Mr. Chapman if he had anything else, and he  
22 stated no initially. I asked him if he had any U.S.  
23 currency or scales, and he stated that he didn't have any  
24 money and he had scales in the kitchen cabinet.

25 At that time Mrs. Chapman came home with their son. I

Matt Hutchins  
Redirect examination by Mr. McCarty

1 Mirandized her, and she also waived her rights. Mrs. --

2 Q Let me ask you with regard to -- not dwelling on  
3 Mrs. Chapman there -- but with regard to locating any  
4 cocaine or crack cocaine in the house, did Mr. Chapman make  
5 any statements with regard to where that might be found?  
6 Do you recall that being given to you or being heard by  
7 Investigator Cooper?

8 A After she come home he had told us to follow him in  
9 his residence, because it had actually been placed in the  
10 back yard for the narcotics K-9 to run the residence.

11 He told us to follow him to the residence. As he went  
12 inside he stated that he had something in a kitchen  
13 cabinet. He pointed out a corner kitchen cabinet. Upon  
14 looking in the cabinet observed a bag containing off-white  
15 rock substance and a smaller bag containing a white powdery  
16 substance.

17 Q Did Mr. Chapman make any claim of ownership or denial  
18 of ownership of that drug at that time, what was suspected  
19 crack cocaine at that time?

20 A When, when he told us to -- that originally for us to  
21 go to the cabinet, he stated he had something in the  
22 cabinet.

23 Q Okay. Did Mr. Chapman make any further statements to  
24 you during the course of that investigation that you  
25 recall?

Matt Hutchins  
Redirect examination by Mr. McCarty

1 A After stating that, then at that point I believe he  
2 requested an attorney.

3 Q All right. I guess -- did you ask him to reduce any  
4 of that to writing?

5 A We, we asked him to put it in a written-statement form  
6 prior to him requesting an attorney. At that point is when  
7 he requested an attorney, prior to writing any statement.

8 Q At which time when he requested the attorney, did you  
9 continue to try and ask him questions?

10 A No. He was no longer questioned.

11 Q No longer questioned.

12 A That's correct.

13 MR. McCARTY: Nothing further, Your Honor, or if I --  
14 Your Honor, I'm sorry, or if I can before I stop just ask a  
15 few more questions. I apologize.

16 BY MR. McCARTY

17 Q Investigator Hutchins, going back to the original  
18 Miranda warnings about Mr. Chapman, did Mr. Chapman appear  
19 to be under the influence of alcohol or drugs that day?

20 A No, sir.

21 Q You couldn't smell -- and you know as a law  
22 enforcement officer having come into contact with people  
23 who are -- have been drinking, he didn't have the odor of  
24 alcohol on his breath or on his person, did he?

25 A No, sir.

Matt Hutchins  
Redirect examination by Mr. McCarty

1 Q He didn't appear by his appearance or his eyes to --  
2 or his speech to be under the influence of drugs or even  
3 alcohol, again, did he?

4 A No, sir.

5 Q Was he responsive to your questioning or your  
6 advertisements?

7 A Yes, sir.

8 Q Did he seem to understand what you were telling him?

9 A Yes, sir.

10 Q Did he at any time throughout all of this ever ask to  
11 stop speaking to you or ask to speak with someone else  
12 other than yourselves?

13 A No, sir.

14 Q Until at the end at which time he asked to speak to an  
15 attorney, is that correct?

16 A Yes, sir, and we, we quit talking to him at any point  
17 at that time.

18 Q Was he ever promised anything for talking to you, any  
19 form of leniency or any promise, or just tell us where it's  
20 at and we won't charge you with an offense or anything like  
21 that?

22 A No, sir.

23 Q Was Mr. Chapman ever denied access to a bathroom or  
24 food or to get a cigarette if he had requested it?

25 A Not, not by me.

Matt Hutchins  
Recross-examination by Mr. Brown

1 Q Not by you.

2 A And I have no knowledge by anyone else.

3 Q Okay. And to your knowledge he never requested any of  
4 those types of items or access to a restroom, is that  
5 correct?

6 A To my knowledge, no.

7 Q Was Mr. Chapman threatened with anything during the  
8 course of this search warrant for his cooperation or for  
9 his statement that he had given to you?

10 A No, sir.

11 Q Thank you.

12 MR. MCCARTY: Your Honor, thank you. I apologize.

13 Nothing further.

14 RECROSS-EXAMINATION

15 BY MR. BROWN

16 Q Investigator, did you ever at the outset of executing  
17 this search warrant physically threaten Mr. Chapman?

18 A No, sir.

19 Q You didn't?

20 A Did I physically threaten him? No, sir.

21 Q Did you provide any type of intimidation that you  
22 might have to harm him?

23 A That I may have to arm him?

24 Q Harm him, hurt him.

25 A Harm him?

Matt Hutchins  
Recross-examination by Mr. Brown

- 1 Q Yes. Subdue him.
- 2 A Upon -- you talking about maliciously? I'm not  
3 following you.
- 4 Q Any type of harm. Did you threaten to shoot him?
- 5 A Not with a pistol, no. Originally when we first  
6 arrived there and approached him we identified who we were.  
7 He took a step backwards and then -- hang on. I'll  
8 refer to my notes. Again, "Observed Chapman to begin to  
9 step backwards. Approached Chapman and ordered him to put  
10 his hands on his head. He hesitated. I painted him with  
11 the laser on my issued taser, which is just a laser. At  
12 that point he complied and the taser was holstered."
- 13 Q And what do you mean by painting him with your laser?
- 14 A Means drew taser. It's got a laser beam on it. It  
15 paints on the chest, probably person wouldn't even realize  
16 it's on there. When he complied the taser was then  
17 holstered.
- 18 Q A person wouldn't realize it was on there? Is that  
19 what you said?
- 20 A If you're not looking down you won't even see the  
21 laser on you.
- 22 Q But if you're going to paint his chest you would have  
23 had your arm up in the direction.
- 24 A Yes. I mean, the taser would have been pointed in his  
25 direction, yes.

Matt Hutchins  
Recross-examination by Mr. Brown

1 Q So it was clear. You had to have your arm up to paint  
2 his chest.

3 A Yes.

4 Q What do you do with a taser?

5 A What do you do with a taser?

6 Q Uh-huh.

7 A Ordered him to put his hands up, and he complied.

8 Q So you painted his chest with the taser, and then you  
9 said something to him.

10 A Yes. He, he was informed why I was there, and we told  
11 him to -- as it said, painted suspect Chapman with the  
12 laser on my issued taser. Ordered Chapman to put his hands  
13 on his head. He complied. Lieutenant Cooper applied  
14 handcuffs.

15 Q Okay. And that point he was nervous, very nervous at  
16 that point, you would agree.

17 A I would assume one would be nervous at that point.

18 Q That's what you put in your report? Five sentences up  
19 on the right-hand side.

20 A "Advised suspect Chapman of a search warrant of his  
21 residence." And at that point is when he became nervous,  
22 yes.

23 Q And this is after also in the report that you tas --  
24 that you painted his chest, right?

25 A He was never tased.

Matt Hutchins  
Recross-examination by Mr. Brown

- 1 Q No. But you painted his chest.
- 2 A Yes.
- 3 Q Okay. And you did say in order to execute -- or you
- 4 detained him -- he was just under arrest when you detained
- 5 him, when you put handcuffs on him.
- 6 A He was under arrest for the arrest warrant, that's
- 7 correct.
- 8 Q And you cleared the residence at some point.
- 9 A Yes.
- 10 Q And so you were in control of the residence at that
- 11 point. Law enforcement was in control of the residence at
- 12 that point.
- 13 A At the point we arrived and arrested him, then the
- 14 search warrant was executed also, yes.
- 15 Q Did you see anyone else leave the residence?
- 16 A No.
- 17 Q You circled the perimeter of the residence, and you
- 18 also went through the residence.
- 19 A Yes.
- 20 Q So you had control of that scene.
- 21 A Yes.
- 22 Q How many years have you been in law enforcement?
- 23 A I began in '98 as I testified.
- 24 Q And you've done a number of interrogations.
- 25 A Yes, sir.

Matt Hutchins  
Recross-examination by Mr. Brown

1 Q And you've also done a number of interrogations that  
2 involved the waiver-of-rights form.

3 A Yes, sir.

4 Q What prevented you from doing that in this instance?

5 A Well, at the point we were initially there we -- I've  
6 issued them verbally just as many times as written.

7 Typically, what we do is verbally Mirandize them,  
8 interview them. And then at the point they deduce [sic] it  
9 to writing, then we do a written form.

10 Q And on that written form you still make them go  
11 through and check, "I give up my rights," correct?

12 A That's correct.

13 Q And you were in control of this situation.

14 A Yes, sir.

15 Q So if you typically have them do a written statement  
16 at the end, as you say, you bring those forms with you.

17 A They were probably with us, I would say, that day.

18 Q Well, based upon your experience you brought those  
19 forms with you in the past.

20 A Uh-huh.

21 THE COURT: Please answer yes or no.

22 THE DEFENDANT: Yes.

23 Q And why did you -- if you talk to a person verbally  
24 and you've given them verbal Miranda warning or covered  
25 their set of rights, why do you even write -- bother to

Matt Hutchins  
Recross-examination by Mr. Brown

1 write it down?

2 A You talking about this statement, why bother to write  
3 the statement down?

4 Q Yeah. Why give the statement and have the person sign  
5 off their rights?

6 A Just it's what we've done in the past, is to put it in  
7 writing. That's one of the things we just do, is I give  
8 them the chance to put it in writing.

9 Q Why? Why would you want it in writing if they tell  
10 you?

11 A That way they can't back up on their statement. It's  
12 in writing. It's signed. It's a sworn statement.

13 Q So that would prove anything that you would have  
14 alleged in regards to what they supposedly would say to  
15 you.

16 A It, it would be in writing, yes.

17 Q But you say he talked to you, you gave him a verbal  
18 Miranda and at some point after all of this you went  
19 through the house, including the residence, and made sure  
20 you had a safe environment that you were in control of,  
21 right?

22 A Uh-huh.

23 Q And at some point his wife came home.

24 A Yes, sir.

25 Q Did you talk to her?

Matt Hutchins  
Recross-examination by Mr. Brown

- 1 A Yes.
- 2 Q Did he know you talked to his wife?
- 3 A I would assume so.
- 4 Q Did you tell him anything in regards to what you would  
5 offer to do in regards to his wife?
- 6 A Basically, what standard is if it's a house where it's  
7 a husband and wife, what we tell them is if you've got  
8 something here and it's yours be specific where it's at,  
9 and, and then that goes to showing ownership.
- 10 Q My question is when his wife got home did you talk to  
11 him in regards to his wife coming home and being there at  
12 the residence.
- 13 A He knew she was there. Whether I went into detail  
14 with him, I don't recall that.
- 15 Q Do you recall saying to him if you tell us where  
16 something's at, then we'll let your wife go?
- 17 A I don't recall telling him that.
- 18 Q Is it possible that you could have said that?
- 19 A I, I don't think I ever -- I would never make that  
20 accusation, that statement.
- 21 Q So you agree with me that you had the situation under  
22 control. The only person that came in after you guys came  
23 in was Mrs. Chapman.
- 24 A And had a son. And then someone responded and pulled  
25 up in the road, and she turned the child over to them.

Matt Hutchins  
Recross-examination by Mr. Brown

- 1 Q Did you advise her to do that?
- 2 A I believe so. We -- typically if there's children  
3 present we like to get them out of the scene so they don't  
4 observe, are not exposed to that.
- 5 Q Had you informed her at that point that she was going  
6 to be under arrest as well?
- 7 A I don't believe so, because when she arrived we were  
8 still in the execution of the search warrant.
- 9 Q But you had opportunity to Mirandize her.
- 10 A Yes.
- 11 Q After that you advised her that she was going to be  
12 arrested.
- 13 A After, initially after, Miranda, I don't believe so.
- 14 Q But at some point you advised her --
- 15 A She was under arrest.
- 16 Q -- you may need to call someone to come and get your  
17 child.
- 18 A Well, no. Prior. Standard is if there's children  
19 present we try to find other places for the children to go  
20 just so they're not involved in it. So when she arrived  
21 with the child we told her to contact someone to come and  
22 pick the child up.
- 23 Q You also said that you noticed some things in plain  
24 view. And there was some mention of cocaine being found at  
25 some point. Was that cocaine in plain view?

Matt Hutchins  
Recross-examination by Mr. Brown

1 A The cocaine was not, no.

2 Q How did you find that cocaine?

3 A Mr. Chapman stated that he had -- stated for us to  
4 follow him in the residence. We went inside. He stated he  
5 had something in the kitchen cabinet and pointed out the  
6 corner kitchen cabinet.

7 Q And this was prior to you offering him to give a  
8 written statement.

9 A Yes.

10 Q Is it customary that you always take a written  
11 statement after you've gone through an entire crime scene?

12 A Typically, if someone claims something or something to  
13 that effect, we, we attempt to get it in writing, yes.

14 Q Egore go with you guys?

15 A Egore responded to the location.

16 Q Egore is who?

17 A He's a drug detection K-9 that's handled by  
18 Investigator Nate Cantrell.

19 Q Did Egore ever indicate?

20 A Sir?

21 Q Did Egore ever indicate?

22 A Nate Cantrell was the handler. He could testify on  
23 how the indications -- we were advised that he had  
24 indicated in the residence. And Investigator Cantrell  
25 could tell exactly where the indications were.

Matt Hutchins  
Recross-examination by Mr. Brown

1 Q But you don't have any direct knowledge of Egore ever  
2 indicating.

3 A I'm not the handler, no.

4 Q After Mr. Chapman indicated that he wanted a lawyer,  
5 what did you do next?

6 A Quit questioning him or speaking with him.

7 Q What else did you want from him?

8 A We just -- once he requested an attorney, we would  
9 stop any questioning at that time.

10 Q What else? What else did you need to know prior to  
11 him allegedly telling you that he wanted an attorney after  
12 you've done all of this stuff? What else would you have  
13 wanted him --

14 A I'm not sure. I mean, I, I just know we didn't  
15 question him any more, talk with him any longer.

16 Q So you didn't have any, any additional conversations  
17 with him.

18 A No. I did not.

19 Q Okay. And was he transported at that point?

20 A At the point that he requested an attorney? No. Now  
21 I'm asking are you asking was he transported at the point.

22 Q Yes, sir.

23 A No. He was transported after the, after the complete  
24 execution of the search warrant.

25 Q Okay. And your search warrant on that day,

Matt Hutchins  
Recross-examination by Mr. Brown

1 specifically there's a reference to marijuana.

2 A Yes, sir.

3 Q Does it make a specific reference to the term cocaine?

4 A Not in the search warrant, no, sir.

5 Q Okay. And based upon that when you came to that  
6 residence, you didn't intend on finding anything but  
7 marijuana.

8 A The --

9 Q And the byproduct thereof of marijuana.

10 A The information we received and what, what we had that  
11 day was that marijuana would be there.

12 Q And that's what your search warrant says.

13 A Marijuana, fertilizers, any items used in  
14 manufacture -- scales, baggies, electronic media, U.S.  
15 currency, diaries, ledgers, paraphernalia and any item  
16 related to the drug trade.

17 Q So you came looking for marijuana and stuff that could  
18 harvest or produce marijuana.

19 A Or package it, sell it, things of that nature.

20 Q Any of your other officers that were on the scene,  
21 they talk to Mr. Chapman?

22 A Lieutenant Cooper did that I know of. As far as any  
23 others, I'm, I'm not sure.

24 Q How do you know that?

25 A Because Lieutenant Cooper was talking with him while I

Matt Hutchins  
Recross-examination by Mr. Brown

1 was and then was talking with him while I was helping in  
2 the execution of the search warrant.

3 Q What was he saying to him?

4 A I wasn't always present, so I'm not sure.

5 Q When you were present what was he saying to him?

6 A Just questioning him, as I stated, when I was there  
7 Chapman stated to us to follow him in the residence. When  
8 we went inside he stated he had something in the kitchen  
9 cabinet and pointed to the corner cabinet.

10 At that time is when I went and began the execution of  
11 the search warrant. And Lieutenant Cooper periodically  
12 was -- when I'd come down and see him sitting at a table  
13 with him.

14 Q Did you guys ever in the course of executing the  
15 search warrant notice any kind of closed-off area that you  
16 wanted to get into?

17 A I believe you're talking about like a locked area or  
18 something like that.

19 Q Yeah. Drawers.

20 A There was a, a chest of drawers in an upstairs like  
21 bonus room.

22 Q Okay. And no other area.

23 A It was, it was a false chest of drawers that contained  
24 the marijuana growth. That's the only area I recall.

25 MR. BROWN: That's all the questions I have, Your

Steve Cooper  
Direct examination by Mr. McCarty

1 Honor.

2 MR. McCARTY: Nothing with regard.

3 THE COURT: Okay. Step down.

4 MR. McCARTY: Your Honor, the state would next call  
5 Lieutenant Steve Cooper.

6 STEVE COOPER, having been  
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. McCARTY

9 MR. McCARTY: May it please the Court.

10 Q If you will, just state your name, please.

11 A Steve Cooper.

12 Q And where do you work, Lieutenant Cooper?

13 A Spartanburg County Sheriff's Office.

14 Q How long have you been employed there?

15 A Twenty-two and a half years.

16 Q And you're currently the lieutenant in the narcotics  
17 division, is that correct?

18 A That's correct.

19 Q How long have you overseen that division?

20 A For the last two years.

21 Q Had you ever worked in narcotics prior to overseeing  
22 it as a lieutenant?

23 A I did.

24 Q All right. How long? About how many years  
25 approximately?

Steve Cooper  
Direct examination by Mr. McCarty

1 A Six.

2 Q Lieutenant Cooper, you were involved in the execution  
3 of a search warrant on August the 3rd of 2009 at [REDACTED]  
4 [REDACTED], is that correct?

5 A That's correct.

6 Q And you assisted Lieutenant -- or I'm sorry --  
7 Investigator Hutchins and Dwight Garcia in that execution,  
8 is that correct?

9 A I did.

10 Q When you arrived did you make contact with Anthony  
11 Chapman?

12 A That is correct.

13 Q And were you present when Investigator Hutchins  
14 advised Mr. Chapman of his Miranda warnings?

15 A I was.

16 Q Did you hear those warnings given to him?

17 A I did.

18 Q Do you recall whether they were written down on a form  
19 or given to him verbally?

20 A They were given to him verbally.

21 Q Did you have the opportunity to observe Mr. Chapman at  
22 that time?

23 A I did.

24 Q Did Mr. Chapman appear to be under your observations  
25 under the influence of any type of alcohol or drugs?

Steve Cooper  
Direct examination by Mr. McCarty

- 1 A He did not.
- 2 Q He didn't have the odor of alcohol on his breath or on  
3 his person, is that correct?
- 4 A That's correct.
- 5 Q Did he appear to understand the warnings or  
6 advisements that Investigator Hutchins was giving to him?
- 7 A He did.
- 8 Q Did he appear to respond coherently and rationally to  
9 what Investigator Hutchins was advising him of?
- 10 A He did.
- 11 Q Did he ever during that time request to stop speaking  
12 with you or not talk to you at all or at that time  
13 immediately right there request an attorney?
- 14 A He did not.
- 15 Q After the warnings were given did you hear  
16 Investigator Hutchins ask Mr. Chapman if he understood  
17 those warnings?
- 18 A I did.
- 19 Q Did Mr. Chapman acknowledge that he understood his  
20 warnings and advisements?
- 21 A He did.
- 22 Q Did you have the opportunity to speak to Mr. Chapman  
23 personally yourself during the execution of this search  
24 warrant?
- 25 A I did.

Steve Cooper  
Direct examination by Mr. McCarty

1 Q What, if anything, did Mr. Chapman relate to you with  
2 regards to what was going on during the course of that  
3 search warrant or what might be found inside of that house?

4 A He at one point, he acknowledged to me that there was  
5 something else in the residence drug related that he wanted  
6 to show me, at which time he actually got up from the table  
7 and walked over to the kitchen cabinet.

8 He did not actually tell me what it was. He just said  
9 it's in there, it's in there.

10 Q Where was he seated when this came, came about?  
11 Where? You say he got up from the table. What table was  
12 he seated at?

13 A Kitchen table.

14 Q So he was in the kitchen area seated at the table.

15 A That's correct.

16 Q And he told you that -- again, I'm sorry. If you can,  
17 just rehash that for me. What exactly was it that -- how  
18 did he say it to you?

19 A He said there's something I want to show you, it's in  
20 there, it's in there.

21 Q All right. And I'm assuming at this time he was still  
22 handcuffed, is that correct?

23 A That is correct.

24 Q So he made a nodding motion, I think is what you just  
25 saw.

Steve Cooper  
Direct examination by Mr. McCarty

- 1 A That's correct.
- 2 Q And he pointed to a kitchen cabinet, is that correct?
- 3 A Correct.
- 4 Q Did you open that kitchen cabinet up?
- 5 A I can't remember if I did or if Investigator Hutchins  
6 did, but it was opened and I observed what was in the  
7 cabinet.
- 8 Q You observed what was in there. All right. And what  
9 did it appear to be?
- 10 A Crack cocaine, cocaine base.
- 11 Q And then of course Investigator Garcia was called to  
12 collect that evidence, is that correct?
- 13 A That's correct.
- 14 Q Procedure. Were you present at any time when  
15 Mr. Chapman may have advised or acknowledged that there was  
16 marijuana being grown at the residence or outside of the  
17 residence?
- 18 A In the beginning when we had first approached  
19 Mr. Chapman and placed him in cuffs he was read his rights.  
20 He told us that all he had at the residence was weed.
- 21 Q Okay. You didn't -- did you ever personally threaten  
22 Mr. Chapman with any type of prosecution or criminal  
23 warrants being sought as a result of either -- for  
24 cooperating or not cooperating that day?
- 25 A No, sir.

Steve Cooper  
Cross-examination by Mr. Brown

1 Q Did you make any threats with regards to his family or  
2 what they may face, potentially face, in regards to --

3 A No, sir.

4 Q Was Mr. Chapman promised anything for cooperating or  
5 not cooperating that day?

6 A No, sir.

7 Q And did you personally ever threaten Mr. Chapman  
8 either physically with any type of harm or anything that  
9 may have occurred that day?

10 A No, sir.

11 MR. McCARTY: I believe that's all the questions I  
12 have for Lieutenant Cooper, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. BROWN

15 Q Where was he at when he was Mirandized?

16 A He was in the driveway.

17 Q Where? Where in the driveway?

18 A Washing. He was standing beside his vehicle.

19 Q Was he Mirandized again inside the house?

20 A He could have been.

21 Q So it's common to Mirandize a person twice?

22 A We don't usually do that. We usually do it one time.

23 Q From what you observed on that day, do you know if he  
24 was Mirandized twice?

25 A Oh, I don't.

Steve Cooper  
Cross-examination by Mr. Brown

- 1 Q But he clearly was Mirandized once.
- 2 A Correct.
- 3 Q But you were present throughout the course of this
- 4 arrest.
- 5 A That is correct.
- 6 Q And Mr. Chapman for the most part was in your constant
- 7 view throughout the execution of the search warrant.
- 8 A No, sir. That's not correct.
- 9 Q Okay.
- 10 A Not in my constant view because I actually
- 11 participated in the search, at which time I could have been
- 12 upstairs. I could have been in another room. No. He
- 13 wasn't in my constant presence throughout the search.
- 14 Q But he was detained --
- 15 A Correct.
- 16 Q -- in handcuffs.
- 17 A Correct.
- 18 Q Were you present when his wife came home?
- 19 A I was.
- 20 Q Do you recall talking to her?
- 21 A I may have had a brief conversation with her.
- 22 Q And what would have been the subject of the
- 23 conversation?
- 24 A "Ma'am, I'm Lieutenant Cooper with the Spartanburg
- 25 County Sheriff's Office. We're here to execute a search

Steve Cooper  
Cross-examination by Mr. Brown

1 warrant on your residence. At this time we've detained  
2 your husband. We're here looking for drugs."

3 Q And that would have been the gist of your  
4 conversation.

5 A Pretty much.

6 Q You didn't have anything else to say to her.

7 A I don't recall.

8 Q So it's possible you could have said something.

9 A I could have.

10 Q Would Mr. Chapman have been able to hear you having a  
11 conversation with his wife?

12 A Absolutely.

13 Q Who is Dwight Garcia?

14 A Investigator Garcia.

15 Q Yes.

16 A He's the officer that executed the search-warrant  
17 return.

18 Q And the search warrant related to marijuana?

19 A That's correct.

20 Q Okay. And at some point Mr. Chapman got up from the  
21 kitchen table and walked over to somewhere and pointed in a  
22 cabinet?

23 A That's correct.

24 Q During the course of your investigation?

25 A During the course of the execution of the search

Steve Cooper  
Cross-examination by Mr. Brown

1 warrant.

2 Q Okay. And who went with him to that cabinet?

3 A That would have been myself and Investigator Hutchins.

4 Q All right. And upon him pointing at that cabinet what  
5 did you observe?

6 A I don't recall if it was Investigator Hutchins or  
7 myself that actually opened the cabinet, but we opened the  
8 cabinet and discovered the cocaine base.

9 Q And once you discovered the cocaine base, what did you  
10 do with it?

11 A Do with what?

12 Q Cocaine base.

13 A It was pulled out of the cabinet and looked at. And  
14 Investigator Garcia recovered it.

15 Q Okay. And when he recovered it, what did he do with  
16 it?

17 A He placed it in evidence.

18 Q And what do you mean by evidence?

19 A The evidence at the sheriff's office.

20 Q So he immediately left the scene at that point and  
21 took it?

22 A No. You asked me what he did with it. Once he  
23 recovered it, he took that into his possession where it  
24 stayed in his possession until he turned it into evidence.

25 Q Evidence at the sheriff's department.

Steve Cooper  
Cross-examination by Mr. Brown

1 A That is correct.

2 Q Okay. You were present at the outset of the execution  
3 of the search warrant?

4 A The onset of the execution of the search warrant,  
5 that's correct.

6 Q Do you recall a taser ever coming into play during the  
7 execution of the search warrant?

8 A I believe it did. I believe Investigator Hutchins may  
9 have pointed it at Mr. Chapman.

10 Q And do you know if he tagged him with that taser?

11 A Did he shoot him with the taser?

12 Q Did he tag him with his red-light laser beam?

13 A Did he paint him with the laser beam? Yes, sir. That  
14 is correct.

15 Q Okay. Did Mr. Chapman put up a struggle or fight upon  
16 you guys coming to the scene?

17 A No, he did not.

18 Q Did he appear to be nervous to you at any point?

19 A I think he appeared to be shocked. I'm not so sure  
20 nervous was the word.

21 MR. BROWN: That all the questions I have.

22 MR. McCARTY: Nothing, Your Honor.

23 THE COURT: Step down.

24 MR. McCARTY: Your Honor, that's all the witnesses we  
25 would have in regard to any Jackson vs. Denno hearing.

Anthony Bernard Chapman  
Direct examination by Mr. Brown

1 THE COURT: All right. Mr. Brown, have you got any  
2 testimony or evidence you wish to present?

3 MR. BROWN: Your Honor, I would call Mr. Chapman.

4 ANTHONY BERNARD CHAPMAN,  
5 having been first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. BROWN

7 Q Sir, if you could, please state your name for the  
8 record.

9 A Anthony Bernard L. Chapman.

10 Q Mr. Chapman, have you been here during the course of  
11 the testimony offered by the two officers from the  
12 Spartanburg County Sheriff's Department?

13 A Yes.

14 Q You've heard their testimony?

15 A Yes.

16 Q You've heard what they had to say in regards to a  
17 search warrant that was executed --

18 A Yes.

19 Q -- at your residence. In regards to the events  
20 beginning on that day, they said you were outside washing a  
21 vehicle. Is that true?

22 A Yes.

23 Q What else was going on at that point?

24 A Outside?

25 Q Yes.

Anthony Bernard Chapman  
Direct examination by Mr. Brown

1 A I was just washing the vehicle, washing the truck off.

2 Q Okay. And tell us what, what was happening as you  
3 were washing that vehicle and law enforcement came up on  
4 you.

5 A A burgundy -- I think it was a Cherokee Jeep -- pulled  
6 up, and three officers jumped out and pointed weapons,  
7 which I couldn't -- I don't know what kind of weapons they  
8 were. They say tasers, but I thought they were guns.

9 Q Only one was pointed at you, or more than one?

10 A More than one.

11 Q And at that point did they say anything to you?

12 A Told me sheriff's department, don't move.

13 Q Okay. They all did put weapons on you.

14 A Yeah.

15 Q What happened after that?

16 A I was handcuffed and told I was under arrest.

17 Q Okay. And at that point did they ask you to go inside  
18 the house, or did they start talking to you right then and  
19 there about what they came there for?

20 A They started talking to me right then and there.

21 Q Did they ever say, "Mr. Chapman, we want to read you  
22 some rights or state some rights to you," in terms of you  
23 having an attorney at that point when they first came to  
24 talk to you?

25 A No.

Anthony Bernard Chapman  
Direct examination by Mr. Brown

1 Q So you, you've been present, and we've heard them  
2 refer to oral Miranda in terms of your rights.

3 A Say that again.

4 Q You've been present when they said they went through  
5 oral Miranda rights.

6 A Yes.

7 Q And you're saying that didn't happen.

8 A No.

9 Q Okay. So at some point they continued their  
10 conversation, meaning they were questioning you about what  
11 they came there looking for.

12 A Correct.

13 Q And they had that conversation with you?

14 A They had a conversation questioning me?

15 Q Yes.

16 A Yes.

17 Q Okay. And they took you inside the house at some  
18 point.

19 A Yes.

20 Q And what happened after they took you inside the  
21 house?

22 A I, I was told that they had a search warrant to search  
23 the place, and I asked to see the warrant. And at first  
24 they didn't show it to me, but, you know, after being in  
25 the house for several minutes they finally showed it to me.

Anthony Bernard Chapman  
Direct examination by Mr. Brown

1 And they started -- two of them -- I don't remember which  
2 two -- started going through the house.

3 They went upstairs, and after that they came back and  
4 asked me some more questions about the box that was  
5 upstairs. And I think maybe ten minutes later my wife came  
6 home.

7 Q Okay. When your wife came home, what was going on in  
8 terms of any conversations that they were having with your  
9 wife?

10 A Well, initially they stopped her outdoors, and they  
11 never put her in any handcuffs or nothing like that.

12 Q Okay. And you were in handcuffs during this time  
13 period.

14 A Yeah, the whole time.

15 Q And they told you you were under arrest.

16 A Yes.

17 Q You've also heard testimony as relates to some  
18 substance being found in a cabinet.

19 They stated that you were under arrest in handcuffs  
20 but you got up and walked from the table and pointed at the  
21 cabinet. Describe to us what was going in regards to that.

22 A And actually we was -- we were outside. And Officer  
23 Cooper, I think it was, he said tell him about anything  
24 that I have he said right now is the time, if I don't -- if  
25 you don't tell me now, he said he taking, he going to take

Anthony Bernard Chapman  
Direct examination by Mr. Brown

1 my wife to jail.

2 So, so at that time I, I told him I had something I  
3 wanted to show him, and we went inside. We wasn't at the  
4 kitchen table. We was outside. We went in the inside and  
5 I showed him the counter -- the cabinet over the sink. I  
6 mean, in the corner cabinet -- and told him what I had.

7 Q Okay. And after, after that occurred what was the  
8 next thing they did in terms of the investigation?

9 A The next thing they did?

10 Q Yes, sir.

11 A They arrested my wife.

12 Q Okay. They put her in handcuffs at that point?

13 A Yes, yes.

14 Q They didn't delay.

15 A No.

16 Q You've also heard that at some point after you  
17 allegedly being Mirandized in some manner orally, because  
18 they offered you to write a statement, or at that point  
19 they wanted to formally put you on notice in writing that  
20 you could be Mirandized -- is that what occurred?

21 A Yes.

22 Q And that was after they talked to you?

23 A Yes.

24 Q After they had you in detention?

25 A Yes.

Anthony Bernard Chapman  
Direct examination by Mr. Brown

1 Q After they threatened potentially to shoot you with  
2 something?

3 A Yes.

4 Q And after they arrested your wife?

5 A Yes.

6 Q In the course of the arrest relating to your wife, did  
7 they share any type of information in regards to what they  
8 would or could do with your wife?

9 A Yes.

10 Q And what was that?

11 A They said that she would be charged if I didn't tell  
12 them what was in the, in the house.

13 Q And that was when you were outside?

14 A That was when I was outside. And I, and I, and I, I  
15 told them what I had, showed them what I had. And he told  
16 me that it didn't work like that.

17 Q Okay. And when you say he, who is he?

18 A Officer Cooper.

19 Q Okay. And he told you it didn't work like that. What  
20 did he mean?

21 A I don't know exactly what he meant.

22 Q And at that point did he continue on his conversation  
23 with you?

24 A Yes.

25 Q They took your wife at the same time you were

Anthony Bernard Chapman  
Direct examination by Mr. Brown

- 1 arrested?
- 2 A Say that again.
- 3 Q Were y'all transported together?
- 4 A Yes.
- 5 Q They also presented some arrest warrants at that time
- 6 for something they allege occurred on June 18th.
- 7 A Yes.
- 8 Q And they issued that right after the search warrant?
- 9 A Yes.
- 10 Q And they told you what that was in regards to?
- 11 A Yes.
- 12 Q There's also information that they said at some point
- 13 you asked for an attorney, is that correct?
- 14 A Yes. Actually, we called our attorney on the scene.
- 15 Q All right. And that was upon them coming to the
- 16 residence?
- 17 A That was, yeah, after them coming to the residence.
- 18 That's while we were outside in the back yard. And that's
- 19 why the dog -- while they had the dog in the house.
- 20 Q So you were outside and you were trying to make
- 21 contact. It's clear that you were trying to make contact
- 22 with your attorney.
- 23 A Yes. They permitted it. They allowed it.
- 24 Q So that allowed it.
- 25 A Yeah.

Anthony Bernard Chapman  
Cross-examination by Mr. McCarty

1 Q And that was prior to them offering any type of  
2 Miranda or giving you the opportunity to waive your rights  
3 to an attorney.

4 A Yes.

5 Q But you wanted your attorney.

6 A Yes.

7 Q And your attorney didn't come to the scene.

8 A No.

9 Q And they still went on trying to question you of sort.

10 A Yes.

11 Q And in exchange for you telling them where something  
12 was you were hoping that your wife was going to be  
13 released?

14 A Yes.

15 Q And that didn't happen.

16 A No.

17 MR. BROWN: No further questions.

18 CROSS-EXAMINATION

19 BY MR. McCARTY

20 Q Mr. Chapman, were you working at the time the search  
21 warrant occurred?

22 A Was I working at --

23 Q Yes.

24 A No, I wasn't.

25 Q When was the last time you had worked?

Anthony Bernard Chapman  
Cross-examination by Mr. McCarty

- 1 A That Friday.
- 2 Q That Friday. Well, let me -- I guess broadly speaking
- 3 you were employed around the time you -- the search warrant
- 4 happened, is that correct?
- 5 A Yeah, yes.
- 6 Q Where were you employed at?
- 7 A Jared's Mobile Automotive.
- 8 Q Okay. What did you do there?
- 9 A Mechanic.
- 10 Q And as a mechanic, that's a pretty specialized skill,
- 11 am I right?
- 12 A Right.
- 13 Q So you've got to have a good base of knowledge for
- 14 things, am I right?
- 15 A Yeah.
- 16 Q How far did you go in school if you don't mind my
- 17 asking?
- 18 A I graduated college.
- 19 Q Graduated college.
- 20 A Yeah.
- 21 Q So it's fair to under -- it's fair to say that you
- 22 don't have a problem understanding people talking to you.
- 23 Is that safe to say?
- 24 A Be safe to say.
- 25 Q All right. You understand when somebody's telling you

Anthony Bernard Chapman  
Cross-examination by Mr. McCarty

1 something. You can listen to them and figure out what  
2 they're saying.

3 A If I don't know, I ask a question. I ask.

4 Q All right. In regards to this Miranda warnings that  
5 were given, of course you're saying they weren't given at  
6 all. But you knew there was such a thing called Miranda  
7 warnings, am I correct? This wasn't your first contact  
8 with law enforcement, am I right?

9 A Right.

10 Q You had prior contact with law enforcement, am I  
11 right?

12 A Right.

13 Q Just even within the last ten years you've been  
14 arrested and convicted of domestic violence, am I correct?

15 A Yes.

16 Q Up in North Carolina, did you face some charges up  
17 there?

18 A Yes.

19 Q And did that require you to do some prison time up  
20 there?

21 A Yes.

22 Q And do you recall in those instances whether or not  
23 Miranda warnings were given to you advising that you've got  
24 the right to remain silent?

25 A I actually turned myself in in North Carolina. I

Anthony Bernard Chapman  
Cross-examination by Mr. McCarty

1 didn't -- I wasn't arrested.

2 Q Okay. Well, when you turned yourself in did they  
3 place you into any type of custody or anything?

4 A Actually, it was already prearranged. I went in and  
5 came back out.

6 Q What about the other instances where you come into  
7 contact with law enforcement? Have they at that time told  
8 you about those same warnings -- you've got the right to  
9 remain silent and the right to have an attorney, stop  
10 answering questions?

11 A I can't recall, but I'm familiar with the Miranda  
12 rights.

13 Q So you are familiar with them.

14 A Yeah.

15 Q So you knew from the outset when they showed up at  
16 your property that when they identified themselves as  
17 sheriff's officers, told that you were under arrest, that  
18 they had a warrant for an earlier offense for distribution  
19 that you probably had certain rights. You probably knew  
20 that in the back of your head at least, didn't you?

21 A Could you repeat that?

22 Q I certainly will. When the sheriff's officers arrived  
23 at your house --

24 A Right.

25 Q -- they identified themselves. You said that you

Anthony Bernard Chapman  
Cross-examination by Mr. McCarty

1 could see they had sheriff written on their chest or  
2 something like that, am I right?

3 A Yes.

4 Q And they identified who they were. You said they came  
5 at you with their guns.

6 A Right.

7 Q Once that all settled down they told you that you were  
8 being placed under arrest, am I right?

9 A Yes.

10 Q And they told you it was for, I'm assuming,  
11 distribution of marijuana, am I right?

12 A Yes.

13 Q So even at that point you knew that you had certain  
14 rights, that you could stop talking to them, you didn't  
15 have to talk to them, that type of information, am I  
16 correct?

17 A Yes.

18 Q And then they told you also that they had this search  
19 warrant to execute at your house, that they were going to  
20 go through your house and look for marijuana and anything  
21 related to the drug trade, is that right?

22 A Yes.

23 Q And so are you just saying you don't recall whether or  
24 not Investigator Hutchins read those warnings to you? Is  
25 that what you're saying?

Anthony Bernard Chapman  
Cross-examination by Mr. McCarty

- 1 A No. That's not what I'm saying.
- 2 Q What exactly are you saying?
- 3 A I'm saying I wasn't read my Miranda rights.
- 4 Q You're saying he didn't do it at all.
- 5 A At all, period.
- 6 Q He didn't --
- 7 A He told me he had two warrants. He had an arrest  
8 warrant and a search warrant. I asked to see. This was  
9 after he put the handcuffs on me.
- 10 Q Uh-huh.
- 11 A I asked him to see the, the, the search warrant, and  
12 he didn't show me right off the bat. They took me in the  
13 house. The whole time they asking questions, but they did  
14 not read me my Miranda rights.
- 15 Q Okay. Both officers have testified that you were  
16 nervous or even shocked when all of this happened. Is that  
17 a safe assessment of how your reaction was, that you were  
18 surprised to see this happening?
- 19 A One said I was nervous and one said I was shocked.
- 20 Q How would you describe yourself when it happened?
- 21 A I, I, I'm, I got guns pointed at me. I don't know  
22 really what to think. I don't know how I was looking or  
23 how I was acting, you know, to be honest with you..
- 24 Q You weren't feeling normal though, were you?
- 25 A No, no.

Anthony Bernard Chapman  
Redirect examination by Mr. Brown

1 Q Okay. And, like you said, it turns out it was a  
2 taser, but you thought it might have been a gun pointed at  
3 you, right?

4 A Yeah, yeah, yeah.

5 Q So there's a lot going on right there in that moment,  
6 am I right?

7 A Yeah, right.

8 Q You're being told you're being placed under arrest.  
9 You're being told that you've got a search warrant for your  
10 house.

11 A Right.

12 Q A lot of that going on right there at that moment,  
13 right?

14 A Right.

15 Q Is it just possible that maybe you just didn't hear or  
16 you just don't recall in the shock of what was happening  
17 that the Miranda warnings were read to you?

18 A No. That's not possible.

19 Q All right.

20 MR. McCARTY: Your Honor, I have nothing further of  
21 Mr. Chapman.

22 MR. BROWN: Just briefly.

23 REDIRECT EXAMINATION

24 BY MR. BROWN

25 Q Based upon the experience that the assistant solicitor

Anthony Bernard Chapman  
Redirect examination by Mr. Brown

1 relayed that you had prior contact, is that the reason why  
2 you tried to contact your attorney outside?

3 A Yes.

4 Q So you knew that they should have pulled something out  
5 in writing and gave you the opportunity to go through your  
6 rights.

7 A Yes.

8 Q And they didn't.

9 A No.

10 Q And you requested to have an attorney at the outset.

11 A Yes.

12 Q And after that, after they already pulled out their  
13 guns or tasers, they still proceeded to question you.

14 A Correct.

15 Q And they also made promises in regards to your wife.

16 A Correct.

17 Q And they didn't keep those promises.

18 A No.

19 MR. BROWN: That's all the questions I have.

20 THE COURT: All right. Step down.

21 Anything further on behalf of the defendant?

22 MR. BROWN: Your Honor, no one else in terms of  
23 witnesses, but I do have some --

24 THE COURT: Okay. Do you have some statements you'd  
25 like to make?

1 MR. BROWN: Your Honor, I would simply state in  
2 regards to Rhodes vs. Ennis the Court has supposedly heard  
3 the nature surrounding the alleged Miranda rights that at  
4 some point allegedly were given to my client.

5 Your Honor, there are two instances in which my client  
6 has referred to a situation of stress or indeed duress,  
7 that being the house when the search warrant was being  
8 executed after his chest was painted with a laser, from  
9 what law enforcement has described as a taser, my client  
10 not knowing if it was a taser or a gun when he was  
11 threatened.

12 In addition at some point in terms of conversations  
13 that were occurring he also was told that his wife would  
14 not face arrest.

15 Based upon that, my client against his interest,  
16 obviously took law enforcement inside the house and pointed  
17 towards the direction in the cabinet to which an off-white  
18 substance of some sort, cocaine, has been indicated before  
19 the Court was found.

20 Your Honor, we would state that of course this  
21 statement against his interest was done improperly based  
22 upon the type of questioning law enforcement engaged in.

23 In addition, Your Honor, as relates to the events  
24 surrounding that day, you heard directly from law  
25 enforcement stating that the arrest warrant was generated

1 for June the 18th but it was after the search warrant was  
2 even obtained, but the basis of the search warrant included  
3 clearly a June 18 event surrounding alleged activities.

4 They were putting the cart before the horse, Your  
5 Honor, in terms of what they were seeking on this arrest  
6 warrant.

7 You've heard directly from law enforcement as it  
8 relates to the information that would have been contained  
9 in the affidavit, or the lack thereof.

10 I clearly questioned Investigator Hutchins in terms of  
11 what would have been the threshold information that could  
12 have been shared, No. 1, to begin a controlled buy, and,  
13 No. 2, what would have been relayed in the affidavit in  
14 regards to a controlled buy. He could not provide that  
15 initial information as relates to this, Your Honor.

16 But I would say in regards to both of those matters  
17 that clearly makes the affidavit insufficient on its face.  
18 I ask the Court to dismiss the indictment based upon those  
19 charges or at some point if the Court is so inclined to  
20 suppress any information that would come out of any type of  
21 arrest that ensued in regards to the search warrant from  
22 the date of August the 3rd.

23 THE COURT: Mr. McCarty.

24 MR. MCCARTY: Briefly, Your Honor.

25 If I can address the search warrant issue first, with

1 regard to it, as Your Honor can see, in the affidavit  
2 section prepared by Investigator Hutchins the second full  
3 paragraph which relates to the June 18th incident, nowhere  
4 in there does Investigator Hutchins allege or affirm to the  
5 judge that a warrant has already been sought or is in his  
6 possession to be served against Mr. Chapman.

7 He's just stating that through the course of this  
8 investigation against Mr. Chapman that that was one piece  
9 of their investigation that has already occurred.

10 Mr. Chapman -- or I'm sorry -- Mr. Hutchins in  
11 redirect when I asked if there was anything particular  
12 about that June 18th buy that was out of the ordinary, and  
13 he testified that he couldn't recall.

14 He did testify that he had not specifically reviewed  
15 the ledger prior to his testimony today or reviewed the  
16 video tape prior to his testimony today regarding that  
17 June 18th buy.

18 But he did testify that there was nothing out of the  
19 ordinary that he recalls that would have made this buy any  
20 different from his normal course of procedure or  
21 investigation as a narcotics officer.

22 Your Honor, I think Mr. Brown briefly touched on the  
23 fact that in some of his questions that the warrant itself  
24 is sought or the search warrant itself is sought for a  
25 discovery of marijuana. The last sentence or the last part

1 of that says, "And any item related to the drug trade."

2 Of course, Your Honor, I don't know if he's arguing in  
3 this, but the state would allege that that would be  
4 sufficient to cover the productory or the finding of this  
5 cocaine or crack cocaine that was actually found in the  
6 house.

7 There's a sufficient nexus between the two. They were  
8 searching for drugs such as marijuana, anything like  
9 diaries, ledgers, paraphernalia.

10 The search warrant covered the residence, which is  
11 where this crack and power cocaine was found. It would  
12 have been inevitably discovered more than likely during the  
13 course of the search warrant.

14 With regard to the statements, Your Honor, I believe  
15 if you just -- if you can -- if you're weighing witness  
16 credibility alone, you have two officers who both testified  
17 that the Miranda warnings were given. They were given  
18 outside near the vehicle where Mr. Chapman was originally  
19 detained.

20 Investigator Hutchins went over those warnings. They  
21 both testified that he didn't appear to not understand his  
22 warnings, that he was compliant with them. He acknowledged  
23 that he had received them. That was both of those  
24 officers' testimony.

25 And both officers testified that he at no time

1 requested to speak with an attorney until the end when they  
2 were completing their execution of the search warrant and  
3 asked Mr. Chapman to reduce it to writing for them, Your  
4 Honor.

5 That would be the state's position with regard. We  
6 respectfully ask that you not suppress the statements or  
7 suppress the search warrant in this case, Your Honor.

8 THE COURT: Any reply?

9 MR. BROWN: Your Honor, I will simply state that the  
10 assistant solicitor is absolutely correct. They are  
11 experienced law enforcement officers. In fact, they have  
12 gone through the cursory attempt at some point based upon  
13 the information to issue a written statement, as well as a  
14 waiver of rights.

15 They say that it was at the very end of any type of  
16 interrogation based upon the number involved in the  
17 situations here. I simply ask the Court again to consider  
18 that in regards to our previous motion.

19 THE COURT: All right. Well, in a determination as to  
20 whether or not a statement is to be permitted to be  
21 considered by the jury in the trial of the case the Court  
22 must first upon request determine whether or not the state  
23 has established by a preponderance of the evidence that any  
24 statement attributed to the defendant was made freely and  
25 voluntarily considering the totality of the circumstances

1 surrounding the making of that statement.

2 The jury has the obligation and duty of determining  
3 whether or not any statement was voluntary beyond a  
4 reasonable doubt. But the threshold question is whether or  
5 not the state has established by the greater weight of the  
6 evidence that the statement was freely and voluntarily made  
7 before its admission before the jury, and then the jury  
8 determines what weight to give to it if they find it was  
9 voluntary beyond a reasonable doubt.

10 So in applying a preponderance-of-the-evidence  
11 standard I do find in this case that the defendant was in  
12 custody at the time that any statement was made that was  
13 attributed to him.

14 I do find that he was properly advised of his  
15 constitutional rights in a verbal form.

16 I do find that he appeared to understand the rights,  
17 that he was not threatened or coerced. He was intelligent,  
18 educated. He was not under the influence of any  
19 intoxicant, and therefore understood the rights provided  
20 him.

21 In fact, as he testified, he had previous experience  
22 with Miranda warnings and was aware of what the Miranda  
23 warnings are and their applicability.

24 I also find that he did freely and voluntarily waive  
25 those rights and he did provide statements to law

1 enforcement that may be used in the course of the trial.  
2 And of course the jury will determine whether or not those  
3 statements are voluntary beyond a reasonable doubt. But  
4 they are to be admitted in the trial of the case, my  
5 finding that he made those statements freely and  
6 voluntarily after being advised of and having knowledge of  
7 and understanding his constitutional rights.

8 With regard to the search warrant, I've reviewed the  
9 search warrant. It does appear to be valid on its face.

10 There is no indication that any information contained  
11 in the search warrant is false information. There's no  
12 indication that if it were shown to be false that the  
13 officers had knowledge of its falsity.

14 And I further find that for the most part all of the  
15 information contained in the affidavit that relates to the  
16 credibility of the informant and the reliability of the  
17 information was previously corroborated by law enforcement  
18 prior to obtaining the warrant, and therefore the warrant  
19 being valid on its face it was properly executed, and any  
20 evidence received as a result of the search is properly  
21 admitted into evidence.

22 Therefore, the defendant's motions to exclude the  
23 statements and the defendant's motions to suppress the  
24 evidence resulting from the search are both denied.

25 All right. Any other matters we need to address?

Guilty plea

1 MR. McCARTY: None from the state, Your Honor.

2 THE COURT: Okay. Are we ready for jury selection?

3 MR. McCARTY: The state is, Your Honor. I don't know  
4 what Mr. Brown's position is.

5 THE COURT: Okay.

6 MR. BROWN: Your Honor, my client at this time would  
7 enter a plea before this Court.

8 THE COURT: Okay.

9 MR. McCARTY: May we have just a few minutes to do the  
10 sentencing sheets?

11 (Whereupon, a recess was taken.)

12 THE COURT: All right. Let me address this issue.

13 Mr. Chapman, you talked to Mr. Brown about your  
14 decision to plead guilty or have a jury trial.

15 THE DEFENDANT: Say that again, sir.

16 THE COURT: You have talked to Mr. Brown about your  
17 decision as to whether you wish to enter a plea of guilty  
18 or have a jury trial.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Mr. Brown has indicated to the Court that  
21 you wish to enter a plea of guilty. Is that, in fact, the  
22 case?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Okay.

25 MR. McCARTY: If I may for the record, I am going to

Guilty plea

1 introduce these just for the record.

2 THE COURT: Does it relate to Mr. Chapman's case?

3 MR. McCARTY: It does, Your Honor.

4 THE COURT: Mr. Brown, have you seen these exhibits

5 Mr. McCarty wishes to enter into evidence?

6 Mr. Brown, what does your client want to do?

7 THE DEFENDANT: I am going to plead guilty, Your  
8 Honor.

9 THE COURT: Okay.

10 (Documents marked State's Exhibit No. 2.)

11 (Whereupon, a recess was taken.)

12 THE COURT: All right. You are Anthony Bernard  
13 Chapman.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: What's the L for -- Anthony Bernard  
16 Chapman. L is what?

17 THE DEFENDANT: Anthony Bernard L. Chapman.

18 THE COURT: Okay. It's Anthony Bernard L. Chapman?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Mr. Brown is your lawyer?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: How long has he been representing you?

23 THE DEFENDANT: For the past six or seven months,  
24 maybe, no, a year, a little over a year.

25 THE COURT: All right. I have before me three

## Guilty plea

1 indictments. Each of those indictments charge you with  
2 separate and distinct criminal offenses, although some may  
3 have arisen out of one particular event or course of events  
4 occurring on the same date and at the same time. But  
5 they're all separate and distinct offenses so far as  
6 punishment or penalty is concerned.

7       You've indicated by your signatures that you wish to  
8 enter pleas of guilty to these indictments. In order for  
9 me to accept that plea I've got some questions that I have  
10 to ask you. The purpose of the questions is for me to  
11 determine whether or not your decision to plead guilty is  
12 freely and voluntarily made and that you understand the  
13 consequences of that decision, that nobody's forced you  
14 into it or made you come to the conclusion to plead guilty.  
15 In other words, you did it on your own after considering  
16 all of the relevant factors.

17       Indictment 2000 -- and so if during the course of this  
18 process you don't understand a question, let me know. I'll  
19 rephrase it. If you need to stop and talk to your lawyer  
20 and seek further advice, let me know that. We'll stop and  
21 provide you with that opportunity.

22       Indictment 2010-667 charges you with the crime of  
23 manufacturing marijuana. The state alleges in this  
24 indictment that you did on or about August the 3rd of 2009  
25 manufacture -- in this case they mean you were growing --

Guilty plea

1 marijuana in violation of a particular statute.

2 And if convicted of manufacturing or growing or  
3 propagating marijuana you could receive a sentence of up to  
4 ten years in jail and a fine of \$10,000, it being a second  
5 offense according to the representations made to the Court,  
6 which indicates you've previously been convicted at least  
7 one time of some other type of drug offense.

8 Do you understand that charge and the potential  
9 sentence?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Indictment 2010-668 charges you with  
12 trafficking in crack cocaine.

13 The state alleges that occurred on or about August the  
14 3rd of 2009. They allege on that date that you did  
15 knowingly manufacture, sell, deliver, purchase or bring  
16 into the state, or you did provide financial assistance, or  
17 you did otherwise aid, abet, attempt or conspire to sell,  
18 manufacture, deliver, purchase or bring into the state, or  
19 that you did knowingly have in your actual or constructive  
20 possession more than 100 grams of methamphetamine or  
21 cocaine base.

22 If convicted of trafficking in methamphetamine or  
23 cocaine case -- in this case they're alleging crack  
24 cocaine -- where you've previously been convicted of a drug  
25 offense you could be sentenced to a term of imprisonment of

Guilty plea

1 not more than 30 years and a fine of \$50,000. It requires  
2 a mandatory minimum sentence of not less than seven years  
3 in jail.

4 Do you understand that charge and the potential  
5 sentence?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And the last indictment is Indictment  
8 2010-669. That indictment alleges that you committed the  
9 crime of possession with intent to distribute cocaine,  
10 being powder cocaine.

11 Again, they allege it's a second offense, you having  
12 previously been convicted on at least one occasion of a  
13 drug offense.

14 They allege that you did on or about August the 3rd of  
15 2009 possess a quantity of powder cocaine and that at the  
16 time you possessed it you intended to distribute it.

17 Second offense possession with intent to distribute  
18 powder cocaine carries a penalty of up to 30 years in jail  
19 and a fine of \$50,000. It requires a mandatory minimum  
20 sentence of not less than five years in jail.

21 Do you understand that particular indictment and the  
22 potential sentence that can be imposed?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Now, understanding those charges and the  
25 potential sentences do you still wish to go forward and

Guilty plea

1 enter pleas of guilty as you've indicated?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you had plenty of time to talk with  
4 your lawyer, Mr. Brown, about your decision to plead  
5 guilty?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Did he go over these indictments with you?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Did he explain to you what the state  
10 claims you did?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Did he tell you what they would have to  
13 prove in court before you could be found guilty of the  
14 separate charges?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Did he explain to you the potential  
17 sentences that could be imposed if you were found guilty or  
18 if you pled guilty?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And did you tell him everything you know  
21 about the facts and circumstances that relate to these  
22 charges?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Did you and he discuss whether or not you  
25 had a defense to any one or more of these charges?

Guilty plea

1           THE DEFENDANT: Yes, sir.

2           THE COURT: Do you know of any defense that you have  
3 to any of the indictments?

4           THE DEFENDANT: Do I know of any?

5           THE COURT: Do you know of any defense that you do  
6 have to any of the charges?

7           In other words, do you know of any reason that relates  
8 to any of the charges why you ought to be found not guilty?

9           THE DEFENDANT: No, sir.

10          THE COURT: And you understand that prior to this  
11 process that's taking place now that we had a hearing, that  
12 your lawyer made a motion to exclude the admissibility of  
13 any statements you made that might incriminate yourself or  
14 tend to prove your own guilt that they attribute to you by  
15 law enforcement at the time of your arrest on August the  
16 3rd of 2010.

17          Your lawyer also made a motion to suppress the  
18 evidence that was obtained as a result of the search of  
19 your residence, he claiming that there was something wrong  
20 with the search warrant.

21          Now, after considering all of the evidence presented  
22 during that hearing I determined that the statements were  
23 voluntarily made, and therefore I determined that they  
24 could be admitted in the trial of the case if your case  
25 went to trial before a jury.

Guilty plea

1 I also found that the search warrant was a valid  
2 search warrant, and therefore it was properly obtained,  
3 properly executed, and any evidence that was seized as a  
4 result was properly seized and therefore could be used  
5 against you in the trial of the case.

6 Those are decisions that I made, but, I mean, I could  
7 have been wrong about that. If I'm wrong about that, then  
8 the method of correcting that mistake, if it was a mistake,  
9 is to have a trial.

10 If you are convicted you would have a right to appeal  
11 the verdict of the jury and any sentence given by the  
12 Court. And an appellate court would determine whether or  
13 not I made a mistake in allowing those statements into  
14 evidence or whether I made a mistake in allowing the drugs  
15 into evidence that were a result of the search.

16 And if they find I made a mistake they could reverse  
17 my decision. They could send it back and you could have a  
18 jury trial. In other words, you'd be in the same position  
19 you are right now.

20 When you plead guilty you give up your right to  
21 contest the decisions that I have made. In other words,  
22 you waive your right to contest any illegal search and  
23 seizure. You give up your right to contest my decision  
24 about the admission of those statements.

25 In other words, you can't plead guilty and receive a

Guilty plea

1 sentence and then say, well, I'm going to appeal the  
2 judge's decision.

3 You're not going to be able to do that. When you  
4 plead guilty -- it's your choice. But when you plead  
5 guilty you give up your right to contest those decisions I  
6 made. It's your choice.

7 So do you understand that you'll be giving up those  
8 rights?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And is that what you want to do?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Did Mr. Brown also explain to you that you  
13 do have the right to remain silent?

14 That just means that you don't have say anything. You  
15 don't have to testify. You don't have to answer any  
16 questions that relate to these charges or questions that  
17 might tend to prove your own guilt if you respond to them.

18 You always have an absolute right to remain silent and  
19 to require the state to come into court with sufficient  
20 evidence to establish your guilt to the satisfaction of a  
21 jury beyond a reasonable doubt. And you never have to  
22 assist the state in their efforts to prove your guilt by  
23 you taking the witness stand and testifying or making  
24 statements or answering questions that might tend to prove  
25 your own guilt.

## Guilty plea

1 But when you plead guilty you have to give that right  
2 up because, as I've already told you, I'm going to ask you  
3 questions in order to determine the voluntariness of your  
4 decision.

5 Those questions, some of those questions, are  
6 necessarily going to result likely in your incriminating  
7 yourself and your admitting that you're guilty of these  
8 charges. But, again, it's your choice. Only you can  
9 decide whether or not you'll give up the right to remain  
10 silent.

11 Did Mr. Brown explain that right to you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you understand it?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you wish to give it up in order to  
16 plead guilty?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Did Mr. Brown also explain to you your  
19 right to confront any witness that would offer evidence  
20 against you?

21 In other words, did he tell you that you have a right  
22 to require the state to bring each of their witnesses into  
23 court?

24 Anybody that would offer testimony or other evidence  
25 tending to prove your guilt would have to come to court.

## Guilty plea

1 They'd have to take the witness stand. They'd have to  
2 testify in your presence under oath. You could see who  
3 they are. You could hear what they have to say.

4 Your lawyer would be able to examine each of those  
5 witnesses on that testimony in order to test the witnesses'  
6 credibility and the reliability of the information.

7 Now, when you plead guilty the witnesses don't take  
8 the witness stand. They don't testify under oath. They're  
9 not subjected to examination like they would be during the  
10 course of the trial.

11 So in order to plead guilty you have to give that  
12 right up if that's what you wish to do. Otherwise, we'll  
13 have a trial and you can have your right to confront the  
14 witnesses and have them examined in court.

15 Do you understand your right to confront the witnesses  
16 that would offer evidence against you?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand when you plead guilty  
19 you give that right up?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Is that what you want to do?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Did Mr. Brown also explain to you that you  
24 have a right to have a jury trial and for a jury of 12  
25 people to determine whether or not you're guilty?

Guilty plea

1           And if you elect to have a jury trial 12 jurors are  
2 selected. You help pick them -- you and Mr. Brown.

3           Once those 12 are selected they sit over there in the  
4 jury box. They listen to the testimony. They consider the  
5 evidence. They decide the facts.

6           In other words, they'll determine what, if anything,  
7 they believe occurred that relates to these charges back on  
8 August the 3rd of 2010. They decide whether you're guilty  
9 of anything or not.

10          Before a jury could find you guilty all 12 jurors have  
11 to be convinced of your guilt beyond a reasonable doubt.

12          The burden is on the state to convince them of that  
13 fact. The burden is not upon you to prove that you're  
14 innocent. The burden is on the state to prove that you are  
15 guilty.

16          So you can have a jury trial and enjoy your right to  
17 counsel, enjoy your right to confront the witnesses against  
18 you and have them examined. But you still don't have to  
19 testify or make any statements. So you still have your  
20 right to remain silent.

21          You could testify or call witnesses if you wanted to,  
22 but nobody could require it of you. That's simply, again,  
23 your choice. You get to make those decisions.

24          Do you understand your right to have a jury trial?

25          THE DEFENDANT: Yes, sir.

Guilty plea

1           THE COURT: Do you understand that when you plead  
2 guilty you give that right up?

3           THE DEFENDANT: Yes, sir.

4           THE COURT: Is what you wish to do?

5           THE DEFENDANT: Yes, sir.

6           THE COURT: Has anybody promised you anything that  
7 resulted in your decision to plead guilty today to these  
8 indictments?

9           THE DEFENDANT: No, sir.

10          THE COURT: Has anybody threatened you or put any  
11 pressure upon you?

12          THE DEFENDANT: No, sir.

13          THE COURT: Has anybody suggested that that's the  
14 decision you ought to make?

15          THE DEFENDANT: No, sir.

16          THE COURT: Did you make that decision on your own?

17          THE DEFENDANT: Yes, sir.

18          THE COURT: Are you satisfied with it?

19          THE DEFENDANT: Yes, sir.

20          THE COURT: And are you pleading guilty to each of  
21 these indictments because you did commit the crimes as they  
22 are described in each of the indictments?

23          THE DEFENDANT: Yes, sir.

24          THE COURT: You are 37 years old.

25          THE DEFENDANT: Yes, sir.

## Guilty plea

1 THE COURT: How far did you go in school?

2 THE DEFENDANT: I graduated college, sir.

3 THE COURT: And where did you go to college?

4 THE DEFENDANT: Spartanburg Tech.

5 THE COURT: And what did you take at Spartanburg Tech?

6 THE DEFENDANT: Industrial electronics.

7 THE COURT: And are you married?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And how long have you been married?

10 THE DEFENDANT: Two years, Your Honor.

11 THE COURT: Do you work?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Where do you work?

14 THE DEFENDANT: Jared's Mobile Automotive.

15 THE COURT: And what do you do for them?

16 THE DEFENDANT: I'm a mechanic.

17 THE COURT: And do you have children?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: How many?

20 THE DEFENDANT: One.

21 THE COURT: And what's that child's age?

22 THE DEFENDANT: It's nine years old.

23 THE COURT: And are you today under the influence of  
24 any type of intoxicant -- drugs, alcohol or otherwise --  
25 that would impair your ability to understand fully what

Guilty plea

1 you're doing here today?

2 THE DEFENDANT: No, sir.

3 THE COURT: Have you consumed any type of alcohol or  
4 any type of other drug within the past 72 hours?

5 THE DEFENDANT: No, sir.

6 THE COURT: Have you ever been treated for any type of  
7 substance abuse or addiction?

8 THE DEFENDANT: No, sir.

9 THE COURT: Do you suffer from any such condition  
10 today?

11 THE DEFENDANT: No, sir.

12 THE COURT: Have you ever been treated for any type of  
13 mental illness or emotional disturbance?

14 THE DEFENDANT: No, sir.

15 THE COURT: Do you suffer from any such condition  
16 today?

17 THE DEFENDANT: No, sir.

18 THE COURT: Have you had plenty of time to talk with  
19 your lawyer about your decision to plead guilty?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Are you satisfied with the representation  
22 he's provided you?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Now, I'm going to ask the  
25 solicitor to tell me briefly about the facts that relate to

Guilty plea

1 the cases.

2 Listen to what he tells me, because when he's through  
3 I'll ask you if you agree or disagree with his version.

4 MR. McCARTY: Your Honor, if I may just for --

5 THE COURT: He will also tell me about your criminal  
6 history.

7 MR. McCARTY: If it may please the Court.

8 Just as a matter housekeeping, when you announced the  
9 indictments, the charge for the trafficking cocaine as you  
10 noticed on the sentencing sheet is listed a lesser included  
11 offense.

12 That's in coordination with the discussions that  
13 Mr. Brown and I have had and Mr. Brown's had his client  
14 regarding the state recommending a sentence of 20 years on  
15 that offense to run concurrent with the other offenses.

16 THE COURT: All right. Now, this sentencing sheet  
17 does not indicate there to be a recommendation. So I'm  
18 going to check the sheet indicating a recommendation is  
19 made. The recommendation is a 20-year sentence?

20 MR. McCARTY: Yes, sir, to run concurrently with the  
21 other sentence.

22 THE COURT: All right. Mr. Chapman, I wasn't aware  
23 that there was to be a recommendation, but they tell me  
24 there is and that that was part of the discussions that you  
25 and Mr. Brown had with Mr. McCarty which resulted in your

Guilty plea

1 decision to plead guilty.

2 Mr. McCarty says that the recommendation is he's  
3 reduced the trafficking charge -- he's got more than one  
4 prior conviction?

5 MR. McCARTY: Yes, sir, he does.

6 THE COURT: All right. So you've got more than one  
7 prior conviction for a drug offense. So actually these  
8 drug offenses, these indictments, will be third or  
9 subsequent offenses. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: In concession for you pleading guilty they  
12 have agreed to reduce the charge to a second offense, and  
13 that makes a difference so far as the sentencing goes  
14 because a third offense trafficking of more than 100 grams  
15 would carry a mandatory sentence of 25 years.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: So they've agreed to reduce it. There's a  
18 range of sentencing, but the recommendation is 20 years.

19 Did you understand that that was to be the  
20 recommendation in your case?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And did you want them to make that  
23 recommendation?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you're in agreement with it?

Guilty plea

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Did they agree to do anything else for you  
3 other than reducing the charges to second offenses, making  
4 that recommendation of 20 years, and also agreeing to run  
5 all of the sentences concurrently?

6 THE DEFENDANT: No, sir.

7 THE COURT: Anything else you thought was to be  
8 recommended on your behalf?

9 THE DEFENDANT: No, sir.

10 THE COURT: Was there anything else that induced you  
11 to plead guilty --

12 THE DEFENDANT: No, sir.

13 THE COURT: -- that the state told you they would do?

14 THE DEFENDANT: No, sir.

15 THE COURT: Okay. All right. Mr. McCarty.

16 MR. McCARTY: If it may please the Court.

17 Your Honor, as you've heard this morning in the  
18 hearing, these facts occurred on August 3rd of 2009 at a  
19 residence located at [REDACTED], which is off of  
20 Highway 9 in Boiling Springs.

21 Your Honor, on that date the Spartanburg County  
22 Sheriff's Office executed a search warrant. Mr. Chapman at  
23 the time of the execution of the search warrant was the  
24 only person home.

25 During the course of that search warrant they

Guilty plea

1 discovered marijuana being grown both inside the house and  
2 outside of the house on the patio area, out in the  
3 curtilage of the house area.

4 Also within that house, Your Honor, it came to, as  
5 Mr. Chapman pointed out to them, they were able to discover  
6 more than 100 grams of what turned out to be crack cocaine,  
7 as well as an additional 1.95 grams of powder cocaine.

8 Your Honor, I've marked collectively State's Exhibit  
9 No. 2. I've shared these with Mr. Brown. I would  
10 respectfully ask that these be admitted as a state's  
11 exhibit for the purpose of this plea for the record.

12 Also included are the photographs taken by the  
13 Spartanburg County Sheriff's Office at the scene.

14 THE COURT: Mr. Brown, you've seen this exhibit?

15 MR. BROWN: I have, Your Honor, and we have no  
16 objection.

17 THE COURT: All right. And the exhibit consists of  
18 the incident report, the exhibit exists -- well, let's  
19 start all over.

20 The exhibit includes the incident report, the drug  
21 analysis of Officer Harris, 18 photographs taken at what  
22 appears to be, I assume, Mr. Chapman's residence.

23 MR. MCCARTY: If I may, Your Honor, that last is a  
24 copy of the warrant, the incident report and the drug  
25 report for the June 18th buy that was referenced in the

Guilty plea

1 search warrant.

2 THE COURT: All right. And as Mr. McCarty says,  
3 there's a warrant, an incident report, a drug analysis  
4 sheet from the June 18th of 2009 event. All right. And  
5 those are all contained in State's Exhibit No. 2 -- Exhibit  
6 No. 1 being the search warrant.

7 MR. McCARTY: Yes, sir, I apologize. State's Exhibit  
8 No. 2. Thank you.

9 THE COURT: Okay.

10 MR. McCARTY: Your Honor, that would be the state's  
11 showing as far as facts if you'd like the recitation of the  
12 criminal record.

13 THE COURT: All right. Yeah. Tell me about his  
14 criminal history.

15 MR. McCARTY: Your Honor, in 1994, a failure to stop  
16 for blue lights.

17 In that same year he had a possession of more than one  
18 ounce of marijuana charge.

19 1998, possession with intent to distribute marijuana,  
20 as well as conspiracy to possess marijuana with the intent  
21 to distribute.

22 In 2002, Your Honor, he had a criminal domestic  
23 violence -- or 2001. I'm sorry. Criminal domestic  
24 violence offense. It's listed as a second offense.

25 And then 2002, or actually in 2004, Your Honor,

Guilty plea

1 criminal domestic violence third offense was what he was  
2 convicted of in the State of North Carolina.

3 He, it appears, in 2003 was convicted of discharging a  
4 firearm into an occupied property. And these are what  
5 North Carolina's offenses are listed as.

6 Assault with a deadly weapon, and then simple assault,  
7 Your Honor.

8 THE COURT: All right. And, Mr. McCarty, let me ask  
9 you and Mr. Brown. I'll ask you too.

10 Do either of you know of any reason why these prior  
11 drug offenses are not properly used for enhancement  
12 purposes?

13 MR. McCARTY: None that the state's aware of.

14 MR. BROWN: None, Your Honor. My client is  
15 referencing an old area of the law in regards to ten years.

16 THE COURT: He what, now?

17 MR. BROWN: More than ten years in terms of when these  
18 occurred.

19 THE COURT: Okay. Well, do you know of any reason why  
20 they're not properly used for enhancement purposes?

21 MR. BROWN: No, sir.

22 THE COURT: Okay. Now, Mr. Chapman, you heard what  
23 the solicitor told me about the facts and your basic  
24 criminal history. Do you agree or disagree with him?

25 THE DEFENDANT: I agree, Your Honor.

Guilty plea

1 THE COURT: All right. Now, with regard to the  
2 indictments, Mr. Chapman, for trafficking and for  
3 possession with intent to distribute, they are being  
4 treated as second offenses.

5 However, a second offense under both of these  
6 statutory provisions -- that is possession with intent to  
7 distribute cocaine second offense and trafficking in crack  
8 cocaine second offense -- both of these offenses are  
9 classified in the law as violent offenses.

10 Excuse me. Let me take that back. Both of these  
11 offenses are classified in the law as serious offenses.  
12 Were you aware of that fact?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And do you understand the significance of  
15 a crime being classified as serious?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: He does not have any previous  
18 serious-offense convictions, Mr. McCarty?

19 MR. MCCARTY: No, he does not, Your Honor.

20 THE COURT: Well, do you understand that the  
21 significance of a serious-offense designation is the  
22 two-strikes-three-strikes law? Do you know about that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: If you have three convictions for serious  
25 offenses the state upon your conviction for that third

Guilty plea

1 serious offense can seek a life sentence without the  
2 possibility of parole. Are you aware of that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: The trafficking indictment is  
5 classified -- the trafficking charge is classified as a  
6 violent offense. Do you understand the significance of  
7 that classification?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And what do you understand the  
10 significance to be?

11 THE DEFENDANT: That it's of a violent nature.

12 THE COURT: Well, that's true. But even more so, what  
13 it means is when you're convicted of a violent offense in  
14 the future if you're convicted of another violent offense  
15 it makes the sentence on that future offense a no-parole  
16 sentence.

17 THE DEFENDANT: Okay.

18 THE COURT: Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And these two indictments -- when I refer  
21 to those I mean possession with intent to distribute second  
22 offense cocaine and trafficking in crack cocaine second  
23 offense. Both of these are also no-parole offenses,  
24 no-parole sentences. Do you understand the significance of  
25 a no-parole sentence?

Guilty plea

1 THE DEFENDANT: Yes, sir.

2 THE COURT: What do you understand the significance to  
3 be?

4 THE DEFENDANT: That means you won't be eligible for  
5 parole.

6 THE COURT: That's right. In other words, you've got  
7 to assume that whatever sentence I impose you're going to  
8 have to do every bit of it day for day.

9 THE DEFENDANT: That's right.

10 THE COURT: There is some provision in the law for  
11 some -- I was going to say there's some provision for some  
12 reduction. Is that -- I know the law has been recently  
13 changed.

14 MR. McCARTY: It's now listed 80 percent before they  
15 become -- 80 percent of the sentence.

16 THE COURT: Well, the statute provides that you have  
17 to do a minimum amount of time before you would be eligible  
18 for any parole. While it's a no-parole sentence a statute  
19 might provide for some release upon serving less than one  
20 hundred percent of the sentence.

21 But what I am telling you, you can't count on that,  
22 because you don't know what somebody might do about that.  
23 So for the purposes of your making a decision to plead  
24 guilty you have to just operate under the assumption that  
25 whatever I sentence you to you're going to have to do one

Guilty plea

1 hundred percent.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: So understanding that, do you still wish  
4 to go forward and enter your pleas of guilty as you've  
5 indicated?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. All right. I will accept your  
8 pleas of guilty and hear from you and Mr. Brown.

9 MR. BROWN: May it please the Court, Your Honor.

10 Standing before you is Mr. Anthony Chapman. As he has  
11 related to you, he's 37 years old, a lifelong resident of  
12 Spartanburg.

13 Your Honor, he has informed the Court that he's a man  
14 of an educated background, and as I understand it both in  
15 conference with Mr. Chapman as well as his wife prior to  
16 his wife obviously seeking counsel, this was just a  
17 situation in which they didn't want to have to face in  
18 terms of Mr. Chapman losing his American dream.

19 It's not something that Mr. Chapman is known for. As  
20 his record reflects, any type of drug interaction he had in  
21 his life was for his own personal use.

22 And he relates to me in this very instance and the  
23 manner in which what he had at his property was clearly  
24 shown that it was plants that hadn't been cultivated, but  
25 at some point, at some future time, would have been

Guilty plea

1 cultivated. He always related to me that it would be for  
2 his own personal use.

3 This is an unfortunate situation he's facing because  
4 the cocaine that was involved was something that he had  
5 that he thought he simply could try to supplement from  
6 where he was at so he wouldn't lose his home.

7 It's a very nice home, Your Honor. They had worked  
8 very hard for a number of years to try to have something in  
9 life. Of course the Court is well aware of the economic  
10 climate that we do face.

11 Mr. Chapman as well as his wife, they faced a  
12 reduction obviously in the number of hours worked, and  
13 particularly Mr. Chapman could tell you he was just home  
14 most days facing a reduction in the hours. And of course  
15 being a man he simply wanted to be able to provide for his  
16 wife as well as his very young son.

17 Your Honor, we would ask the Court recognize any other  
18 lumpshires that he's had in terms of any type of history.  
19 He's a very young man, and he had some challenges in terms  
20 of where he was at in life.

21 He's been married for the past two years. He has a  
22 very supportive wife in court. You see a number of people  
23 are assembled here. They care and greatly love him.  
24 They're all members obviously of his family, Your Honor.  
25 And I can tell you from what I've heard from everyone,

Guilty plea

1 previous counsel, everyone that knows him, he is a stand-up  
2 individual, Your Honor.

3 And while this is an unfortunate situation that he  
4 faces, he's come to this courtroom prepared to face what  
5 this Court is prepared to do. And whether it was going to  
6 be a trial or a plea, he's indicated to me on his own free  
7 will and accord that he wants to face these charges. And  
8 that's why he's here pleading before you.

9 Your Honor, the state has issued a recommendation, and  
10 we would ask the Court to at a minimum be inclined to  
11 accept the recommendation. If there's anything that the  
12 Court can consider in terms of fashioning a sentence that  
13 Mr. Chapman would have an opportunity to be reunited with  
14 his family at some point, we would ask the Court to greatly  
15 consider that.

16 THE COURT: All right. Mr. Chapman, do you have  
17 anything you'd like to add to what Mr. Brown has told me?

18 THE DEFENDANT: Yes, sir.

19 First off, I'd like to apologize to this Court, my  
20 family and my wife and everybody that came in to support  
21 me.

22 And I want, Your Honor, just to get this behind me and  
23 stand up to these charges and just get it over with.

24 Like I said, I just hope that the Court would have  
25 mercy on me and that one day maybe I can be back with my

Guilty plea

1 son and maybe even see my son graduate from high school.

2 You know, I have done some things in my life, Your  
3 Honor, and I never ran from them. And I always tried to  
4 stand up, you know, and take it like a man, you know. And  
5 that's what I call myself doing today by not going no  
6 further with this and just go ahead and just get this all  
7 over with and try to, and just get my, get my, try to get.  
8 my life back together, Your Honor.

9 THE COURT: And you understand what the sentence will  
10 be if I go along with the recommendation that you and  
11 Mr. Brown and Mr. McCarty have reached.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: What do you understand that sentence would  
14 be?

15 THE DEFENDANT: I understand that they're recommending  
16 20 years violent, my understanding.

17 THE COURT: And that's what you want me to do?

18 THE DEFENDANT: To be honest with you, Your Honor, no,  
19 that's not what I want you to do, but I -- at the time I  
20 don't want to have to face any more. You know what I'm  
21 saying. I really want to just get back to my family and  
22 get back to my normal life if that's at all possible.

23 THE COURT: Well, I mean, I understand you prefer --

24 THE DEFENDANT: Yes.

25 THE COURT: -- to have the charges dismissed. And

Guilty plea

1 that'd be wonderful for you. But what I'm saying is based  
2 upon the circumstances as you know them to be and what they  
3 are today here --

4 THE DEFENDANT: Yes, sir.

5 THE COURT: -- before this Court do you understand  
6 that the agreement that was reached is a 20-year sentence?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And considering everything that you know  
9 that relates to these cases, as well as your prior criminal  
10 history, you think that's a good outcome.

11 THE DEFENDANT: Yes, sir, due to the circumstances,  
12 yes, sir.

13 THE COURT: And you wish for me to go along with that  
14 recommendation?

15 THE DEFENDANT: Yes, sir, Your Honor, yes, sir, and  
16 no, sir, Your Honor.

17 THE COURT: Well, I mean the choices are this. Either  
18 I go along with the recommendation or you get to have your  
19 jury trial, so that's --

20 THE DEFENDANT: No. I wish for you to go along with  
21 it, Your Honor.

22 THE COURT: Okay. All right. Anything else from  
23 anybody?

24 MR. McCARTY: No, sir, Your Honor.

25 MR. BROWN: No, sir.

Guilty plea

1           THE COURT: All right. On 2010-668, that's the  
2 indictment for trafficking in crack cocaine, Sentence of  
3 the Court is you, Anthony Bernard Chapman, be confined to  
4 the South Carolina Department of Corrections for a period  
5 of 20 years.

6           Indictment 2010-669, an indictment for possession with  
7 intent to distribute powder cocaine, second offense,  
8 Sentence of the Court is you, Anthony Bernard Chapman, be  
9 confined to the South Carolina Department of Corrections  
10 for a period of 20 years. That sentence is concurrent to  
11 any other sentence imposed.

12           Indictment 2010-667, manufacturing marijuana, sentence  
13 is five years. That sentence also is concurrent with any  
14 other sentence imposed.

15           All right. Good luck to you.

16           END OF REQUESTED TRANSCRIPT OF RECORD.

17  
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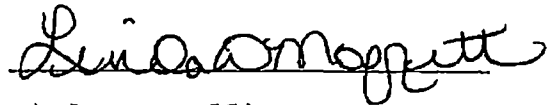
## Certificate

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 5th day of October 2010.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

March 7, 2012



Linda D. Moffitt  
Circuit Court Reporter

Anthony Chapman  
Defendant,

MOTION FOR RECONSIDERATION

V

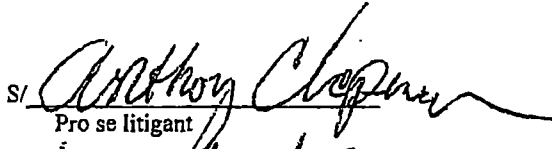
State of South Carolina  
County of Spartanburg,

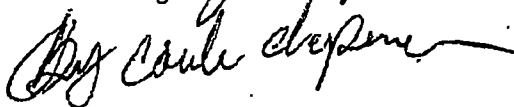
Pursuant to Rule 59 (e) of the S.C.R.C.P. defendant would like to respectfully request that this Honorable Court reconsider it's decision in accepting the defendant's guilty plea based on the following facts:

On Tuesday October 5, 2010, defendant reluctantly plead guilty to the charges of trafficking crack cocaine, possession of cocaine with the intent to distribute, and manufacturing marijuana. The defendant believes this Honorable Court should investigate the malicious prosecutorial misconduct by the Spartanburg County Sheriffs Office in procuring the evidence used against the defendant, arrest, and ultimate guilty plea rendered. No supporting probable cause previously existed to give the arresting officers authorization to utilize an undercover informant that was wired during multiple conversations with the defendant.

The defendant also believes his due process and 14<sup>th</sup> amendment rights were violated in that the evidence used was illegally obtained. The county officers must use county funds to make a "control buy" and this was not done, although the search warrants used against the defendant indicate that county funds were used. The defendant was not afforded the documentary evidence to substantiate the claim that the county used it's own funds, nor is this on file at the Clerk of Court. By this action alone, the defendant believes that the county Magistrate was deliberately mislead in issuing a search warrant for the case.

The defendant believes that this process has been fundamentally compromised from the onset from by the Spartanburg County Sheriffs Office and request that this Honorable Court review and reconsider it's decision in this case.

By   
Pro se litigant



M. HOPE BLACKLEY

2010 OCT 15 AM 10:57

SPARTANBURG COUNTY  
CLERK OF COURT  
FILED

10-669

FILED  
CLERK OF COURT  
STANBURG COUNTY

12-26-2010

Dear M. Hope Blackley,

2011 JAN -4 AM 9:46

I recently <sup>M. HOPE/BLACKLEY</sup> wrote your office requesting the status of my Motion for Reconsideration that I filed in October 2010. Your office replied back stating that I need to confer with my former attorney Micheal Brown. Mr. Brown no longer represents me. I filed that Motion for Reconsideration on a Pro Se basis. So I'm again, for the fourth time, asking for the status of that motion. Your help in this matter would be greatly appreciated.

Thank You + God Bless

Anthony Chapman #251075  
KCI-REE B2-39  
4344 Broad River Rd.  
Columbia, SC 29210

Anthony B. Chapman

## Spartanburg County

Spartanburg County Court House  
180 Magnolia Street  
P. O Box 3483  
Spartanburg, SC 29304-3483



Phone (864) 596-2591  
Fax (864) 596-2239

**M. Hope Blackley**  
Clerk of Court

January 4, 2011

Anthony Chapman #251075  
KCI R&E B2-39  
4344 Broad River Road  
Columbia, SC 29210

Mr. Chapman,

We are in receipt of your letter in reference to the status of your motion. Please note that we only file documents in this office. When filing documents on a Pro Se basis it is your responsibility to file the document (s) with the appropriate offices. Sorry we could not answer your question at this time. If we can be of further assistance to you please let us know.

T. Camp/ Deputy Clerk



State of South Carolina  
The Circuit Court of the Seventh Judicial Circuit

J. Derham Cole  
Judge

Post Office Box 1744  
180 Magnolia Street, 2nd Floor  
Spartanburg, SC 29304-1744  
Phone: (864) 596-2685  
Fax: (864) 596-3592  
jcolej@sccourts.org

January 25, 2011

Anthony B. Chapman #251075  
Kirkland Correctional Institution Reception & Evaluation Center  
B2-39  
4344 Broad River Road  
Columbia, SC 29210

Dear Mr. Chapman:

This office has received your correspondence regarding your motion. Please be advised that this office is not permitted to give legal advice of any kind. For any questions regarding this matter, please contact your attorney. If you do not have an attorney, you may further be eligible for assistance in this matter from the Spartanburg County Public Defender's Office which can be contacted at the address below.

Spartanburg County Public Defender  
258 North Church Street  
Spartanburg, SC 293056

Thank you for your attention in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "EPB", written over the printed name of the Clerk.

Clerk

**SPARTANBURG COUNTY PUBLIC DEFENDER OFFICE**  
**CLAY T. ALLEN**  
**CIRCUIT PUBLIC DEFENDER**

366 NORTH CHURCH STREET, SUITE 3000  
SPARTANBURG SC 29303



TELEPHONE (864) 596-2561  
FAX (864) 596-2284

January 31, 2011

Anthony B. Chapman #251075  
Kirkland Correctional Institute  
B2-39  
4344 Broad River Road  
Columbia, SC 29210

Re: Pending Warrant M115271

Dear Mr. Chapman:

Judge J. Derham Cole's office forwarded a copy of your letter to me concerning appointment of a public defender. I checked with the Spartanburg County Clerk of Court's Office and have discovered that you are represented by Mr. Michael Brown, therefore the Public Defender's Office will be unable to represent you or to discuss the case with you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Judy R. Bogan".

Judy R. Bogan  
Court Coordinator

/jrb



State of South Carolina  
The Circuit Court of the Seventh Judicial Circuit

J. Derham Cole  
Judge

Post Office Box 1744  
180 Magnolia Street, 2nd Floor  
Spartanburg, SC 29304-1744  
Phone: (864) 596-2685  
Fax: (864) 596-3592  
jcolej@sccourts.org

February 23, 2011

Michael D. Brown, Esq.  
The Law Office of Michael D. Brown, PA  
145 N. Church Street, Suite 210  
Spartanburg, SC 29306

Dear Mr. Brown:

We received the enclosed Motion for Reconsideration from Anthony Bernard Chapman, and Eddie Hunter informed me that you represented Mr. Chapman for his plea. Judge Cole wanted me to forward the Motion to your office so that you would be aware of it. Judge Cole does not intend to have Mr. Chapman brought before the Court as Rule 59(e) of the South Carolina Rules of Civil Procedure is not an appropriate rule for a criminal court matter.

If you have any questions or concerns, please contact me.

Sincerely,

*Elizabeth D. Bass*

Elizabeth D. Bass  
Law Clerk

4-25-2011

FILED  
CLERK OF COURT  
2011 APR 29 PM 4:46  
M. HOPE BLACKLEY

M. Hope Blackley  
Clerk of Court, Spartanburg County  
P.O. Box 3483  
Spartanburg, SC 29304-3483

Re: Notice of Intent to Appeal Indictments #  
2010 BS4200667, 2010 BS4200668, and 2010 BS4200669

To whom it may concern:

I pled guilty and was convicted of Trafficking Crack Cocaine 2<sup>nd</sup>, PWID Cocaine 2<sup>nd</sup>, and Manufacturing Marijuana 2<sup>nd</sup> on October 5, 2010 before the Honorable Joseph D. Cole in Spartanburg, SC. I filed a motion under Rule 59e) of the SCRPC on October 15, 2010 with the Spartanburg County Clerk of Court. It is now my intent to appeal my conviction and sentence. Your help in this matter would be greatly appreciated. I am

Anthony Chapman #251075  
KCI-REE FI-101A  
4344 Broad River Road  
Columbia, SC 29210

Sincerely  
Anthony Chapman  
Anthony Chapman  
Appellant

10-667

STATE OF SOUTH CAROLINA ) IN THE COURT OF  
COUNTY OF RICHLAND ) GENERAL SESSIONS

Anthony Bernard Chapman  
v

2010GS4200667

2010GS4200667

2010BS4200668

STATE OF SOUTH CAROLINA ) MOTION FOR PRODUCTION  
COUNTY OF SPARTANBURG ) OF DOCUMENTS  
ET AL

NOW HERE COME THE PRO-SE PETITIONER  
WHO BY AND THROUGH THE SOUTH CAROLINA RULE  
OF CRIM PROCEDURE RULE 5 S.C.R. CRIM. PROC. RULE 5  
HEREBY REQUEST THE FOLLOWING DOCUMENTS BE  
PRODUCE BY THE RESPONDENTS AND BE PROVIDED HIM  
PETITIONER REQUEST THE FOLLOWING

- (1) SEARCH WARRANT FOR HIS PROPERTY
- (2) ARREST WARRANT OR WARRANTS FOR A DRUGS FOR  
NARCOTICS.
- (3) CHAIN OF CUSTODY AND CHEMICAL ANALYSIS  
PERFORMED IN RELATION TO ANY DRUGS OR NARCOTICS  
ALLEGEDLY FOUND ON PETITIONER OR HIS PROPERTY.
- (4) THE NAME OR NAMES OF ANY WITNESS THE STATE  
INTENDS TO CALL OR USE TO ESTABLISH PETITIONER  
PRESENCE AT THE SCENE OF THE CRIME
- (5) THE INDICTMENT OR INDICTMENTS FOUNDED BY  
A LEGALLY QUALIFIED GRAND JURY INCLUDING

2011 APR 29 PM 4:46  
MAHOPE BLACKLEY

THE SCHEDULE THE DATE AND TIME

- (6) ANY WRITTEN OR ORAL STATEMENTS MADE BY A WITNESS OR STATEMENTS THAT IS INTENDED FOR USE AGAINST THE DEFENDANT BY THE PROSECUTION
- (7) THE IMPANELMET DOCUMENTS of the Grand Jury who indicted Petitioner
- (8) Copies of funds, Vouchers for funds, and serial numbers or any funds used to do any controlled drug buy with Petitioner.
- (9) All Audio and Video tapes, Court Orders, Authorization of Approval authorizing these tapes

RESPECTFULLY SUBMITTED

*Anthony Chapman*  
Anthony Chapman

Sworn to And Subscribed before me

this 30th day of March 2011

*[Signature]*  
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires 10/8/2014

2011 APR 29 PM 4:46  
M. HOPE BLACKLEY

10-669

5-28-2011

2011 JUN -3 PM 3:59  
M. HOPE BLACKLEY

Michael Brown Attorney at Law  
145 N. Church St.  
Spartanburg, SC 29306

Re: Complete Copy of Client File

Dear Mr. Brown:

I am writing you in request of a complete copy of my file. I would like to have all indictments, warrants, search and arrest, as well as the motion of discovery involved with my case and pending charge. Your steadfast response to this request will be greatly appreciated. I am,

Anthony Chapman #251075  
L.C.I. / 3A-05  
P.O. Box 205  
Ridgerville, SC 29472

Sincerely  
Anthony Chapman  
Anthony Chapman

cc: Spartanburg County Clerk of Court

5-28-2011

2011 JUN -3 PM 3:59  
M. HOPE BLACKLEY

M. Hope Blackley  
Clerk of Court, Spartanburg County  
P.O. Box 3483  
Spartanburg, SC 29304-3483

Re: Clocked and Stamped Copies

Dear M. Hope Blackley:

I would like to receive a clocked and stamped copy of this correspondence. Your help with this matter will be greatly appreciated. I am,

Anthony Chapman #251075  
L.C.I. / SA-05  
P.O. Box 205  
Ridgeville, SC 29472

Sincerely  
Anthony Chapman  
Anthony Chapman



## The South Carolina Court of Appeals

TANYA A. GEE  
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](http://www.sccourts.org)

September 9, 2011

Anthony Chapman, # 251075  
LCI-CA31  
P.O. Box 205  
Ridgeville, S.C. 29472

Re: The State, v. Chapman, Anthony

Dear Mr. Chapman:

This responds to your letter dated August 24, 2011.

To properly file an appeal you must comply with the Appellate Court Rules, particularly Rule 203 which deals with the Notice of Appeal. The court rules are available on our website, [www.sccourts.org](http://www.sccourts.org). The notice of appeal must be timely served and filed as provided in Rule 203.

Very truly yours,

*V. Claire Allen*  
DEPUTY CLERK

VCA/dw

cc: Chief Appellate Defender Robert M. Dudek  
Assistant Attorney General Salley W. Elliott

MR. ANTHONY B. CHAPMAN #251075  
P.O. BOX 205 /COOPER A-31  
RIDGEVILLE, S.C. 29472

SEPTEMBER 20, 2011

THE LAW OFFICE OF MICHAEL D. BROWN, PA  
145 NORTH CHURCH STREET, SUITE 210  
SPARTANBURG, SOUTH CAROLINA 29306

RE: SPARTANBURG V. ANTHONY BERNARD CHAPMAN IN  
THE COURT OF GENERAL SESSIONS INDICTMENT  
/CASE #2010-GS-42-00667; 2010-GS-42-00668  
AND 2010-GS-42-00669 OCTOBER 5, 2010 AND  
RULE 59(e) SCRCP MOTION, OCTOBER 15, 2010.  
(NOTICE & MOTION FOR BELATED OR OUT-OF-TIME APPEAL)

DEAR MR. BROWN:

I, ANTHONY CHAPMAN, THE UNDERSIGNED, HEREBY KINDLY REQUEST THAT YOU PLEASE FILE WITH THE S.C. COURT OF APPEALS A NOTICE & MOTION FOR BELATED OR OUT-OF-TIME APPEAL IN THE ABOVE CAPTIONED CASE NUMBERS.

I HAVE ENCLOSED SEVERAL DOCUMENTS TO INCLUDE THE ABOVE CAPTIONED RULE 59(e) SCRCP MOTION AND HEREBY DECLARE THAT IT IS CLEAR THAT I HAD NOT INTENDED TO ABANDON MY RIGHT TO A DIRECT APPEAL IN THIS MATTER. THEREIN YOU DULY AND PERSONALLY HAD A DUTY TO ADVISE ME OF MY RIGHT TO DIRECT APPELLATE REVIEW AND ALSO FILE SUCH NOTICE AS REQUIRED BEFORE THE TIME FOR FILING HAD OTHERWISE EXPIRED.

THEREFORE, MR. BROWN, YOU HAVING MADE APPEARANCE AS MY ATTORNEY IN THE ABOVE CAPTIONED AND STILL ACTING AS MY LEGAL ADVOCATE IN THIS CASE, I REQUEST THAT YOU FILE A BELATED APPEAL WITH THE COURT OF APPEALS AND SHOULD FOLLOW WHITE V. STATE, 263 SC 110, 208 S.E.2d 35(1974) CASE WHICH DIRECTLY CONTROLS, LEAVING TO THE COURT OF APPEALS PREROGATIVE, IF THE FOREGOING PRECEDENT OF S.C. SUPREME COURT HAS DIRECT APPLICATION IN THIS CASE, OR WHETHER JURISDICTION WOULD APPEAR TO REST ON SOME OTHER LINE OF REASONING. THIS MOTION FOR THE COURT OF APPEALS TO DECIDE IS FOR "JUDICIAL ECONOMY", RATHER THAN MOVE FOR A DECISION ON MY RIGHT TO APPELLATE REVIEW IN A DIFFERENT VENUE BASED UPON THE SAME PRECEPT OF LAW.

C E R T I F I C A T E O F S E R V I C E

THE UNDERSIGNED HEREBY CERTIFIES THAT A TRUE COPY OF LETTER "NOTICE & MOTION FOR BELATED OR OUT-OF-TIME APPEAL", WAS SERVED UPON MICHAEL D. BROWN, Esq. ATTORNEY FOR APPELLANT BY MAILING A COPY OF THE SAME PROPERLY ADDRESSED VIA FIRST CLASS U.S. MAIL, WITH SUFFICIENT POSTAGE AFFIXED THERETO, THIS 20th DAY OF SEPTEMBER 2011.

c/o: MICHAEL D. BROWN, Esq., 145 NORTH CHURCH STREET, SUITE 210, SPARTANBURG, SOUTH CAROLINA 29306.

S/ Anthony Chapman

MR. ANTHONY B. CHAPMAN #251075  
P.O. BOX 205 / COOPER A-31  
RIDGEVILLE, S.C. 29472

SWORN TO AND SUBSCRIBED BEFORE ME  
ON THIS 20th DAY OF SEPTEMBER 2011.

S/ Sybil Jones  
NOTARY PUBLIC FOR THE STATE OF  
SOUTH CAROLINA, MY COMMISSION  
EXPIRES: 1/20/2018

Dorchester, South Carolina  
September 20th, 2011

\*\*I GREATLY APPRECIATE YOUR PRESENTMENT OF THIS MATTER FOR ADJUDICATION BY THE COURT OF APPEALS.

ATTACHMENTS

- 1). THREE (3) SENTENCING SHEETS. OCTOBER 5, 2010. INDICTMENT/ CASE 2010-GS-42-00667; 2010-GS-42-00668, AND 2010-GS-42-00669.
- 2). PRO SE MOTION FOR RECONSIDERATION. OCTOBER 15, 2010.
- 3). SEVENTH JUDICIAL CIRCUIT Ltr. JANUARY 25, 2011.
- 4). SPARTANBURG PUBLIC DEFENDER OFFICE Ltr. JANUARY 31, 2011.
- 5). SEVENTH JUDICIAL CIRCUIT Ltr. FEBRUARY 23, 2011.
- 6). NOTICE OF INTENT TO APPEAL, APRIL 25, 2011.
- 7). SOUTH CAROLINA COURT OF APPEALS Ltr. SEPTEMBER 9, 2011.

CC: CHIEF JUDGE OF SOUTH CAROLINA COURT OF APPEALS  
ASSISTANT S.C. ATTORNEY GENERAL, MRS. SALLEY W. ELLIOTT  
CHIEF APPELLATE DEFENDER, MR. ROBERT M. DUDEK

RESPECTFULLY SUBMITTED,

s/ Anthony Chapman

Dorchester, South Carolina  
September 20th, 2011

## The South Carolina Court of Appeals

The State,

Respondent,

v.

Anthony Bernard Chapman,

Appellant.

The Honorable J. Derham Cole  
Spartanburg County  
Trial Court Case No. 2010-GS-42-00667,  
2010-GS-42-00669, 2010-GS-42-00668

---

### ORDER of DISMISSAL

---

The appellant in this case was sentenced on appeal on October 15, 2010. The proof of service shows the Notice of Appeal was mailed to counsel for the Respondent on September 20, 2011. Rule 203 (b) (2), SCACR.

Rule 203(b)(2) allows ten (10) days for this service. Further, Rule 263(b) prohibits this Court from extending the time for service of the Notice of Appeal.

The service of the Notice of Appeal was not timely. Under Rule 260(a), this appeal must be and is dismissed.

V. Claire Allen, Deputy, A.J.

Columbia, South Carolina

cc: Assistant Attorney Salley W. Elliott  
Chief Appellate Defender Robert M. Dudek  
Anthony B. Chapman, # 251075

**FILED**

10/21/11

10-28-2011

The Court of Administration  
Rosalyn Frierson, Director  
1015 Sumter Street, Suite 200  
Columbia, SC 29201

RE: Investigating a Court Order Filed  
by Deputy Clerk V. Claire Allen

Dear Ms. Frierson:

I would like for you to investigate this court order filed by Deputy Clerk V. Claire Allen. At this present time I do not have anything before the court. I wrote my attorney Michael Brown asking him to file an Out-of-Time or Belated Appeal on my behalf. Shortly thereafter Ms. Allen mailed me this order. Would you please investigate this matter. I am,

Anthony Chapman 251075  
HC11/CA-31  
P.O. Box 205  
Ridgeville, SC 29472

Sincerely  
Anthony Chapman  
Anthony Chapman

# The South Carolina Court of Appeals

The State,

Respondent,

v.

Anthony Bernard Chapman,

Appellant.

The Honorable J. Derham Cole  
Spartanburg County  
Trial Court Case No. 2010-GS-42-00667

---

## REMITTITUR

---

No Petition for Reinstatement having been filed in the above matter since issuance of this Court's Order dated October 12, 2011,

IT IS SO ORDERED that the above appeal be and hereby is remitted.

JOHN CANNON FEW, CHIEF JUDGE

BY V. Claire Allen, Deputy  
Clerk

Columbia, South Carolina

Original to: The Honorable Hope Blackey  
Assistant Deputy Attorney General Salley W. Elliott  
Chief Appellate Defender Robert M. Dudek  
Anthony B. Chapman, # 251075

**FILED**  
10/28/11

135

FORM 5

2011-CP-42-5457

STATE OF SOUTH CAROLINA

County of Spartanburg

Anthony B. Chapman 251075

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR  
POST-CONVICTION RELIEF

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 the 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 Institution  
LCI/CA-31 P.O. Box 205 Ridgerville, SC 29472
2. Name and location of Court which imposed sentence In The Court of  
General Sessions Spartanburg SC
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) 2010654200667  
(b) 2010654200668

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2011 DEC -8 PM 2:38  
M. HOPE BRADLEY

- (c) 2010G54200669
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) October 5 2010 5 years
- (b) October 5 2010 20 years
- (c) October 5 2010 20 years
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?  
I attempted to appeal by filing motion to challenge voluntariness  
and knowing nature of the plea but never had appealed
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (c) the date of each such result:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Counsel failed to timely file notice of appeal  
and he further explained that I could not  
file an appeal.

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 CLERK OF COURT  
 SPARTANBURG COUNTY  
 2011 DEC - 8 PM 2:38  
 M. HOPE BLACKLEY

- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) 4th Amendment violation; probable cause
- (b) 6th Amendment violation; ineffective counsel;
- (c) Voluntariness of Guilty Plea; Right to trial, 5th, 6th & 14th amendments
- (d) Failure to file appeal
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Unlawful probable cause for search and arrest
- (b) Failure to investigate
- (c) Not fully informed of discovery pertaining to arrest
- (d) Counsel stated no appeal could be filed
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
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. Challenge to conviction and sentence
- ii. And attempted to withdraw my guilty plea
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
- i. Spartanburg County General Sessions Court 7th Cir
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

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CLERK OF COURT  
SPARTANBURG COUNTY  
2011 DEC -8 PM 2:38  
M. HORE BLACKLEY

(c) the disposition thereof:

i. Letter From the Judges Clerk denying the motion

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

(d) the date of each such disposition:

i. February 23, 2011

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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. 4th Amendment probable cause issue

ii. Voluntariness knowingly issue of guilty plea

iii. Ineffectiveness of Counsel

(b) the proceedings in which each ground was raised:

i. General Sessions Court Spartanburg

ii. General Session Court Spartanburg

iii. "

"

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2011 DEC - 8 PM 2:38  
M. HOPE BLACKLEY

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) Counsel's failure to file direct appeal  
 (b) \_\_\_\_\_  
 (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes  
 (b) your trial, if any? N/A  
 (c) your sentencing? yes  
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A  
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
N/A

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. Michael D. Brown  
145 North Church Street, Suite 210  
Spartanburg, SC 29306  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_

(b) the proceedings at which each such attorney represented you:

i. plea and sentencing  
 ii. \_\_\_\_\_  
 iii. \_\_\_\_\_

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 CLERK OF COURT  
 SPARTANBURG COUNTY  
 2011 DEC -8 PM 2:38  
 M. HOPE BLACKLEY

19. State clearly the relief you seek in filing this application:

Withdraw of Guilty plea and proceed to trial  
on all issues.

And direct appeal

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA )

County of Dorchester )

VERIFICATION

I, Anthony B. Chapman, 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.

Anthony Chapman

SWORN to and subscribed before me this 5th  
day of December, 2011.

Sylena Jones (L.S.)  
Notary Public

My Commission Expires:

1/24/2018

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
M. HOPE BLACKLEY  
2011 DEC - 8 PM 2:38

APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

I, Anthony B. Chapman, 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.

Anthony Chapman  
Applicant

SWORN or affirmed to and subscribed before me this  
5th day of December, 2011.

Sylvia Jones  
Notary Public

My Commission Expires: 1/24/2012

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2011 DEC -8 PM 2:38  
M. HOPE BLACKLEY

|                          |   |                           |
|--------------------------|---|---------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON    |
| COUNTY OF GREENVILLE     | ) | SEVENTH JUDICIAL CIRCUIT  |
|                          | ) |                           |
| Anthony Chapman, #251075 | ) | C.A. No.: 2011-CP-42-5457 |
|                          | ) |                           |
| Plaintiff,               | ) |                           |
|                          | ) | MOTION FOR DISCOVERY      |
| vs.                      | ) | (Non-Capital PCR Case)    |
|                          | ) |                           |
| State of South Carolina, | ) |                           |
|                          | ) |                           |
| Defendant.               | ) |                           |

In reply to the Respondent's Motion to Dismiss the Applicant would respectfully show this Court:

I.

That the Applicant's is informed and believes that his claim for post conviction relief requires in that he prove the existence of facts which can be established through the records available and in the possession of the Spartanburg County Sheriff's Office.

II.

That the Applicant's counsel caused a subpoena duces tecum to be issued to the Sheriff for certain records and the Sheriff has refused to provide the requested records.

## III.

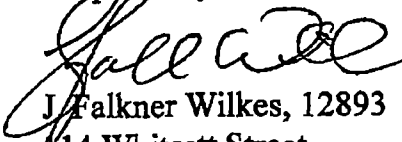
That upon information and belief the State takes the position that a subpoena duces tecum in a PCR case requires an Order of Discovery to be valid.

## IV.

That the Applicant believes that the information requested is necessary to further his case and that he should be entitled to an Order of Discovery or otherwise, an Order to compel the compliance with the Applicant's subpoena duces tecum.

Wherefore, the Applicant moves for an Order of Discovery or an Order requiring that the Applicant's subpoena duces tecum be honored.

Respectfully submitted,



J. Falkner Wilkes, 12893  
414 Whitsett Street  
Greenville, SC 29601  
(864) 282-1292  
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Counsel for Applicant

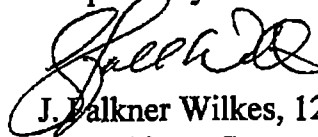
June 4, 2012.

|                          |   |                           |
|--------------------------|---|---------------------------|
| STATE OF SOUTH CAROLINA  | ) | IN THE COURT OF COMMON    |
| COUNTY OF GREENVILLE     | ) | SEVENTH JUDICIAL CIRCUIT  |
|                          | ) |                           |
| Anthony Chapman, #251075 | ) | C.A. No.: 2011-CP-42-5457 |
|                          | ) |                           |
| Plaintiff,               | ) |                           |
|                          | ) | CERTIFICATE OF SERVICE    |
| vs.                      | ) |                           |
|                          | ) |                           |
| State of South Carolina, | ) |                           |
|                          | ) |                           |
| Defendant.               | ) |                           |

I certify that I have served a copy of the Applicant's Motion for discovery  
or an Order to compel on the Respondent by placing a same in the United States  
Mail, first class postage prepaid, addressed to counsel of record as follows:

Suzanne H. White, Assist. Atty. General  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

Respectfully submitted,



J. Balkner Wilkes, 12893  
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(864) 271-6035 facsimile

Counsel for Applicant

June 4, 2012.

|                             |   |                              |
|-----------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA     | ) | IN THE COURT OF COMMON PLEAS |
|                             | ) | IN THE SEVENTH CIRCUIT       |
| COUNTY OF SPARTANBURG       | ) |                              |
|                             | ) | 2011-CP-42-5457              |
| Anthony B. Chapman #251075, | ) |                              |
|                             | ) |                              |
| Applicant,                  | ) |                              |
|                             | ) |                              |
| v.                          | ) | RETURN                       |
|                             | ) |                              |
| State of South Carolina,    | ) |                              |
|                             | ) |                              |
| Respondent.                 | ) |                              |
|                             | ) |                              |

In response to the post-conviction relief application filed on December 8, 2011,<sup>1</sup> the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the January 2010 term of General Sessions for manufacturing marijuana (10-GS-42-0667), trafficking in methamphetamine or crack cocaine (10-GS-42-0668), and possession with intent to distribute (PWID) cocaine (10-GS-42-0669). The Applicant was represented by Michael D. Brown, Esquire. On October 5, 2010, the Applicant pled guilty to the lesser included offense of trafficking in cocaine 28g-100g (10-GS-42-0668), and pled guilty as indicted to the other two charges. The Honorable J. Derham Cole sentenced the Applicant to confinement, for a period of twenty (20) years each for trafficking in cocaine 28g-100g and PWID cocaine, second offense, and five (5) years for manufacturing marijuana, second offense. All sentences to run concurrent.

On October 15, 2010, the Applicant filed a *pro se* Motion for Reconsideration pursuant to

---

<sup>1</sup> Respondent notes that Applicant was granted discovery rights following a motion hearing held on June 12, 2012, before the Honorable Roger. L. Couch.

Rule 59(e) of the South Carolina Rules of Civil Procedure. In a letter dated February 23, 2011, Michael D. Brown, Esquire, was informed of the motion and that Judge Cole did not intend to have the Applicant brought before the Court as Rule 59(e) of the South Carolina Rules of Civil Procedure is not an appropriate rule for a criminal court matter. On April 29, 2011, the Applicant filed a *pro se* document titled "Notice of Intent to Appeal." Respondent has also received a document titled "Notice & Motion for Belated or Out-of-Time Appeal," dated September 20, 2011. The South Carolina Court of Appeals dismissed the Applicant's appeal as not timely by written Order dated October 12, 2011. The Remittitur was issued October 28, 2011.

Attached herewith and incorporated herein are the Spartanburg Clerk of Court records, the South Carolina Department of Corrections' records, and the guilty plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

## II.

In his application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel; in that,
  - a. Counsel failed to investigate,
  - b. Counsel failed to inform the Applicant of discovery pertaining to arrest,
  - c. Counsel stated that no appeal could be filed,
  - d. Counsel failed to challenge the search warrant and arrest, and
2. Involuntary Guilty Plea.

## III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the 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, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance 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. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985). Further, Respondent submits that "[f]ailure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result." Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998).

The 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 the record does not conclusively refute. Accordingly, 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.

The Applicant has alleged that he is entitled to a belated direct appeal pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974). Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (U.S., 2000.) The Respondent submits that the Applicant cannot satisfy the requirements set forth in the Roe test. However, the allegation of counsel's failure to advise the Applicant regarding the possibility of an appeal probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue.

#### V.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474

U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4<sup>th</sup> Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4<sup>th</sup> Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

VI.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

VII.

WHEREFORE, having made its Return, the Respondent asks that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney General

SUZANNE WHITE  
Assistant Attorney General

By:   
Attorneys for the Respondents

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737

September 11 2012

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

) IN THE COURT OF COMMON PLEAS  
) SEVENTH JUDICIAL CIRCUIT

Anthony B. Chapman,

2011-CP-42-5457

Applicant,

v.

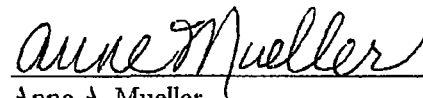
**CERTIFICATE OF SERVICE BY MAIL**

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 Respondent's Return in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

J. Falkner Wilkes, Esquire  
114 Whitsett Street  
Greenville, South Carolina 29601



Anne A. Mueller  
Legal Assistant for the Respondent

DATED this 11<sup>th</sup> day of September, 2012.

1 STATE OF SOUTH CAROLINA )  
2 COUNTY OF SPARTANBURG ) COURT OF COMMON PLEAS  
3 ) 2011 CP 42 5457  
4 ANTHONY B. CHAPMAN )  
5 Applicant )  
6 versus ) TRANSCRIPT OF RECORD  
7 )  
8 STATE OF SOUTH CAROLINA )  
9  
10 Spartanburg, South Carolina  
11 January 21, 2014

12 B E F O R E :

13 HONORABLE ROGER L. COUCH, Judge Presiding  
14

15 A P P E A R A N C E S :

16 For the Applicant: J. FALKNER WILKES, Esq.

17 For the State: SUZANNE H. WHITE, Esq.  
18 Assistant Attorney  
19 General

20 Reporter Present: PAMELA FAUCETTE  
21

22 HARRIET P. BENNETT  
Reporter, S. C. Court Administration  
23 46 Regency Oaks Drive  
Summerville, S. C. 29485  
24  
25

## I N D E X

|    | Direct-Redirect  | Cross-Recross |
|----|------------------|---------------|
| 1  |                  |               |
| 2  |                  |               |
| 3  | Anthony Chapman  |               |
| 4  | By Mr. Wilkes    | 5-35          |
| 5  | By Ms. White     | 23-36         |
| 6  | Michael Hutchins |               |
| 7  | By Mr. Wilkes    | 37-47         |
| 8  | By Ms. White     | 45            |
| 9  | Unknown Witness  |               |
| 10 | By Mr. Wilkes    | 49-50         |
| 11 | By Ms. White     | 49            |
| 12 | MICHAEL BROWN    |               |
| 13 | By Ms. White     | 51-63         |
| 14 | By Mr. Wilkes    | 58-63         |
| 15 |                  |               |
| 16 |                  |               |
| 17 |                  |               |
| 18 |                  |               |
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| 20 |                  |               |
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| 23 |                  |               |
| 24 |                  |               |
| 25 |                  |               |

## EXHIBITS

For the Applicant

|   |                                         |       |
|---|-----------------------------------------|-------|
| 1 | Motion for reconsideration              | EV 7  |
| 2 | Correspondence with Clerk               | EV 8  |
| 3 | Letter to Clerk                         | EV 10 |
| 4 | Notice of Appeal                        | EV 11 |
| 5 | Printout of file                        | EV 12 |
| 6 | Search warrant                          | ID 15 |
| 7 | Applicant's letter to SLED and response | ID 17 |
| 8 | Analysis report                         | EV 39 |

12

13

Court's Exhibits

14

1 Video p. 14

15

16

17

18

19

20

21

22

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24

25

1           (The within matter came before the Court for hearing  
2 on January 21, 2014)

3           THE COURT: This is Anthony B. Chapman versus the  
4 State of South Carolina.

5           Are you ready to proceed?

6           MS. WHITE: Yes, Your Honor.

7           THE COURT: Mr. Wilkes, you represent the Applicant?

8           MR. WILKES: Yes, Your Honor.

9           THE COURT: Do you know the issues you will go forward  
10 on today?

11          MR. WILKES: Yes, I do, Your Honor. There are two  
12 issues. One is the question of whether or not the Defen-  
13 dant is entitled to a belated appeal, and we will intro-  
14 duce some testimony and documents on that issue.

15          There is also an issue as to effective assistance of  
16 counsel, and I will challenge the search warrant and the  
17 advice surrounding the search warrant and decision to  
18 plead guilty versus continuing on and going to trial.

19          THE COURT: Are you ready to go forward?

20          MS. WHITE: Yes, Your Honor.

21          THE COURT: All right, you may call your first witness,  
22 Mr. Wilkes.

23          MR. WILKES: Thank you, Your Honor. We'd call Anthony  
24 Chapman to the stand.

25          THE COURT: Come over to my left to be sworn, please.

1                                   ANTHONY B. CHAPMAN, being  
2       duly sworn, testified as follows:

3           CLERK: All right, have a seat, please, sir, and  
4       state your name.

5           WITNESS: Anthony Bernard Chapman.

6           THE COURT: Thank you. Mr. Wilkes?

7       DIRECT EXAMINATION

8       BY MR. CHAPMAN:

9       Q. Mr. Chapman, who represented you at your guilty plea?

10      A. Michael Brown.

11      Q. And did that originally start out as a jury trial?

12      A. Yes, sir, it did.

13      Q. And tell me about that. How long did Mr. Brown  
14      represent you?

15      A. Almost a year.

16      Q. Where were you during that year?

17      A. . . .

18      Q. In or out of jail?

19      A. Out of jail.

20      Q. About how many times were you able to meet with Mr.  
21      Brown?

22      A. Once.

23      Q. And what time period if you can give me -- relate that  
24      to the trial or the arrest. When in that period did you  
25      see Mr. Brown?

## A. CHAPMAN ON DIRECT

1 A. I saw Mr. Brown the day before trial.

2 Q. And what type of discussions did you have with Mr.  
3 Brown the day before trial?

4 A. We talked about my going to trial.

5 Q. Okay, and what issues did you discuss?

6 A. We discussed the drugs that was sold or allegedly  
7 sold at my residence.

8 Q. Okay, and tell me about the -- tell me about the be-  
9 ginning of the trial the next day or what happened the  
10 next day?

11 A. The next day that was Jackson-Deno motion. We talked  
12 about the statement given because of the investigation.

13 Q. Okay. Subsequent to the Jackson v Deno hearing,  
14 you entered a guilty plea. Correct?

15 A. Correct.

16 Q. What sentence did you receive?

17 A. Twenty years -- actually two twenty year sentences all  
18 to run concurrent.

19 Q. Did Mr. Brown advise you concerning your rights to  
20 appeal?

21 A. No, he didn't.

22 Q. Did you desire an appeal in the case?

23 A. I did.

24 Q. And what action did you take in order to preserve  
25 your right to appeal?

A. CHAPMAN ON DIRECT

1 A. . .

2 Q. What was the first thing you did?

3 A. At the time I filed a motion after I pled, a motion  
4 to reconsider my guilty plea. I was actually trying to  
5 withdraw my guilty plea.

6 Q. All right. You made a post-trial motion within ten  
7 days of the plea? Is that what you're saying?

8 A. Yes. I'll show you something.

9 Q. Let's mark this.

10 MS. WHITE: No objection.

11 THE COURT: All right. Without objection, Applicant's  
12 Number 1.

13 (Applicant's Exhibit 1 entered in evidence without  
14 objection, being Applicant's motion for reconsideration)

15 BY MR. WILKES:

16 Q. Mr. Chapman, I show you what's marked as Applicant's  
17 Exhibit 1. Tell us what that is?

18 A. Well, it's my motion for reconsideration.

19 Q. And what is the date that motion was clocked in by  
20 the Clerk of Court?

21 A. October the 15th.

22 Q. And do you recall how many days prior to that you ac-  
23 tually sent it in to the Clerk?

24 A. No, I don't recall the exact date. It was days be-  
25 fore that actually.

A. CHAPMAN ON DIRECT

1 Q. Was the date of October 5th correct on the guilty plea?

2 A. That's right.

3 Q. So your motion was actually received and clocked in  
4 within ten days of the case being heard by the Court?

5 A. Yes, it was.

6 Q. All right. Now, what happened after that?

7 A. . .

8 Q. Did you make several -- did you make several requests  
9 of the Court to try to get information on the status of  
10 that?

11 A. You mean of my motion?

12 Q. Yes, of the status of that?

13 A. Yes, I did.

14 Q. You requested an update on the status of your case?

15 A. Yes, I did. Yes, sir.

16 Q. Let me ask you a question to sum it up.

17 A. Yes, sir.

18 Q. Let's mark this.

19 THE COURT: Any objection?

20 MS. WHITE: No objection.

21 THE COURT: Admitted without objection as Applicant's  
22 2, being correspondence of Applicant with Court Clerk.

23 (Applicant's 2 admitted in evidence without objection,  
24 being Applicant's letter to Clerk)

25 BY MR. WILKES:

A. CHAPMAN ON DIRECT

1 BY MR. WILKES:

2 Q. Mr. Chapman, I show you what has been marked as Ap-  
3 plicant's Exhibit 2. Does this show a letter from you on  
4 January the 4th to the Clerk of Court?

5 A. Yes.

6 Q. And in that letter did you inquire as to the status  
7 of your motion, your post-trial motion?

8 A. Yes.

9 Q. And is there also attached a copy of the Clerk's re-  
10 sponse dated January 4th to you?

11 A. It is. Yes, sir.

12 Q. And did the Clerk of Court give you an actual status  
13 of your motion?

14 A. No.

15 Q. Did the Clerk tell you that they can't tell you what  
16 the status is?

17 A. Actually that's what they said.

18 Q. Okay, so you did not get an answer, and does your  
19 letter not say, I have asked at least four times to get  
20 the status of my motion?

21 Isn't that what you said in your letter?

22 A. It is.

23 Q. And they responded by saying, we can't tell you what  
24 the status is?

25 9

## A. CHAPMAN ON DIRECT

1 A. Correct.

2 Q. Okay. Now, did you ever -- did you ever get a no-  
3 tice or any information that the Court had actually ruled  
4 on your post-trial motion?

5 A. No, I didn't.

6 Q. All right, and at some point you sent the Clerk a  
7 letter saying you wanted to appeal months later. Why did  
8 you do that?

9 A. Because I never received any notice or return from my  
10 attorney or from the Court or anyone.

11 Q. Did you again file a notice of appeal later on?

12 A. I did.

13 Q. Do you recall when that was?

14 A. Not right offhand.

15 THE COURT: Any objection?

16 MS. WHITE: No objection, Your Honor.

17 THE COURT: Without objection, that's Number 3. It  
18 will be admitted.

19 (Letter to Clerk admitted without objection as Ap-  
20 plicant's Exhibit 3 in evidence)

21 BY MR. WILKES:

22 Q. I show you what's been marked as Number 3, a letter  
23 dated 4 25 2011. Were you again asking the Clerk about  
24 the status of your motion?

25 A. I was.

## A. CHAPMAN ON DIRECT

1 Q. And at that time were you getting any response from  
2 the Clerk as to the status of your motion?

3 A. No.

4 Q. Did you subsequently file a notice of appeal with the  
5 Court of Appeals?

6 A. I did.

7 MR. WILKES: We would offer this.

8 MS. WHITE: No objection, Your Honor.

9 THE COURT: It will be admitted as Number 4 for Ap-  
10 plicant.

11 (Notice of appeal admitted without objection as  
12 Applicant's Exhibit 4)

13 BY MR. WILKES:

14 Q. If you will look at what is marked Applicant's Ex-  
15 hibit Number 4, are these the documents from the Court of  
16 Appeals that you received?

17 A. Yes, sir.

18 Q. This is it?

19 A. Yes, sir.

20 Q. Now, does it indicate that your appeal was dismissed  
21 because it was filed more than ten months after the date  
22 of the conviction?

23 A. It does.

24 Q. And did you see that the Court of Appeals was telling  
25 you they were dismissing your case because you filed it

A. CHAPMAN ON DIRECT

1 ten months later?

2 A. Yes, sir.

3 Q. At any time even to the date that you received that,  
4 did you ever receive a ruling or notice of any kind of  
5 ruling on your post-trial motion?

6 A. No, sir, I didn't.

7 Q. And did anybody inform the Court of Appeals that you  
8 were still waiting on that ruling?

9 A. No.

10 MR. WILKES: Your Honor, we would offer the appli-  
11 cant's file which is a printout from the Judicial Circuit  
12 of Spartanburg County for Mr. Chapman's case.

13 MS. WHITE: No objection.

14 THE COURT: Without objection, this will be received  
15 as Applicant's Number 5.

16 (Printout of Applicant's case entered in evidence  
17 without objection as Applicant's Exhibit 5)

18 BY MR. WILKES:

19 Q. Mr. Chapman, in this case, as far as you know, has  
20 there ever been a ruling on your post-trial motion?

21 A. No.

22 Q. Moving back to the search warrant. At the time of  
23 the trial, there was a suppression hearing. Correct?

24 A. Correct.

25 Q. And tell me what happened at the suppression hearing.

A. CHAPMAN ON DIRECT

1 What was the problem with the suppression hearing?

2 A. Can you . . .

3 Q. Let me back up. I'm sorry. Do you believe Mr. Brown  
4 was effective in challenging the search warrant?

5 A. No, I don't believe he was.

6 Q. Well, tell me why.

7 A. Well, I'll try. He never made the Court aware of  
8 a material falsehood in the affidavit or to what occurred  
9 in the search warrant.

10 Q. What was the false statement in the affidavit?

11 A. That a confidential reliable informant of the County  
12 Sheriff's Department purchased a quantity of marijuana at  
13 my residence.

14 Q. Okay. Now, how would Mr. Brown have shown that to  
15 be false?

16 A. By, one, asking for the chain of custody for the evi-  
17 dence, and challenging the video.

18 Q. Okay. Now, did he question the officers about the  
19 truthfulness of the statements or the referencing always  
20 of the video? Always referencing the video?

21 A. Correct.

22 Q. Was the video introduced or shown to the Judge in  
23 the hearing, the suppression hearing?

24 A. No, it wasn't.

25 Q. Okay, and do you think it would have made a difference

A. CHAPMAN ON DIRECT

1 had the Judge seen the video?

2 A. Yes, I do think it would have made a difference.

3 Q. And seeing the video would have made it apparent that  
4 the allegations in the search warrant -- it would have made  
5 it apparent that they were either untruthful essentially,  
6 or at least with reckless disregard?

7 A. Yes.

8 MR. WILKES: Your Honor, we would ask the Court to  
9 admit in evidence the video and view the video as our  
10 Exhibit -- the next number.

11 If the State would make us a copy -- we would ask  
12 to be allowed to obtain a copy.

13 THE COURT: Any objection?

14 MS. WHITE: Your Honor, I think with the stipulation  
15 that the Applicant did not receive a copy of it, I think  
16 there is no objection to it as a Court's Exhibit.

17 THE COURT: All right. We will allow it into evi-  
18 dence with that stipulation as a Court's Exhibit.

19 (Video admitted in evidence with stipulation and  
20 without objection as Court's Exhibit 1)

21 BY MR. WILKES:

22 Q. Now, explain to me in the video -- have you seen a  
23 copy of the video although you did not receive it?

24 A. Yes.

25 Q. And do you believe that in watching that video, it

A. CHAPMAN ON DIRECT

1 will be clear that the allegations of the search warrant  
2 are not true?

3 A. I do.

4 Q. And do you believe the Judge seeing that video would  
5 make it appear that the underlying allegations of the  
6 search warrant are not true?

7 A. Yes.

8 Q. I hand you what we have marked as Applicant's Exhibit  
9 Number 6. Can you identify that?

10 A. Yes, sir.

11 Q. Is that the search warrant that Mr. Brown was chal-  
12 lenging in the suppression motion?

13 A. Yes, it is the search warrant.

14 Q. And is there an affidavit also attached to that?

15 A. Yes.

16 Q. The affidavit for the search warrant is a part of  
17 that as well?

18 A. Yes, it is.

19 Q. And in that affidavit are facts which you believe to  
20 be untrue?

21 A. Yes.

22 Q. What are those facts?

23 A. . .

24 Q. Read it.

25 A. That on 6 18 09 the CI, a resident of Spartanburg

## A. CHAPMAN ON DIRECT

1 County, for the Sheriff's Office purchased a quantity of  
2 marijuana from Anthony Chapman at the premises (Applicant  
3 reading rapidly from search warrant, marked Applicant's  
4 Exhibit 6, a part of which was inaudible).

5 Q. Now, you mentioned also that you believe that the  
6 drug analysis and chain of custody documents would have  
7 given Mr. Brown the ability to suppress evidence. Is that  
8 correct?

9 A. Correct.

10 Q. Did you attempt to discover whether or not there was  
11 a drug analysis in the case?

12 A. . .

13 Q. Did you ever see the drug analysis and the chain of  
14 custody documents?

15 A. No.

16 Q. I show you what's marked for identification as Ap-  
17 plicant's Number 7. Can you identify what that is?

18 A. It's a letter from SLED, the South Carolina Law En-  
19 forcement Division, in reply to my letter that I wrote to  
20 them.

21 Q. When did you write to SLED; and what did you ask?

22 A. I asked them for the chain of custody and the drug  
23 analysis or any other material alleged to have been taken  
24 from my residence.

25 Q. And did you get a response?

A. CHAPMAN ON DIRECT

1 A. Would you say that again?

2 Q. Did they respond to you?

3 A. They did.

4 Q. And is that their response?

5 A. Yes, it is.

6 Q. Did they indicate whether SLED had done any testing?

7 A. Yes, it said they did some tests.

8 Q. And what else did they say?

9 A. . .

10 Q. They referred you back to the County, is that cor-  
11 rect?

12 A. Yes, they did. They told me to contact the Spartan-  
13 burg County Sheriff's Office for any information they  
14 may have concerning the matter.

15 MR. WILKES: Your Honor, we'd offer that as Number 7.

16 MS. WHITE: Without objection, Your Honor.

17 THE COURT: Without objection, it is admitted as  
18 Applicants 7.

19 (Letter of Applicant to SLED and response entered in  
20 evidence without objection as Applicant's Exhibit 7)

21 BY MR. WILKES:

22 Q. Mr. Chapman, did you discuss with Mr. Brown any of  
23 your theories as far as the suppression of the search war-  
24 rant?

25 A. Yes.

## A. CHAPMAN ON DIRECT

1 Q. What theories did you consider as a basis for the  
2 -- on the search warrant that you wanted Mr. Brown to  
3 use to suppress?

4 A. The fact that no drugs had ever been sold at my resi-  
5 dence.

6 Q. Now, since that time you have expressed a desire to  
7 argue the legality of the search. Correct?

8 A. Correct.

9 Q. Based on the taping of the transaction by the person  
10 who entered your residence. Correct?

11 A. Correct.

12 Q. Tell me what happened. Explain more about what hap-  
13 pened for this person to come into your house and conduct  
14 a search?

15 A. . .

16 Q. How did that happen?

17 A. Well, from the time the CI enter my garage, they con-  
18 ducted a search.

19 Q. Well, why do you say that?

20 A. Because he was moving about my garage without me in  
21 the residence.

22 Q. Well, how do you know that if you weren't present?

23 A. From the video.

24 Q. So from the video the CI had begun the search in your  
25 garage before you had contact with him?

## A. CHAPMAN ON DIRECT

1 A. Correct.

2 Q. What happened after that?

3 A. Uh, he ring the bell, knock on the door, but I already  
4 gone at the time, and I had leave and I took my son into  
5 town, and he went to the kitchen, to the living room and  
6 back to the kitchen.

7 Q. Now, how do you know that?

8 A. From the video.

9 Q. Was that something that you had consented to?

10 A. No, it was not.

11 Q. Was that something that you had explicitly consented  
12 to?

13 A. No, I did not.

14 Q. And it is clear on the video that he is doing that?

15 A. It is clear on the video.

16 Q. And all of that occurred prior to any contact with  
17 you?

18 A. Yes. The video will also show he went back into the  
19 garage while we were gone..

20 Q. And what was he doing?

21 A. He was looking around the garage.

22 Q. And is that the evidence on the video?

23 A. Yes.

24 Q. Okay. Did you at any time consent to him doing any  
25 kind of surveillance on you or making the video when he

A. CHAPMAN ON DIRECT

1     came inside your residence?

2     A.    No, I did not.

3     Q.    Did he indicate that you were being videotaped at any  
4     time?

5     A.    No, he didn't.

6     Q.    Would you have let him in had you known that?

7     A.    Absolutely not.

8     Q.    Now, you chose on the record it appears to enter a  
9     guilty plea after the Court denied the suppression motion.

10    Correct?

11    A.    Correct.

12    Q.    Why did you do that?

13    A.    My attorney advised me to, being that the Judge was  
14    going to allow the search to come in. He said I didn't  
15    have a chance after that at trial.

16    Q.    Did he explain to you that any challenge to the  
17    search warrant you could maintain through an appeal?

18    A.    No, he did not.

19    Q.    Okay. Had he challenged the search warrant in the  
20    manner in which he really should have, he would have then  
21    brought out all that the Court has just heard you say,  
22    and you say he should have done that?

23    A.    Yes.

24    Q.    If he had done that, and you believe the record was  
25    clear, would you have chosen to plead guilty?

A. CHAPMAN ON DIRECT

1 A. No, I wouldn't.

2 Q. Even if the Judge had ruled against you, would you  
3 still have pled guilty?

4 A. No, I wouldn't if my attorney had been competent and  
5 if he hadn't told me I didn't have a chance if I went to  
6 trial by jury so that I wouldn't want a trial. I would  
7 have had a trial.

8 Q. Very good. Now, there have been a number of in-  
9 stances that you have raised as grounds for appeal. Now,  
10 to be clear, are there other instances that you believe  
11 Mr. Brown's representation was below par or ineffective  
12 and which affected your rights?

13 A. Yes, they are.

14 Q. Tell me what they are?

15 A. You have pretty much covered it or a lot of them. I  
16 just feel like I was rushed and I feel like I was taken  
17 advantage of so that I would plead guilty, and even if  
18 he had represented my interests better at a trial . . .

19 MS. WHITE: I think he's reading from a document that  
20 was not entered into evidence, and I would object to it.

21 THE COURT: He can use notes to refresh his memory.  
22 However, he has to testify to the best of his memory when  
23 it is refreshed.

24 MR. WILKES: Thank you, Your Honor.

25 THE COURT: But the law does not allow a witness to

A. CHAPMAN ON DIRECT

1 read from a document not in evidence.

2 BY MR. WILKES:

3 Q. Mr. Chapman, do you feel you received ineffective  
4 assistance of counsel?

5 A. Yes, I do.

6 Q. And other than those facts that we have brought out,  
7 are there any other facts or specific instances that you  
8 can identify that we have not covered?

9 A. The matter of -- after the plea hearing, you know, I  
10 asked Mr. Brown to appeal. I said there were some things  
11 that should have been did.

12 Q. At the plea hearing or before?

13 A. After the plea hearing.

14 Q. Okay.

15 A. I asked him after the plea hearing, and he said he  
16 was going to take care of it.

17 Q. Okay, but after the plea hearing you told him what  
18 now?

19 A. I told him there were things I feel like should have  
20 been did or said that wasn't said.

21 Q. Okay.

22 A. And that there were things that didn't go in the re-  
23 cord?

24 Q. What things should have been brought up?

25 A. That the statement -- the things in the statement

22

A. CHAPMAN ON DIRECT

1 they never happened.

2 Q. And you just testified a minute ago that the video  
3 would have made that very clear?

4 A. Correct.

5 Q. Okay. Very good.

6 MR. WILKES: Your Honor, that's all we have for Mr.  
7 Chapman.

8 THE COURT: You may cross examine.

9 MS. WHITE: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MS. WHITE:

12 Q. Mr. Chapman, you testified that you only met with  
13 Mr. Brown the day before trial in the entire year before  
14 your trial?

15 A. Correct.

16 Q. How did he have any discussion with you about the  
17 facts in the case as you indicate you had only met with  
18 him the day prior?

19 A. Would you repeat?

20 Q. You indicated at your guilty plea that you  
21 had had plenty of time to talk with him and go over with  
22 him all the facts and circumstances of the case.

23 How were you able to do that if you only met with  
24 him one time on the day before the plea?

25 A. Because I only talked with him the day before my

## A. CHAPMAN ON CROSS

1 trial. It didn't take that long to talk to him on the day  
2 before my trial.

3 Q. And that is what I'm asking you. How did you have  
4 time to discuss with him and go over all the facts and  
5 information about the case if you only met with him be-  
6 fore the guilty plea?

7 A. I'm not understanding your question, counselor.

8 Q. Okay.

9 A. He contacted me the day before my trial and I meet  
10 with him. That's the only time we ever discuss anything  
11 about my trial.

12 Q. How did you retain his services?

13 A. Through a friend of mine.

14 Q. Okay. So did you go and meet with him when you re-  
15 tained him?

16 A. I did.

17 Q. You did go and retain him?

18 A. Yes.

19 Q. So you actually did meet with him more than once?

20 A. Yes, I met with him once to talk about my case. I  
21 meet with him and that was it after I hire him.

22 Q. You met with him at least twice?

23 A. . .

24 Q. The day you hired him and the day before trial?

25 A. Right.

## A. CHAPMAN ON CROSS

1 Q. So your testimony was not accurate?

2 A. The question was how many times I discuss my case  
3 with him, and that was once. That as the day before my  
4 trial.

5 If you want to say I met with him when I hire him,  
6 then I met with him twice.

7 Q. And you did tell him what you were hiring him for,  
8 is that right?

9 A. Yes, a little bit of it.

10 Q. Okay, and you actually testified at the pre-trial  
11 hearing. Is that right?

12 A. Right, I did.

13 Q. Okay, and the State also called two narcotics agents,  
14 is that right?

15 A. Called who?

16 Q. The State called as witnesses two of the agents that  
17 were involved in narcotics?

18 A. They did.

19 Q. Okay, and they went over the search warrant about a  
20 purchase that was made by a confidential reliable inform-  
21 ant at the scene?

22 A. . .

23 Q. They went over the observation that the CI made of  
24 marijuana at your home, and then the search warrant was  
25 served on August third, is that right?

## A. CHAPMAN ON CROSS

1 A. You know, I didn't know any of that until I found  
2 out the false statements that was made.

3 Q. I asked you if the Court went over -- if they reviewed  
4 the CI buy on June 18th?

5 Did they talk about that in the testimony at the pre-  
6 trial hearing?

7 A. They did.

8 Q. And they talked about what they had done, and the fact  
9 that the CI had been back to your home on July 28th and  
10 observed marijuana?

11 A. Did they talk about it?

12 Q. Yes.

13 A. Yes, they did.

14 Q. Okay, and did they also discuss the fact that the  
15 search warrant was issued after that observation, and  
16 then the arrest warrant was issued and signed that day on  
17 August third?

18 A. They did talk about it, and they also said that --  
19 they testified it was in conjunction with that but what I  
20 am saying is that it was not true.

21 They say they already knew about that and I was not  
22 being tried for that. My attorney should have shown the  
23 fact that they was in my house before they obtain that  
24 search warrant.

25 Q. Did you see the video of July 28th, the observation

## A. CHAPMAN ON CROSS

1 of marijuana?

2 A. (Inaudible)

3 Q. You said that there was a video of the three days be-  
4 fore the search warrant?

5 A. I said there's no proof of that. There is no proof  
6 of that.

7 Q. You are saying there is an illegal video? Are you  
8 saying it's an illegal video?

9 A. I am.

10 Q. You are not discussing the video of the buy of June  
11 18th?

12 A. That's the illegal video I'm talking about.

13 Q. That's the video you're talking about?

14 A. Right.

15 Q. Okay, and to clarify, are you aware of the video of  
16 July 28th of 2009 where they reference the CI was at your  
17 house a second time and saw marijuana growing?

18 A. No, maam.

19 Q. All right. That's what I'm trying to get clear on.

20 During the pre-trial hearing the Judge even asked you  
21 if you had reviewed the search warrant and the affidavit,  
22 didn't he?

23 A. Did he . . .

24 Q. Did the Judge in the pre-trial hearing review the af-  
25 fidavit and ask you questions about it himself?

## A. CHAPMAN ON CROSS

1 A. He did.

2 Q. And your attorney cross-examined the police officers,  
3 didn't he?

4 A. He did.

5 Q. And he also asked them about the recording that was  
6 used in order to get the CI buy. Is that right?

7 A. He did.

8 Q. You also said at the start of the pre-trial suppres-  
9 sion hearing that you were alleging it was an improper  
10 warrant based on the fact that there was false information  
11 given and the affidavit was not proper. Is that right?

12 A. Yes. That was part of it.

13 Q. Okay, and ultimately the Judge decided that the search  
14 warrant was proper and that he was not going to suppress  
15 it in the trial of the case. Is that right?

16 A. Yes.

17 Q. And he decided the statement you gave was given by you  
18 voluntarily. Is that right?

19 A. He decided -- repeat that.

20 Q. The Judge ruled that your statement given to the po-  
21 lice was given freely and voluntarily?

22 A. Yes, he did.

23 Q. Now, when you proceeded with the plea, the Judge went  
24 over with you a lot of information. Do you recall your  
25 guilty plea?

## A. CHAPMAN ON CROSS

- 1 A. Uh huh. Some of it.
- 2 Q. And did you acknowledge that this had been a third of-
- 3 fense on each of these charges, but they reduced it down
- 4 to second offenses if you decided to plead?
- 5 A. Yes.
- 6 Q. Okay, and so you were facing a minimum of twenty-five
- 7 on these charges?
- 8 A. Correct.
- 9 Q. And the Judge asked you if you had had plenty of time
- 10 to talk to Mr. Brown?
- 11 A. He did.
- 12 Q. And when he was talking to you about pleading guilty,
- 13 he asked if your attorney had explained to you your consti-
- 14 tutional rights, and you told the Judge he had?
- 15 A. Yes. He explained the right to testify and that I
- 16 could have a trial, but I am explaining that with the
- 17 search warrant being allowed that I was -- that if I had
- 18 gone to trial it was a high probability that I would be
- 19 found guilty.
- 20 Q. But did you not try to suppress the drugs prior to
- 21 trial and that did not work?
- 22 A. I did, and he explained to me about my rights, and
- 23 in the Jackson v Deno, so it was all going to be heard
- 24 in my trial.
- 25 Q. In your conversations with him in preparing for the
- 29

## A. CHAPMAN ON CROSS

1 pre-trial suppression motion, you all talked about the fact  
2 that the main thing was that the search was not valid?

3 A. He told me he was going to Jackson-Deno, and that was  
4 what he did.

5 Q. But you were present when he argued about the valid-  
6 ity of the search warrant. Right?

7 A. I was there when he argued some about the search war-  
8 rant but he never made it clear about the false details  
9 in the search warrant.

10 Q. You are telling us -- your testimony . . .

11 A. He never made that clear to them about the false  
12 statements, and he never bring up anything about the chain  
13 of custody. He never asked the video to be played.

14 If he had . .

15 Q. Mr. Chapman, is it your testimony here today that you  
16 weren't aware of the fact that you all were attacking the  
17 search warrant before you went in there that day?

18 A. My testimony is that he never went into any details  
19 about how my rights were violated. If you're asking . .

20 Q. That's not what I'm asking.

21 A. That's what I'm saying is that . .

22 Q. Let me ask you again. Did you talk with him about  
23 the fact that you wanted to attack the validity of the  
24 search warrant on the day you started to trial?

25 A. I asked him about it, sure, and he said he was going

## A. CHAPMAN ON CROSS

1 to do that anyway. I asked him about the drugs and he  
2 said he was going to handle that. That's what he told  
3 me.

4 Q. Okay. So your answer is, no, that you never dis-  
5 cussed attacking the search warrant?

6 A. He never discussed that with me.

7 Q. So that was all that you knew when you showed up for  
8 the trial?

9 A. What you mean? Say what you mean.

10 Q. You all had not discussed the attacking of the search  
11 warrant?

12 A. We hadn't discussed the rights violation. We had  
13 discussed the material false statements, but we hadn't  
14 discussed anything like that. If we had I would have in-  
15 sisted on going to trial.

16 Q. I'm going to move on. When the Judge asked you if  
17 you knew of any defense you had to the charges in the In-  
18 dictment or any reason why you should not be found guilty,  
19 you said, no, sir. Is that correct?

20 A. It is.

21 Q. And when the Judge went over with you whether or not  
22 Mr. Brown explained to you all your constitutional rights,  
23 the right to jury trial, the right to any defenses, the  
24 right to actually attack the sufficiency of the evidence,  
25 you said he had. Is that right?

## A. CHAPMAN ON CROSS

1 A. Can you repeat that again?

2 Q. Did Mr. Brown -- the Judge asked you if Mr. Brown  
3 had reviewed with you your constitutional rights, your  
4 right to a jury trial, and he goes page by page in your  
5 transcript -- the right to appeal.

6 The Judge told you about that, is that right?

7 A. Like I said, I was read a bunch of rights.

8 MS. WHITE: May I approach, Your Honor?

9 THE COURT: You may.

10 BY MS. WHITE:

11 Q. I'm going to show you page 92 of your transcript and  
12 if you would just follow along with me.

13 This is by the Court, and it says, if you were con-  
14 victed you would have a right to appeal the verdict of the  
15 jury and any sentence given by the Court, (Reading rapidly  
16 from transcript) -- whether the Court made a mistake in  
17 allowing the statement into evidence or whether or not it  
18 made a mistake in allowing the drugs into evidence or the  
19 results of the search.

20 Do you recall that?

21 A. Yes.

22 Q. Okay, and do you recall him telling you also when you  
23 plead guilty you give up the right to attack any decisions  
24 the Judge has made; that you waive your right to contest  
25 any illegal search and seizure?

## A. CHAPMAN ON CROSS

1 A. Correct.

2 Q. Okay, and then it told you that it is your choice whe-  
3 ther you go to trial or plead guilty. Do you recall that?

4 A. Yes.

5 Q. Okay. Do you recall him saying, do you understand you  
6 are giving up those rights, and you said, yes, sir, that's  
7 what I want to do?

8 A. That was on the advice of my attorney, that I had  
9 to plead guilty. At this point I had to rely on his judg-  
10 ment.

11 I knew that there was a material false statement in  
12 that search warrant or in the affidavit, and had I known  
13 all of these things I would have gone to trial.

14 Q. Then the Judge asked you if you wanted a trial or if  
15 you wanted to plead guilty, and that was a decision you had  
16 to make, and you told the Court you wanted to plead.

17 Is that correct?

18 A. I did.

19 Q. When the Judge asked you if you had made this decis-  
20 ion on your own and nobody had suggested to you to plead  
21 guilty or threatened you or promised you anything, and you  
22 said no, sir. Is that correct?

23 A. That is not my decision.

24 Q. When the Judge asked you if anyone had suggested to  
25 you that this was the decision you ought to make, you said,

A. CHAPMAN ON CROSS

1 no, sir. Was that your testimony that day?

2 A. Yes.

3 Q. Okay, and had anybody promised you anything or threat-  
4 ened you. You said, no, sir?

5 A. Yes.

6 Q. Is that right?

7 A. Without knowing . .

8 Q. No, that's not what I asked you.

9 A. I had . .

10 (Counsel and the witness speaking at the same time)

11 BY MS. WHITE:

12 Q. I'm asking you right now did you say that no one had  
13 threatened you or promised you anything or put any pres-  
14 sure on you to plead guilty?

15 A. Did I say no one had threatened me?

16 Q. Did you also say you were guilty of these two crimes?

17 A. Correct.

18 Q. And that you were pleading guilty understanding  
19 the recommendation of twenty years concurrent on these  
20 charges?

21 A. I did.

22 Q. Okay, and was there anything else you thought you  
23 were going to get or if you had any other issues, and you  
24 said no. Right?

25 A. Correct.

## A. CHAPMAN ON CROSS

1 Q. And now you believe after all of that, you now say  
2 you should have been able to attack the search warrant  
3 more. Is that right?

4 A. It should have been attacked for me more.

5 Q. All right. So you did plead guilty and told the  
6 Judge you were doing it freely and voluntarily. Is that  
7 right?

8 A. I did that after my lawyer telling me to plead and he  
9 said I had no choice.

10 Q. No, I'm asking you if you told the Court you were  
11 pleading guilty freely and voluntarily?

12 A. Yes, and that was after I was advised it was my right  
13 to go to trial. I was advised to give up my right and go  
14 to trial.

15 Q. And did you tell the Court you wanted to go on with  
16 the plea?

17 A. That's what I told the Court.

18 Q. Okay.

19 A. I knew -- I didn't know that my rights had been vio-  
20 lated like they were. I didn't know any of that.

21 Q. Thank you, Mr. Chapman. That's all I have.

22 MR. WILKES: Just a few things, Your Honor.

23 THE COURT: Yes, sir.

24 REDIRECT EXAMINATION

25 BY MR. WILKES:

MR. CHAPMAN ON REDIRECT

1 Q. Mr. Chapman, were you asked if you believed your  
2 defense lawyer had properly defended you in the suppression  
3 motion?

4 A. No.

5 Q. And when you gave the answers, were you taking into  
6 consideration that the Court had already ruled on the  
7 issue of the search warrant?

8 A. I did.

9 Q. And if the Court had given you at that time the opportunity  
10 to re-visit the suppression issue, would you  
11 have?

12 A. Would I have . .

13 Q. Would you have said something about the suppression  
14 issues before you pled guilty?

15 A. Yes, I would have.

16 Q. Were you allowed to do that?

17 A. No, I wasn't.

18 Q. All right.. No further questions.

19 MS. WHITE: Just in follow-up.

20 RECROSS EXAMINATION

21 BY MS. WHITE:

22 Q. You did have a chance to speak on the suppression  
23 issue at the pre-trial hearing, isn't that right?

24 A. Say again?

25 Q. You did have a chance to speak with the Judge about

## A. CHAPMAN ON RECROSS

1 the suppression issues because you testified at the sup-  
2 pression hearing, is that right?

3 A. Right.

4 Q. Okay. Nothing further.

5 THE COURT: You may step down.

6 (Witness excused from stand)

7 THE COURT: You may call your next witness.

8 MR. WILKES: Thank you, Your Honor. We would call Mr.  
9 Hutchins.

10 THE COURT: Come forward and be sworn, sir.

11 MICHAEL HUTCHINS, being duly  
12 sworn, testified as follows:

13 CLERK: Have a seat, please, and when you are seated,  
14 sir, state your name for the record.

15 WITNESS: Michael Hutchins.

16 DIRECT EXAMINATION

17 BY MR. WILKES:

18 Q. Where do you work, Mr. Hutchins?

19 A. Spartanburg County Sheriff's Office.

20 Q. In what capacity?

21 A. Right now I'm a Sergeant -- one of two Sergeants who  
22 were assigned to the violent crimes unit. At the time of  
23 this hearing I was a senior investigator in the narcotics  
24 unit.

25 Q. Okay, and are you familiar with Mr. Chapman's case?

M. HUTCHINS ON DIRECT

1 A. Yes, sir, I am.

2 Q. Were you involved in it?

3 A. Yes, sir.

4 Q. Sergeant Hutchins, is there a drug analysis and chain  
5 of custody for the incident which is referenced in the af-  
6 davit for the search warrant?

7 A. Yes, sir, and I've got a copy of the drug analysis.  
8 I do not have a copy of the chain but it should be in the  
9 Solicitor's Office file.

10 But there is a Spartanburg County Forensic Analysis  
11 Lab. The report date is 6 25 09, referencing case number  
12 2009 GS 4080 -- a green plant-like material. Marijuana.  
13 found, two point six seven grams of a schedule one con-  
14 trolled substance.

15 Q. And this is a substance that was received from a CI  
16 in Mr. Chapman's case?

17 A. Yes, sir.

18 Q. And are these the drugs that were the basis for or  
19 formed the basis of the search warrant?

20 A. These were the drugs that the CI verified in the af-  
21 fidavit for the search warrant. Yes.

22 Q. Do you know if the drug analysis was ever provided  
23 to the defense attorney?

24 A. The Solicitors -- there was a copy sent to the Soli-  
25 citor's Office and I do not know what was provided in

MR. HUTCHINS ON DIRECT

1 discovery. The chemists sent a copy to the Solicitor's  
2 Office.

3 Q. The copy that you have indicates -- it's in handwrit-  
4 ing but there is no signature on this.

5 A. The copy that's sent to the Solicitor's Office was  
6 printed off from the database, which means it is done and  
7 printed out and sent on from the database. That is why  
8 there is no signature on it.

9 Q. Okay, but the original analysis would have a signa-  
10 ture on it?

11 A. Probably.

12 (Brief pause)

13 BY MR. WILKES:

14 Q. Is there any reason we couldn't have a copy of this  
15 report?

16 A. At some point someone will make you a copy of that.

17 CLERK: There's a copy machine right here.

18 Q. You indicated that you don't have a chain of cus-  
19 tody document for those drugs? Is that correct?

20 A. I don't have in my possession the chain of custody.  
21 It would be in the Solicitor's Office case file.

22 Q. Why would you not keep a copy in your file?

23 A. On the marijuana analysis I do not receive a copy.  
24 They would send a copy to the Solicitor's Office and keep  
25 a copy of the chain and the analysis.

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M. HUTCHINS ON DIRECT

1 MR. WILKES: Any objection to that being admitted  
2 into evidence?

3 MS. WHITE: No objection.

4 THE COURT: It will be admitted as an Applicant's  
5 Exhibit, and that is a copy of . .

6 MR. WILKES: A copy of the chemist's report.

7 (Drug analysis report admitted in evidence without  
8 objection as Applicant's Exhibit 8)

9 BY MR. WILKES:

10 Q. Back to the chain of custody, Sergeant Hutchins, where  
11 would the chain of custody be?

12 A. It would be -- a copy would be in the Solicitor's Of-  
13 fice file. I don't have a copy or know what was turned  
14 over in discovery.

15 (Brief pause)

16 Q. You don't deliver any documents or discovery to the  
17 Defense, is that correct?

18 A. No, sir.

19 Q. So it would have to go from you to the Solicitor,  
20 and from the Solicitor to the Defense?

21 A. It would go from me or other people involved in the  
22 case to the Solicitor's Office, and the original chain  
23 would be housed in evidence with the drugs.

24 The original chain -- the only time that I get no-  
25 tice from the chemist of the results is on a negative

M. HUTCHINS ON DIRECT

1 result, not if there is a positive.

2 In a lot of these cases they stream-line . .

3 Q. I believe I sent a subpoena that might cover the  
4 chain of custody. Would it be fair for us to have a copy  
5 if we can't find one from the Solicitor?

6 A. . .

7 Q. Would we be able to obtain a copy?

8 A. Yes. The chemist, I'm sure, would have a copy of it  
9 or they ought to have a copy.

10 MR. WILKES: Just for the record, Your Honor, I am  
11 not sure if the Solicitor's Office has a copy. If they  
12 don't, can we obtain a copy or have them produce it under  
13 subpoena?

14 I had subpoenaed that, and I want to make sure we  
15 have one for the record, or to show there is not one.

16 MS. WHITE: Your Honor, I'm told it is possible it  
17 could have been destroyed with the drugs. So I don't  
18 know, unless . .

19 THE COURT: Go on with the testimony at this point.

20 BY MR. WILKES:

21 Q. Sergeant Hutchins, are you aware of there being a  
22 chain now?

23 A. . .

24 Q. In other words, do you know whether those chain docu-  
25 ments still exist?

M. HUTCHINS ON DIRECT

- 1 A. I do not know at this time.
- 2 Q. Okay, is it possible that they have been destroyed?
- 3 A. The drugs -- it's very possible they've been destroyed
- 4 and that is where the chain would have been.
- 5 I do not know whether they exist currently or not.
- 6 Q. Okay. Is there any place that a copy of the chain
- 7 of custody in any drug case would be located?
- 8 A. . .
- 9 Q. So that we can double-check for this one.
- 10 A. . .
- 11 Q. Is there any place . .
- 12 A. The only place I would know to look would be in the
- 13 Solicitor's Office which would still have the case file.
- 14 It could possibly be there.
- 15 Q. Very good. Now, as to the second incident wherein a
- 16 search warrant was executed and Mr. Chapman was arrested,
- 17 was Mr. Chapman also arrested on the warrants from that
- 18 first offense?
- 19 A. Yes, sir.
- 20 Q. And the search warrant was executed which was based
- 21 in part on the first offense?
- 22 A. The search warrant was executed at the time with the
- 23 arrest warrant. Yes, sir.
- 24 Q. And there were drugs found at the residence at that
- 25 time?

M. HUTCHINS ON DIRECT

1 A. Yes, sir.

2 Q. At the time of the search?

3 A. Yes, sir.

4 Q. Okay, what drugs were found as a result of the ar-  
5 rest and the search?

6 A. Reading from the report referencing case number 2009  
7 08 0125, suspect Anthony Chapman and Carl (inaudible)  
8 Chapman, SLED item one, off-white rock substance cocaine  
9 base, parenthesis crack found, one hundred eleven point  
10 zero grams of schedule two controlled substance.

11 Item number two, white powder substance. Results,  
12 cocaine found one point nine five grams, schedule two  
13 controlled substance.

14 Q. Okay. Now, on that case do you have a copy of the  
15 chain of custody?

16 A. No, and to go back, there is also a marijuana analy-  
17 sis report on a second page.

18 Item one references 2009 08 0125, Anthony Chapman and  
19 Carl Chapman, SLED item one, a large amount of green leaves  
20 in paper bag, or said to have been removed from paper bag.  
21 Results, marijuana found, schedule one controlled substance.

22 Actually, these are the chain of evidence or custody.

23 Q. And may I see those for just a second?

24 A. . .

25 (Brief pause)

M. HUTCHINS ON DIRECT

1 Q. So how is it you have a chain of custody for those  
2 drugs but not the marijuana that started the case?

3 A. These were obtained from the Solicitor's Office files  
4 and it had the chain attached to it.

5 Q. The Solicitor's Office file printout on the earlier  
6 one did not? Do they have it or they do not?

7 A. What do . . .

8 Q. Look at some of those documents. They are from the  
9 Solicitor's Office, correct?

10 A. You're talking about where it's got a name and a num-  
11 ber?

12 Q: Yes, sir.

13 A. Yes, sir.

14 Q. Okay. The chain documents have that or not?

15 A. They do.

16 Q. They do? Do all the documents you've shown me have  
17 the Solicitor's Office -- which documents came from the  
18 Solicitor's Office?

19 A. You remember seeing the marijuana report? Look at the  
20 bottom where it's stamped.

21 Q. Very good. So they all have the Solicitor's stamp  
22 on them? A marking of some sort?

23 A. . . .

24 Q. But you are familiar with it, so it would be logical  
25 to assume that if all things work well the Solicitor should

M. HUTCHINS ON DIRECT

1 have a chain of custody?

2 A. They may have. I'm not sure about that.

3 Q. And you've testified that you've seen the video so  
4 you would be able to look at the video the Solicitor has  
5 and identify it as the right video so we can look at it  
6 again?

7 Is that true?

8 A. Yes.

9 Q. Okay. No further questions of this witness.

10 THE COURT: You may cross examination.

11 MS. WHITE: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MS. WHITE:

14 Q. The search warrant was obtained based on two differ-  
15 ent things. Is that right?

16 A. Yes.

17 Q. One being a buy of marijuana by the CI?

18 A. That's right.

19 Q. And also that you received additional information  
20 from the CI concerning marijuana in the home?

21 A. Yes. The marijuana being grown in the home.

22 Q. And that information was provided in an affidavit as  
23 well, is that right?

24 A. Yes, maam.

25 Q. Now, would you have had to -- based on the fact it

M. HUTCHINS ON CROSS

1 was a confidential reliable informant, would you have had  
2 to have a buy to be able to get a search warrant for that?

3 A. No, maam. The confidential reliable informant observ-  
4 ing the marijuana growing would have been enough to obtain  
5 a search warrant.

6 Q. For you all to have a search warrant, isn't it true  
7 -- once you all had the search warrant, isn't it true that  
8 Mr. Chapman actually pointed out and showed you all where  
9 the cocaine and crack were in the house?

10 A. Yes, maam.

11 Q. Or in the garage. Okay.

12 In addition to the buy that was done on six eighteen,  
13 and you've referenced the video -- obviously Mr. Chapman  
14 says it was an illegal video.

15 This was a video that was done in the process of the  
16 CI's controlled buy. Is that right?

17 A. That's correct.

18 Q. In addition, the video also shows marijuana growing  
19 in this home or in the backyard?

20 A. Yes, maam.

21 Q. You had that information on the video as well?

22 A. Yes, maam.

23 Q. And he pled guilty on the manufacturing marijuana,  
24 trafficking in crack and possession with intent to distri-  
25 bute cocaine? Is that right?

M. HUTCHINS ON CROSS

1 Do you recall that?

2 A. Yes, maam, that's correct.

3 Q. Which ultimately never -- he didn't plead guilty or  
4 go to trial on the actual distribution of marijuana charge.  
5 Right?

6 A. No, maam. That may have been a part of the plea ne-  
7 gotiations but he did not ever go to trial for that.

8 Q. Okay. Nothing further.

9 THE COURT: Anything further?

10 MR. WILKES: Yes, sir.

11 REDIRECT EXAMINATION

12 BY MR. WILKES:

13 Q. You indicated the video shows marijuana being grown  
14 on the video?

15 A. The recorder was a covert recorder.

16 Q. And where did that covert recorder come from?

17 A. It was placed on the CI by us.

18 Q. Okay, so you all sent him there to go in and do  
19 something in Mr. Chapman's residence?

20 A. To go in and do an undercover buy, yes.

21 Q. Okay, and if the video did not show what the CI had  
22 told you -- like I say, when the CI came back and said I  
23 did this and this and saw something growing, and if that  
24 is not what the video shows, would that not impact your  
25 determination of his credibility?

## M. HUTCHINS ON REDIRECT

1 A. If the -- for instance, if the informant told us he  
2 was in one location on the video and it was obvious that  
3 he did not go to that location, or if the informant tells  
4 you information such as I have given you all of the evi-  
5 dence and he did not -- if there is something of that  
6 nature or something about a major discovery or something  
7 like that, then, yes, sir.

8 Q. I don't have anything further.

9 MS. WHITE: Nothing further.

10 THE COURT: Then you can step down.

11 (Witness excused from stand)

12 THE COURT: The Applicant may call its next witness.

13 MS. WHITE: May we take a brief recess?

14 THE COURT: All right, we'll take a brief recess.

15 (Whereupon, the Court took a brief recess after which  
16 the matter resumed)

17 TRANSCRIPTION NOTE: When the matter was resumed a  
18 witness was on the stand. The calling and swearing of  
19 the witness was not contained on the disc.

20 The following contains what was contained on the  
21 disc. I have nothing to identify the witness' name.

22 MR. WILKES: Could we ask that someone review the  
23 Solicitor's file to see if they do have the chain of cus-  
24 tody form. That would be the incident referred to in  
25 the affidavit.

1 A. That's correct.

2 Q. Now, do you -- the Solicitor's Office being the  
3 epitome of efficiency, there is a disc and in paper form,  
4 is it not?

5 A. At that time it was in paper form.

6 Q. Okay. Is there anything to indicate that you ever  
7 had in your file the chain of custody?

8 A. In my file is an Email concerning it. (Portion not  
9 audible due to static)

10 Q. And does that reference indicate anything about the  
11 chain of custody being received in your office?

12 A. No.

13 Q. No further questions.

14 THE COURT: Your witness.

15 MS. WHITE: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MS. WHITE:

18 Q. In regards to this case, this criminal action, was  
19 this -- in discussing the case with a family member before  
20 the day of trial and then leave, was this something you  
21 had discussed with Mr. Brown in regards to attacking the  
22 search warrant or was that an issue that you all had con-  
23 sidered?

24 A. We had researched search warrant cases and had con-  
25 versations back and forth with regard to it.

1           We considered this was going to be a trial, but then  
2   an offer was made.

3   Q.   So an offer was made and then there was a plea  
4   entered?

5   A.   Yes.

6   Q.   And at the time you had a copy of the video that we  
7   have talked about?

8   A.   The video that was of the controlled buy.

9   Q.   Yes. Now, is that rare to have in a drug case?

10   A.   No, it's not.

11   Q.   And to do an undercover controlled buy with recording  
12   devices, what is the process that you go through?

13   A.   That would be the Sheriff's Office, but to my know-  
14   ledge there is no judicial process you go through.

15   Q.   So to your knowledge, there is no warrant that has  
16   to be gotten?

17   A.   No, maam.

18   Q.   Thank you.. I have no further questions.

19           THE COURT: Anything further?

20   REDIRECT EXAMINATION

21   BY MR. WILKES:

22   Q.   So as far as you know, in this case there was no ju-  
23   dicial authorization?

24   A.   Not that I'm aware of. It was during a buy.

25   Q.   And is it routine to video a marijuana purchase?

1 (Portion not audible due to static on disc)  
2 MR. WILKES: I have nothing further..  
3 THE COURT: Ms. White?  
4 MS. WHITE: Nothing further.  
5 THE COURT: You can step down.  
6 (Witness excused from stand)  
7 THE COURT: You may call your next witness.  
8 MR. WILKES: We would rest, Your Honor.  
9 THE COURT: The State may call its first witness.  
10 MS. WHITE: Thank you, Your Honor. We would call  
11 Michael Brown.  
12 THE COURT: Mr. Brown, come up to be sworn.  
13 MICHAEL BROWN, being duly  
14 sworn, testified as follows:  
15 CLERK: Please be seated and state your name for the  
16 record.  
17 WITNESS: Michael Brown.  
18 DIRECT EXAMINATION  
19 BY MS. WHITE:  
20 Q. Do you recall being retained in the Xavier Chapman  
21 case?  
22 A. I do.  
23 Q. And can you give me an idea of what time frame prior  
24 to October 5th of 2010, the date of the plea, you were  
25 retained?

M. BROWN ON DIRECT

1 A. The latter half of 2009.

2 Q. So it was approximately a year prior to the plea?  
3 Would that be accurate or fairly accurate?

4 A. Yes, maam.

5 Q. I'm going to ask you just a couple of questions spe-  
6 cifically relating to Mr. Chapman's earlier testimony.

7 Mr. Chapman talked about originally that he met with  
8 you once when he was out on bond that entire year prior  
9 to the trial. Is that accurate according to your recol-  
10 lection?

11 A. Yes. He said that.

12 Q. And he also testified briefly that he met with you  
13 once the day before the trial but then also added that he  
14 had met with you originally to retain you.

15 Do you recall having any other meetings other than  
16 those two?

17 A. Uh, I probably met him more in my office, and some-  
18 time out of the office. I know I met with him on Decem-  
19 ber 18th of 2009 at 3:45, and in 2010 -- 7 4 at ten  
20 thirty-six and then (inaudible).

21 Q. Okay. So at least three times or probably four you  
22 met with him prior to this trial?

23 A. Yes, maam.

24 Q. And did he talk with you about all of the things he  
25 has expressed with regards to the search warrant and the

M. BROWN ON DIRECT

1 buy that led to it?

2 A. He did. He mentioned oftentimes what he claimed was  
3 false information or statements being given for the search  
4 warrant, about them being in his home.

5 Q. And in your research in preparation for this, did you  
6 think that you all had a good defense or a good chance of  
7 obtaining positive results?

8 A. With the charges against him, the evidence of the  
9 State, the interrogation of him itself, the information  
10 that came out with regards to drugs spotted in the house,  
11 the crack and cocaine along with the marijuana, it didn't  
12 seem we would have a positive result at trial.

13 Q. Did you discuss with him -- obviously he talked about  
14 having a Jackson v Deno hearing on the day -- did you  
15 talk with him about what you -- what motions you would  
16 file on his behalf to have hearings on prior to the trial?

17 A. I did. Mr. Chapman again was adamant about what he  
18 told me, and we discussed all of it. (Portion inaudible)  
19 He talked a lot about the affidavit that was taken by law  
20 enforcement for the search warrant, and we talked about a  
21 suppression hearing and everything else.

22 Q. Now, Mr. Chapman indicated that his Fourth Amendment  
23 rights had been violated, and that there was a chance if  
24 the drugs were suppressed; that he never would have pled  
25 guilty but you thought he had no chance after the drugs

MR. BROWN ON DIRECT

1       were not suppressed.

2               Would you agree with that statement?

3       A.    I wouldn't agree with that statement. We tried our  
4       best to have that happen prior to the trial which is a  
5       common practice but we were not able to do that.

6               So leading up to the trial, we went through all of  
7       it again, and certainly it was something that was pursued.  
8       I felt like things were against us if we went into trial,  
9       and I certainly told him what I thought.

10      Q.    In your conversation with him, you felt like he un-  
11     derstood that you were -- that that was one of the op-  
12     tions as well, to suppress the search warrant?

13     A.    Yes. At the outset of the case I spoke with his pre-  
14     vious counsel about Mr. Chapman's case and his position  
15     going into a trial. We did challenge everything that we  
16     could in the case but we did not want to aggravate the  
17     prosecution unnecessarily.

18               We had many conversations with Mr. Chapman on all of  
19     these points, as well as his right to appeal in the event  
20     he did not have a favorable result.

21     Q.    In regard to the actual pre-trial hearings, Mr.  
22     Chapman testified that he believed it would have made a  
23     difference to have had this video from the original CI  
24     buy in June of 2009 -- had that been entered into evi-  
25     dence and shown to the Court.

## M. BROWN ON DIRECT

1           Was that something you considered?

2       A.   It is not something I considered. Looking at the  
3       video it was a matter that came up, and I did inform Mr.  
4       Chapman of that. The video that eventually was shown or  
5       the video Mr. Chapman and I saw was of the buy.

6           Of course, there was a video that was taken in the  
7       home after those particular allegations were made of the  
8       marijuana and what was found on the counter, some kind of  
9       device associated with marijuana.

10          We had conversations about that but I wasn't famil-  
11       iar at that time with the other video but at the time it  
12       was what I had seen and based on what I know. That was  
13       the way I felt at that point and he trusted me as his  
14       attorney.

15       Q.   And did you have any concerns about the video that he  
16       has testified was where the CI had walked around the garage  
17       and kind of looked around the house?

18          Was that anything that you thought would have been  
19       helpful to him for it to have been seen?

20       A.   The video showing the CI making a buy would not have  
21       helped him in my opinion with a jury or the drugs shown.

22       Q.   And so your recollection is the video contained vis-  
23       ible marijuana?

24       A.   It was clear there were drugs there.

25       Q.   Okay. In regards to plea negotiations and after the

M. BROWN ON DIRECT

1 pre-trial suppression hearings, obviously both of those  
2 motions were not ruled in your favor; what were your dis-  
3 cussions with him about his options?

4 A. He could go to trial and get potentially X amount of  
5 years (portion inaudible) and risk his life, but our par-  
6 ticular conversations were in essence that he would be  
7 taking a chance. My recommendation at that time was that  
8 he accept the negotiation.

9 At that particular point in time, it was that simple.

10 Q. And he was sentenced I believe to a third of the  
11 time he could have gotten?

12 A. Yes.

13 Q. And was that a part of the agreement?

14 A. Yes.

15 Q. Were you informed later that he had filed a motion  
16 for reconsideration following the plea?

17 A. Not at the time it happened, but later on I found  
18 out after additional conversations I had with Mr. Chapman.

19 Q. And he has expressed that had wanted to pursue a mo-  
20 tion for reconsideration or in his words withdraw the  
21 plea.

22 Is that something that he expressed to you follow-  
23 ing the plea?

24 A. No. (Portion inaudible)

25 Q. And in regards to an appeal, you did not file a

M. BROWN ON DIRECT

1 notice of appeal in his case?

2 A. No, I didn't.

3 Q. Did -- within ten days did Mr. Chapman file a no-  
4 tice of appeal?

5 A. No.

6 Q. In this case, is this one that if the Defendant had  
7 wanted to appeal you would think it was something that  
8 possibly could have been reversed on appeal?

9 A. After the pre-trial hearings and what occurred, no,  
10 and not after he accepted the negotiation and entered his  
11 plea.

12 MS. WHITE: May I have a moment?

13 THE COURT: Yes, maam.

14 (Brief pause)

15 BY MS. WHITE:

16 Q. Mr. Brown, just in a general question now, in regards  
17 to the chain of custody of the chemical analysis, was  
18 there anything that called your attention to it or that  
19 would make it more important than was raised at the hear-  
20 ing?

21 A. No. Well, the chain was something at that time I  
22 talked to the prosecutor about. I was just trying to feel  
23 the prosecution out but I didn't feel it was important  
24 to the case outside of the analysis. The issue involved  
25 the drugs themselves, and there was no need to go at any

M. BROWN ON DIRECT

1 length into questions about it.

2 In this case, Mr. Chapman pled and didn't want to go  
3 to trial.

4 Q. Okay. He also testified that he had never given  
5 permission for the recording or for the CI to tape or  
6 videotape the transaction. Audiotape or videotape.

7 To your knowledge, is that anything, him not giving  
8 permission for the CI to video or audiotape -- is that  
9 anything that would have helped the case?

10 A. No, it is not anything that is of any substance or  
11 significance.

12 Q. I think that's all I have.

13 THE COURT: Your witness.

14 CROSS EXAMINATION

15 BY MR. WILKES:

16 Q. Mr. Brown, you indicated that you would not want to  
17 aggravate the prosecution unnecessarily while you were  
18 negotiating, and even to get better offers or maintain  
19 that line of negotiation; at the time of the suppression  
20 hearing it would have been all gloves off at that point.  
21 Right?

22 A. Yes.

23 Q. And during the suppression hearing or at the time  
24 of the suppression hearing you were bringing up issues  
25 that might challenge the evidence. Correct?

M. BROWN ON CROSS

1 A. Yes. We were bringing up issues I had discussed  
2 with Mr. Chapman that were very important to his case,  
3 so I would say yes.

4 Q. And the chain document underlying the affidavit, the  
5 search warrant itself, did you -- did the record show  
6 that there was something wrong with the chain of custody  
7 document?

8 A. No.

9 Q. Did you have at that time the chain of custody docu-  
10 ment in the discovery?

11 A. No. No, the chain of custody document wasn't in  
12 the discovery.

13 Q. And you received the discovery in the case?

14 A. Yes, sir.

15 Q. You received the drug analysis and chain documents  
16 from the search warrant, didn't you?

17 A. Yes.

18 Q. But not on the underlying incident that was the  
19 basis of the search warrant?

20 A. No, not that I recall. It is not in my file.

21 Q. You have looked in your file and it's not there?

22 A. No, sir.

23 Q. Okay. If there was a discrepancy in the chain of  
24 custody, it obviously would have been something that could  
25 have been brought out, had you been given it and been

M. BROWN ON CROSS

1     aware of it.  Correct?

2     A.    If there was a discrepancy.

3     Q.    But without having it, there would be no way to know  
4     if there was a discrepancy or not?

5     A.    That's true.

6     Q.    The discovery motion certainly would have covered  
7     that, don't you think?

8     A.    That is very clear, yes.

9     Q.    Now, any reason in not at least cross examining the  
10    witnesses as to the chain in the suppression motion, or  
11    the absence of the chain document?

12    A.    Again, at the time we were looking at a trial as a  
13    bottom line, and the suppression was the last chance.

14    Q.    So what you are saying is that going to trial was a  
15    risk, so there wasn't a trial.

16           The video -- you had a copy or at least looked at a  
17    copy of the video?

18    A.    Yes.

19    Q.    Have you recently read back over the transcript of  
20    the suppression hearing?

21    A.    No, not recently.

22    Q.    Would you agree that it is possible that you may  
23    have cross examined several officers on the facts?

24    A.    They didn't see anything.

25    Q.    In other words, the facts that should have been

## M. BROWN ON CROSS

1 observable on the video?

2 A. Well, if the case had gone to trial the prosecution  
3 would have called the undercover officers or the respond-  
4 ing officers at that time to do a description, so I would  
5 have questioned them as to all of it.

6 Q. Do you recall specifically asking the officers about  
7 the discrepancies between the allegations in the search  
8 warrant and what he believed was on the video?

9 A. I'm sorry.

10 Q. In other words, saying to the officers on several  
11 occasions that is it true, and if not that would clearly  
12 be reflected in the video -- something to -- something to  
13 that effect?

14 A. I may have. (Inaudible portion)

15 Q. But in the suppression motion obviously you pointed  
16 out discrepancies or what Mr. Chapman said might be the  
17 case?

18 A. . .

19 Q. You made several references to the video?

20 A. Yes. If there were any discrepancies that would  
21 have been brought out with them.

22 Q. If in fact there were discrepancies as Mr. Chapman  
23 had claimed, then you would have pointed it out to the  
24 officers in the video?

25 A. True.

## M. BROWN ON CROSS

1 Q. All right, and why was the video actually not just  
2 shown?

3 A. True. It was requested but, again, I don't know the  
4 specific discrepancies or the nature of whether they were  
5 available to be seen. I think the overall conduct of the  
6 officers was some concern to us.

7 Q. In particular, that is about the day the search war-  
8 rant was executed, but I'm talking about in cross examin-  
9 ing the officers about the truthfulness of that affidavit,  
10 whether or not they knew they were putting in stuff that  
11 was either false or in reckless disregard for truth.

12 You were examining them on those facts of the sale  
13 but there is no evidence there was a sale on that video.  
14 You referenced it but you never introduced it. Is there  
15 any reason you would not introduce it to show the Judge  
16 your point?

17 A. Well, because it was our motion and they would have  
18 introduced it at trial, so I didn't introduce it.

19 Q. At trial?

20 A. . .

21 Q. And you didn't have anything to do with his motion,  
22 post trial motion, or any of that?

23 A. No, sir.

24 Q. Okay. Very good. No further questions.

25 THE COURT: Anything further?

MR. BROWN ON REDIRECT

1 MS. WHITE: Just briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. WHITE:

4 Q. Mr. Brown, is it possible that the video of the ini-  
5 tial controlled buy would have harmed your case, being it  
6 showed or based on the fact it showed marijuana growing in  
7 Mr. Chapman's house?

8 A. Yes, it could if our challenge didn't work.

9 Q. And you were talking about a second video where you  
10 talk about the officers' conduct. That would go to the  
11 voluntariness of the statement, is that right?

12 A. Yes.

13 Q. Okay, and you did cross examine both the officers  
14 about that evidence, in addition to cross examining him,  
15 or at least Officer Hutchins, about the funds that they  
16 used for the buy by the confidential reliable informant,  
17 and whether or not the affidavit contained completely  
18 accurate informatoin?

19 A. Yes. The video itself didn't match up with some of  
20 the stuff they had -- I think some of it was false also.

21 Q. Okay, and ultimately you made those arguments and  
22 that motion was denied?

23 A. Yes.

24 Q. Thank you. That's all I have.

25 RECROSS EXAMINATION

M. BROWN ON RECROSS

1 BY MR. WILKES:

2 Q. You said in your answer that it doesn't help the case  
3 or could possibly hurt the case to show that video. I'm  
4 talking about -- you understood I was talking about the  
5 suppression motion. Right?

6 A. Yes.

7 Q. So it doesn't hurt the case as far as the jury is con-  
8 cerned?

9 A. As far as the jury was concerned, that's correct.

10 Q. Okay, no further questions.

11 THE COURT: You may step down, sir.

12 (Witness excused from stand)

13 THE COURT: Any other witnesses?

14 MS. WHITE: Your Honor, the State would rest.

15 THE COURT: All right. Mr. Wilkes, I'll be glad to  
16 hear from you.

17 MR. WILKES: Thank you, Your Honor.

18 Your Honor, in this case we have offered the video  
19 into evidence. My client has maintained early on, and the  
20 reason for the suppression motion, that the affidavit un-  
21 derlying the search warrant was and is evidence of the  
22 falsity of the information.

23 Had the video been seen, it would have been seen not  
24 only whether it was true, but whether it was at least in  
25 reckless disregard.

1           In either case, it would invalidate the affidavit for  
2           the search warrant. That being the case, all of this be-  
3           comes then the fruit of the poisonous tree.

4           The other argument obviously is that in the initial  
5           search they sent this person in and he, as indicated on  
6           the video, began a search before entering or before see-  
7           ing Mr. Chapman.

8           He was in the garage area, which is certain within  
9           the protected area.

10          Later, even when let in, he proceeded to search the  
11          areas outside of Mr. Chapman's presence, whether or not  
12          it was expected of him.

13          Those would indicate an initial unlawful search and  
14          under the Fourth Amendment he's got a reasonable expecta-  
15          tion of privacy on his property, a protection against  
16          police action even though they were sending in a CI.

17          It doesn't matter whether he was a police officer,  
18          but the search began . .

19          THE COURT: Is there a case on that point?

20          MR. WILKES: Well, the -- I'll have to think for a  
21          minute to cite the case.

22          He had an expectation of privacy which is based on  
23          the Fourth Amendment. The search becomes the fruits -- I  
24          don't know the name of the case, but the fruits of the  
25          search were admissible if the person comes in and conducts

1 a search regardless of its legality. A non-police search  
2 in this case, even if it's unlawful, would be admissible.  
3 There's no question about that, but if the police had in-  
4 stigated it and set it up and authorized the CI to do it  
5 -- if they authorized the CI to do this -- if the CI en-  
6 ters that house without any authority, which he did enter  
7 the garage, that becomes the search and what my client has  
8 maintained from the beginning is that this search came at  
9 a point where he never knocked on the door.

10 He went in the garage area and was searching. He was  
11 ultimately let in but if the video shows he was let in and  
12 Mr. Chapman called out and said, I'll be right back and  
13 went upstairs -- the video, according to Mr. Chapman, will  
14 show that the man then did walk around and did further  
15 searching.

16 So the point being . .

17 THE COURT: If you let the person into your home and  
18 walk in front of you, it would be lessen the dictates of  
19 privacy at this point.

20 MR. WILKES: It may be lessened but it is still an  
21 expectation of privacy, and the question is if you let  
22 them in the front door and said, hold on one second; I'll  
23 be right back, and they then kick in a door and do search  
24 on the cabinets and do a search around while the person  
25 had stepped away and then he comes back -- that is still

1 an unlawful search.

2 The expectation of privacy might not be as prime but  
3 it is still protected.

4 But the big point is that if it is clear from the vi-  
5 deo that he is searching -- the initial going in and the  
6 searching without protected privilege before he's even  
7 knocking on the door and before being let in, that would  
8 be an unreasonable search.

9 He was lined up by the police to do the searching,  
10 and so that is the basis to invalidate the search and it  
11 all goes back to the video.

12 Of course, Mr. Chapman wanted the video to be viewed  
13 by the Court.

14 THE COURT: Let me ask you a question. This motion,  
15 whatever it was, was it served?

16 MR. WILKES: Yes, sir.

17 THE COURT: So if it had been . .

18 MR. WILKES: Yes, sir, unfortunately, and therefore  
19 technically -- that possibility is a part of our claim  
20 that he is entitled to a belated appeal.

21 THE COURT: Oh, I don't know it applies to a belated  
22 appeal. If that motion is still pending, what . .

23 MR. WILKES: That's true.

24 THE COURT: . . is the chronology in which an appeal  
25 would take place?

1 MR. WILKES: That's true. That is exactly correct,  
2 and that is . . .

3 THE COURT: I'm trying to find out what your position  
4 is. Is it your position that the motion is still pending?

5 MR. WILKES: Yes, sir, it is.

6 THE COURT: And therefore a PCR would not be in order,  
7 or is it your position that the PCR is in order and the  
8 motion should -- I'm between the devil and the deep blue  
9 sea here.

10 MR. WILKES: That is the correct analysis. It is a  
11 conundrum. It is what it is, and we know it. As far as  
12 we can tell from the evidence shown, there has never been  
13 a ruling.

14 So the time for an appeal has not even come. Techni-  
15 cally you are right. He is not entitled to a belated ap-  
16 peal but he shouldn't even be filing a PCR given where he  
17 is at.

18 But we are in a practical place to be able to decide  
19 how to handle it. Either the Court -- and I can move to  
20 merge this for a ruling on that . . .

21 THE COURT: That should have been ruled on by the  
22 Trial Judge.

23 MR. WILKES: That's true. It should have been, and  
24 let me say this to the Court. The record does show that  
25 Mr. Chapman was diligent in trying to get it moved along.

1 THE COURT: Well, there is a little concern when the  
2 Court of Appeals took its position after he said, well, I  
3 have this motion pending and it was never heard.

4 MR. WILKES: That is true, but the question we're fac-  
5 ing is how do we give him justice or give him some relief  
6 by at least a ruling.

7 The problem is that nobody during this appeal process  
8 -- there was never any vehicle for him really to say or  
9 introduce evidence to say or to know what to do to say I  
10 think there is still a motion pending.

11 THE COURT: It is concerning to me.

12 MR. WILKES: Well, we have to do something now, I  
13 think, with the PCR.

14 THE COURT: I'm not sure what is the proper procedure  
15 here.

16 MR. WILKES: Well, procedurally, what we see is obvi-  
17 ously a ruling on it. He's been unsuccessful to this  
18 point, and we are at the PCR process.

19 It is here . .

20 THE COURT: But I didn't see anything though that  
21 would indicate it was brought to the attention of the  
22 Trial Judge. The motion hadn't been made at the end of the  
23 plea but it was filed with the Clerk's Office.

24 I can assure you that I check with the Clerk's Office  
25 everyday to see if there is a post-trial motion that

1 needs to be heard.

2 MR. WILKES: And that brings up a different question,  
3 but the dilemma is that he did repeatedly ask and was  
4 even told they can't answer. That wasn't an answer but we  
5 can't answer.

6 So we're here today. He filed for PCR and he tried  
7 filing an appeal and tried filing PCR. I got in on the  
8 PCR long after, you know, it was filed, but that is where  
9 we are.

10 So either direct appeal or go back to the motion, but  
11 whatever renders him justice on the issue we would ask  
12 for, Your Honor.

13 THE COURT: Ms. White?

14 MS. WHITE: Thank you, Your Honor.

15 THE COURT: We've raised a couple of questions here.

16 MS. WHITE: Well, I believe the State's position with  
17 regards to the motion for reconsideration is there are  
18 rules about representation to prevent this exact sort of  
19 conundrum as the Court phrased it.

20 He was represented according to the Clerk's Office at  
21 that time by Mr. Brown. The motion for reconsideration  
22 was signed by Anthony Chapman, so in that position, you  
23 know, the Court . .

24 THE COURT: I have researched that as far as the re-  
25 sponsibility and I am not sure he has responsibility

1       except to give him information.

2           MS. WHITE: The standard, Your Honor, I believe is  
3       under whether or not a belated review of a direct appeal  
4       of a guilty plea is whether the attorney was asked by  
5       their client to file an appeal or there is something that  
6       in the case gives them substantial reason to believe that  
7       client would want to appeal.

8           THE COURT: All right. Well, in this case I didn't  
9       hear any communication from Mr. Brown so maybe his repre-  
10      sentation had ended.

11          MS. WHITE: That is kind of where -- it is kind of a  
12      strange situation because, you know, from all indications  
13      Mr. Chapman indicated he wanted to withdraw his plea and  
14      the motion doesn't necessarily say that. It was more  
15      about I was prosecuted unfairly.

16          THE COURT: Is that motion in the back of the . .

17          MS. WHITE: Your Honor, I believe it is attached to  
18      the back of the . . .

19          THE COURT: I'll get that.

20          MS. WHITE: I think we are in a position where -- ac-  
21      cording to the Clerk's Office, he was represented by coun-  
22      sel and had been represented by counsel.

23          If a notice of appeal had been filed within ten days  
24      then jurisdiction would have been with the Court of Appeals.  
25      This situation is kind of odd because he filed a pro se

1 notice which he was represented by counsel but then juris-  
2 diction had not transferred so . .

3 THE COURT: It looks like he got that motion in within  
4 the time period.

5 MS. WHITE: I believe he did get the motion for recon-  
6 sideration in within ten days. Now, did he ask his at-  
7 torney to do that or have the attorney file it on his  
8 behalf after he pled guilty? It does not appear so, so  
9 the State's position is that, you know, it was an improp-  
10 erly filed motion.

11 The Court is pretty clear that they won't consider  
12 substantial substantive motions other than a motion of  
13 lead counsel.

14 So the State would argue that there was an improperly  
15 filed motion because he filed pro se, and therefore it is  
16 not still pending because it was not filed properly.

17 In regard to . .

18 THE COURT: There was no communication by anybody to  
19 him that the motion was improperly filed or that he should  
20 have representation.

21 I didn't see anything in the record to indicate he was  
22 made aware of that.

23 MS. WHITE: And there is no indication also that any-  
24 one else was copied on the motion.

25 THE COURT: Yes, and . .

1           MS. WHITE: From all appearances it was filed and no  
2 one was copied on the motion, so how can you have a motion  
3 for reconsideration heard or ruled on when it is just  
4 filed as another document in the Clerk's Office.

5           Obviously, on PCR we are very familiar with that as  
6 well.

7           THE COURT: It creates some issues.

8           MS. WHITE: Yes. So that would be our position that  
9 it was improperly filed and, therefore, it was . . .

10          THE COURT: I think I would need to see -- if the at-  
11 torney's obligation ended, I would like to have knowledge  
12 of that. It is the attorney's obligation to file an ap-  
13 peal if requested to do so.

14          But as far as a motion to reconsider the guilty plea,  
15 if I know where the line was drawn with the attorney that  
16 would have given some answer.

17          MS. WHITE: Your Honor, all we have to go on is the  
18 Applicant's assertions, but I think we have case law that  
19 defines ineffective. There has not been case law that  
20 says someone is ineffective for not -- ineffective for not  
21 filing a motion for reconsideration that I know of. I do  
22 know that . . .

23          THE COURT: All right.

24          MS. WHITE: And, Your Honor, we would just argue that  
25 there was a suppression hearing pre-trial and information

1 was raised about possible false statements in the affida-  
2 vit. I think that was sufficient as well as the other in-  
3 formation supplied to the Court that would have provided  
4 probable cause.

5 THE COURT: If you have additional case law or in-  
6 formation you would like to submit I will be happy to  
7 get it.

8 MR. WILKES: Thank you, Your Honor.

9 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

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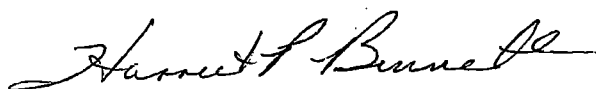
25

1  
2 CERTIFICATE

3 I, HARRIET P. BENNETT, Court Reporter for South  
4 Carolina Court Administration, hereby certify that the  
5 foregoing Transcript was prepared to the best of my abil-  
6 ity from the records of Pamela Faucette, having been  
7 heard in the Court of Common Pleas for Spartanburg County  
8 on January 21, 2014.

9 FURTHER, that I am neither of kin nor counsel to any  
10 party to this matter, nor do I have any interest in the  
11 same.

12 November 5, 2016

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A-2

Anthony Chapman  
Defendant,

## MOTION FOR RECONSIDERATION

v

State of South Carolina  
County of Spartanburg,

Pursuant to Rule 59 (e) of the S.C.R.C.P. defendant would like to respectfully request that this Honorable Court reconsider it's decision in accepting the defendant's guilty plea based on the following facts:

On Tuesday October 5, 2010, defendant reluctantly plead guilty to the charges of trafficking crack cocaine, possession of cocaine with the intent to distribute, and manufacturing marijuana. The defendant believes this Honorable Court should investigate the malicious prosecutorial misconduct by the Spartanburg County Sheriffs Office in procuring the evidence used against the defendant, arrest, and ultimate guilty plea rendered. No supporting probable cause previously existed to give the arresting officers authorization to utilize an undercover informant that was wired during multiple conversations with the defendant.

The defendant also believes his due process and 14<sup>th</sup> amendment rights were violated in that the evidence used was illegally obtained. The county officers must use county funds to make a "control buy" and this was not done, although the search warrants used against the defendant indicate that county funds were used. The defendant was not afforded the documentary evidence to substantiate the claim that the county used it's own funds, nor is this on file at the Clerk of Court. By this action alone, the defendant believes that the county Magistrate was deliberately mislead in issuing a search warrant for the case.

The defendant believes that this process has been fundamentally compromised from the onset from by the Spartanburg County Sheriffs Office and request that this Honorable Court review and reconsider it's decision in this case.

S/ *Anthony Chapman*  
Pro se litigant  
*Big Cane Chapman*



RECEIVED

FEB 09 2017

APPELLATE DEFENSE

M. HOPE BLACKLEY

2010 OCT 15 AM 10:57

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY

# Spartanburg County

Spartanburg County Court House  
180 Magnolia Street  
P. O. Box 3483  
Spartanburg, SC 29304-3483



Phone (864) 596-2391  
Fax (864) 596-2239

**M. Hope Blackley**  
Clerk of Court

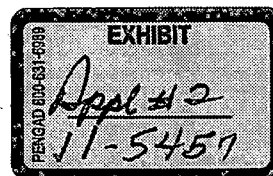
January 4, 2011

Anthony Chapman #251075  
KCI-R&E B2-39  
4344 Broad River Road  
Columbia, SC 29210

Mr. Chapman,

We are in receipt of your letter in reference to the status of your motion. Please note that we only file documents in this office. When filing documents on a Pro Se basis it is your responsibility to file the document (s) with the appropriate offices. Sorry we could not answer your question at this time. If we can be of further assistance to you please let us know.

T. Camp/ Deputy Clerk



10-669

FILED  
CLERK OF COURT  
SANDHURST COUNTY

12-26-2010

Dear M. Hope Blackley,

2011 JAN -4 AM 9:46

I recently wrote your office requesting the status of my Motion for Reconsideration that I filed in October 2010. Your office replied back stating that I need to confer with my former attorney Michael Brown. Mr. Brown no longer represents me. I filed that Motion for Reconsideration on a Pro Se basis. So I'm again, for the fourth time, asking for the status of that motion. Your help in this matter would be greatly appreciated.

Thank You + God Bless

Anthony Chapman #251075  
KCI-REE B2-39  
4344 Broad River Rd.  
Columbia, SC 29210

Anthony B. Chapman



4-25-2011

FILED  
2011 APR 29 PM 4:46  
M. HOPE BLACKLEY

M. Hope Blackley  
Clerk of Court, Spartanburg County  
P.O. Box 3483  
Spartanburg, SC 29304-3483

Re: Notice of Intent to Appeal Indictments #  
2010 BS4200667, 2010 BS4200668, and 2010 BS4200669

To whom it may concern:

I pled guilty and was convicted of Trafficking Crack (2nd, PWID Cocaine 2nd, and Manufacturing Marijuana on October 5, 2010 before the Honorable Joseph D. Co. in Spartanburg, SC. I filed a motion under Rule 59 of the SCRCP on October 15, 2010 with the Spartanburg County Clerk of Court. It is now my intent to appeal my conviction and sentence. Your help in this matter would be greatly appreciated. I am

Anthony Chapman #251075  
KCI-REE FI-101A  
4344 Broad River Road  
Columbia, SC 29210

Sincerely  
Anthony Chapman  
Anthony Chapman  
Appellant

THE SCHEDULE THE DATE AND TIME

- (6) Any written or oral statements made by witness or statements that is intended use against the defendant by the prosecution
- (7) THE IMPANELMET DOCUMENTS of the Grand Jury & indicted Petitioner
- (8) Copies of Funds, Vouchers for funds, and serial number any funds used to do any controlled drug buy with Petitioner.
- (9) All Audio and Video tapes, Court Orders, Authorization Approval authorizing these tapes

RESPECTFULLY SUBMITTED

*Anthony Chapman*  
Anthony Chapman

Sworn to and Subscribed before me

this 30<sup>th</sup> day of March 2011

*[Signature]*  
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires 10/8/2014

2011 APR 29 PM 4:46  
M. HOPE BLACKLEY



**RECEIVED**

SEP 12 2011

**The South Carolina Court of Appeals**

ATTORNEY GENERAL'S OFFICE

File  
SNE

TANYA A. GEE  
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

September 9, 2011

Anthony Chapman, # 251075  
LCI-CA31  
P.O. Box 205  
Ridgeville, S.C. 29472

Re: The State, v. Chapman, Anthony

Dear Mr. Chapman:

This responds to your letter dated August 24, 2011.

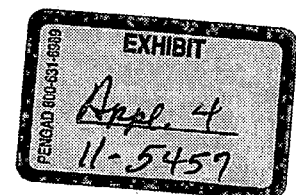
To properly file an appeal you must comply with the Appellate Court Rules, particularly Rule 203 which deals with the Notice of Appeal. The court rules are available on our website, [www.sccourts.org](http://www.sccourts.org). The notice of appeal must be timely served and filed as provided in Rule 203.

Very truly yours,

*V. Claire Allen*  
DEPUTY CLERK

VCA/dw

cc: Chief Appellate Defender Robert M. Dudek  
Assistant Attorney General Salley W. Elliott



# The South Carolina Court of Appeals

The State,

Respondent

**RECEIVED**

OCT 31 2011

v.

Anthony Bernard Chapman,

Appellant.

ATTORNEY GENERALS  
OFFICE

The Honorable J. Derham Cole  
Spartanburg County  
Trial Court Case No. 2010-GS-42-00667

REMITTITUR

No Petition for Reinstatement having been filed in the above matter since issuance of this  
Court's Order dated October 12, 2011,

IT IS SO ORDERED that the above appeal be and hereby is remitted.

JOHN CANNON FEW, CHIEF JUDGE

BY V. Claire Allen, Deputy  
Clerk

Columbia, South Carolina

Original to: The Honorable Hope Blackey  
Assistant Deputy Attorney General Salley W. Elliott  
Chief Appellate Defender Robert M. Dudek  
Anthony B. Chapman, # 251075

**FILED**

10/28/11

# The South Carolina Court of Appeals

The State,

Respondent,

**RECEIVED**

v.

OCT 13 2011

Anthony Bernard Chapman,

Appellant.

**ATTORNEY GENERALS  
OFFICE**

The Honorable J. Derham Cole  
Spartanburg County  
Trial Court Case No. 2010-GS-42-00667,  
2010-GS-42-00669, 2010-GS-42-00668

---

## ORDER of DISMISSAL

---

The appellant in this case was sentenced on appeal on October 15, 2010. The proof of service shows the Notice of Appeal was mailed to counsel for the Respondent on September 20, 2011. Rule 203 (b) (2), SCACR.

Rule 203(b)(2) allows ten (10) days for this service. Further, Rule 263(b) prohibits this Court from extending the time for service of the Notice of Appeal.

The service of the Notice of Appeal was not timely. Under Rule 260(a), this appeal must be and is dismissed.

*V. Claire Allen, Deputy*

Columbia, South Carolina

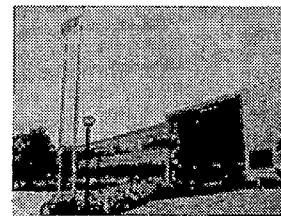
cc: ~~Assistant Attorney Salley W. Elliott~~  
Chief Appellate Defender Robert M. Dudek  
Anthony B. Chapman, # 251075

**FILED**

10/21/11



## Spartanburg County Seventh Judicial Circuit Public Index

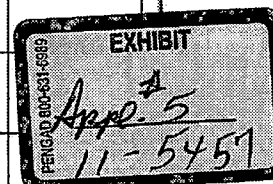


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Switch View

| The State of South Carolina VS Anthony Bernard Chapman L |                |                    |                         |                    |                 |
|----------------------------------------------------------|----------------|--------------------|-------------------------|--------------------|-----------------|
| Case Number:                                             | M088867        | Court Agency:      | General Sessions        | Filed Date:        | 08/06/2009      |
| Case Type:                                               | Criminal-Clerk | Case Sub Type:     | 180 Day Track           |                    |                 |
| Status:                                                  | Pled Guilty    | Assigned Judge:    | Gowan, Eber Charles Jr. | Disposition Judge: | Cole, J. Derham |
| Disposition:                                             | Pled Guilty    |                    |                         |                    |                 |
| Disposition Date:                                        | 10/05/2010     | Date Received:     | 08/06/2009              | Arrest Date:       | 08/04/2009      |
| Law Enf. Case:                                           |                | True Bill Date:    | 01/15/2010              | No Bill Date:      |                 |
| Prosecutor Case:                                         |                | Indictment Number: | 2010GS4200669           | Waiver Date:       |                 |
| Probation Case:                                          |                |                    |                         |                    |                 |

| Case Parties               | Charges                                                  | Sentencing | Associated Cases | Actions              | Financials      | Bonds     |
|----------------------------|----------------------------------------------------------|------------|------------------|----------------------|-----------------|-----------|
| Name                       | Description                                              | Type       | Motion Roster    | Begin Date           | Completion Date | Documents |
| Chapman, Anthony Bernard L | Letter/Inmate Letter                                     | Filing     |                  | 10/03/2013<br>-09:49 |                 |           |
| Chapman, Anthony Bernard L | Filing INMATE MAIL                                       | Filing     |                  | 03/22/2013<br>-00:00 |                 |           |
| Chapman, Anthony Bernard L | Filing/Filing Of Inmate Letter - IMAGE                   | Filing     |                  | 11/21/2011<br>-00:00 |                 |           |
| Chapman, Anthony Bernard L | ORDER OF DISMISSAL OF APPEAL BY COURT OF APPEALS - IMAGE | Order      |                  | 11/15/2011<br>-00:00 |                 |           |
| Chapman, Anthony Bernard L | Certificate/Certificate                                  | Filing     |                  | 11/15/2011<br>-00:00 |                 |           |
| Chapman, Anthony Bernard L | Filing/Filing Of                                         | Filing     |                  | 11/15/2011<br>-00:00 |                 |           |
| Chapman, Anthony Bernard L | Filing/Filing Of                                         | Filing     |                  | 11/15/2011<br>-00:00 |                 |           |
| Chapman, Anthony Bernard L | Motion for Production of Documents                       | Filing     |                  | 04/29/2011<br>-16:48 |                 |           |
| Chapman, Anthony Bernard L | Intent to Appeal                                         | Filing     |                  | 04/29/2011<br>-16:45 |                 |           |
| Chapman, Anthony Bernard L | Active - Non Probation                                   | Filing     |                  | 10/05/2010<br>-12:57 |                 |           |



|                                  |                                               |        |  |                      |                      |  |
|----------------------------------|-----------------------------------------------|--------|--|----------------------|----------------------|--|
| Chapman,<br>Anthony Bernard<br>L | Notice of Bond Letter<br>Sent                 | Filing |  | 09/20/2010<br>-00:00 | 10/05/2010<br>-00:00 |  |
| Hunter, James E                  | Notice of Case Roster<br>Publication Sent     | Action |  | 09/17/2010<br>-09:11 | 10/05/2010<br>-09:11 |  |
| Brown, Michael<br>Demorris       | Notice of Case Roster<br>Publication Sent     | Action |  | 09/17/2010<br>-09:11 | 10/05/2010<br>-09:11 |  |
| Brown, Michael<br>Demorris       | Notice of Case Roster<br>Publication Sent     | Action |  | 09/10/2010<br>-14:14 | 10/05/2010<br>-14:14 |  |
| Hunter, James E                  | Notice of Case Roster<br>Publication Sent     | Action |  | 09/10/2010<br>-14:14 | 10/05/2010<br>-14:14 |  |
| Chapman,<br>Anthony Bernard<br>L | Affidavit/Affidavit of<br>Sol. Rule 5 Request | Filing |  | 02/01/2010<br>-16:05 | 10/05/2010<br>-16:05 |  |
| Brown, Michael<br>Demorris       | Notice of Case Roster<br>Publication Sent     | Action |  | 01/22/2010<br>-10:18 | 10/05/2010<br>-10:18 |  |
| Hunter, James E                  | Notice of Case Roster<br>Publication Sent     | Action |  | 01/22/2010<br>-10:18 | 10/05/2010<br>-10:18 |  |
| Chapman,<br>Anthony Bernard<br>L | REQUEST FOR<br>DISCOVERY                      | Filing |  | 01/06/2010<br>-11:23 | 10/05/2010<br>-11:23 |  |
| Chapman,<br>Anthony Bernard<br>L | AFFIDAVIT                                     | Filing |  | 10/20/2009<br>-16:16 | 10/05/2010<br>-16:16 |  |
| Chapman,<br>Anthony Bernard<br>L | Filing/Filing Of<br>Request for<br>Discovery  | Filing |  | 10/07/2009<br>-16:51 | 10/05/2010<br>-16:51 |  |
| Chapman,<br>Anthony Bernard<br>L | Bond Comment To<br>Notes Screen               | Filing |  | 08/06/2009<br>-12:07 | 10/05/2010<br>-12:07 |  |
| Chapman,<br>Anthony Bernard<br>L | Filing/GS Initial Case<br>File                | Filing |  | 08/03/2009<br>-12:07 | 10/05/2010<br>-12:07 |  |

CMSWeb 6.1

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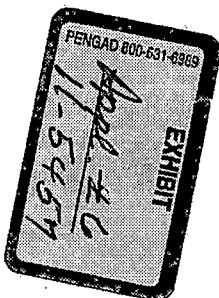
09-339

# STATE OF SOUTH CAROLINA

238

County of SPARTANBURG, SC

## SEARCH WARRANT



Date 7/28/09

Officer M. HUTCHINS

This is a certified true copy  
of the records kept in the  
Spartanburg Magistrate's Court.

McCraw  
6-5-12

## AFFIDAVIT

COUNTY OF SPARTANBURG, SCPersonally appeared before me, one M. HUTCHINS

Who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this county:

**DESCRIPTION OF PROPERTY SOUGHT**

MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE, FERTILIZER, ANY ITEM USED IN THE MANUFACTURE OF MARIJUANA, SCALES, BAGGIES, ELECTRONIC MEDIA, U.S. CURRENCY, DIARIES, LEDGERS, PARAPHERNALIA, AND ANY ITEM RELATED TO THE DRUG TRADE.

**DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED**

FROM DOWNTOWN SPARTANBURG TRAVEL CHURCH STREET TO HIGHWAY 9 AND CONTINUE ON HIGHWAY 9 TOWARDS LAKE BOWEN. TRAVEL HIGHWAY 9 TO MIKE DRIVE. TURN RIGHT ONTO MIKE DRIVE. THE RESIDENCE IS [REDACTED]. THE RESIDENCE IS THE FIRST RESIDENCE ON THE RIGHT HAND SIDE OF THE ROAD PAST WOODSON CT. THE RESIDENCE IS FURTHER DESCRIBED AS A MULTI-STORY DWELLING GRAY IN COLOR WITH RED SHUTTERS AND A WOOD FRONT DOOR. THE MAILBOX AT THER END OF THE DRIVEWAY HAS "CHAPMAN" AND "813" ON IT. THE SEARCH TO INCLUDED THE RESIDENCE, ANY OUTBUILDINGS, AND THE CURTILAGE AREA, ALONG WITH THE PERSON OF ANTHONY CHAPMAN.

**REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES**

WITHIN THE PAST SEVENTY-TWO HOURS OF TODAYS DATE (7/28/09) A CONFIDENTIAL RELIABLE INFORMANT (CRI) WORKING FOR THE SPARTANBURG COUNTY SHERIFFS OFFICE OBSERVED MARIJUANA BEING MANUFACTURED BEHIND THE RESIDENCE AND ON THE CURTILAGE AREA DESCRIBED ABOVE. THE CRI KNOWS THE PREMISES DESCRIBED ABOVE TO BE THE RESIDENCE OF ANTHONY CHAPMAN.

ON 6/18/09 THE CRI ACTING UNDER THE DIRECTION OF THE SPARTANBURG COUNTY SHERIFFS OFFICE, PURCHASED A QUANTITY OF MARIJUANA FROM ANTHONY CHAPMAN AT THE PREMISES DESCRIBED ABOVE USING SPARTANBURG COUNTY SHERIFFS OFFICE RECORDED FUNDS. THE CRI OBSERVED ADDITIONAL MARIJUANA BEING STORED AT THE PREMISES AT THAT TIME. AT THE TIME OF PURCHASE THE CRI OBSERVED MARIJUANA BEING GROWN BEHIND THE PREMISES DESCRIBED ABOVE.

THE CRI KNOWS MARIJUANA BY SIGHT, SMELL, PACKAGING, AND TEXTURE. THE CRI HAS PROVIDED INFORMATION TO THE SPARTANBURG COUNTY SHERIFFS OFFICE IN THE PAST THAT HAS LED TO THE ARREST OF SUBJECTS AND THE CONFISCATION OF ILLEGAL CONTRABAND.

Sworn to and Subscribed before me

This 28 day of July; 2009

[Signature]  
Signature of Judge

22:40

This is a certified true copy  
of the records kept in the  
Spartanburg Magistrate's Court.

[Signature]  
6-5-12

Affiant

Address 8045 HOWARD STREET  
SPARTANBURG, S.C. 29303

Phone 864 502 1500

SEARCH WARRANT

COUNTY OF SPARTANBURG, SC

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE  
MUNICIPALITY OF SPARTANBURG COUNTY, SC

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

**DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED**

FROM DOWNTOWN SPARTANBURG TRAVEL CHURCH STREET TO HIGHWAY 9 AND CONTINUE ON HIGHWAY 9 TOWARDS LAKE BOWEN. TRAVEL HIGHWAY 9 TO MIKE DRIVE. TURN RIGHT ONTO MIKE DRIVE. THE RESIDENCE IS [REDACTED]. THE RESIDENCE IS THE FIRST RESIDENCE ON THE RIGHT HAND SIDE OF THE ROAD PAST WOODSON CT. THE RESIDENCE IS FURTHER DESCRIBED AS A MULTI-STORY DWELLING GRAY IN COLOR WITH RED SHUTTERS AND A WOOD FRONT DOOR. THE MAILBOX AT THER END OF THE DRIVEWAY HAS "CHAPMAN" AND "813" ON IT. THE SEARCH TO INCLUDED THE RESIDENCE, ANY OUTBUILDINGS, AND THE CURTILAGE AREA, ALONG WITH THE PERSON OF ANTHONY CHAPMAN.

Now, therefore, you are hereby authorized to search premises for the property described below, and to seize such property if found:

**DESCRIPTION OF PROPERTY SOUGHT**

MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE, FERTILIZER, ANY ITEM USED IN THE MANUFACTURE OF MARIJUANA, SCALES, BAGGIES, ELECTRONIC MEDIA, U.S. CURRENCY, DIARIES, LEDGERS, PARAPHERNALIA, AND ANY ITEM RELATED TO THE DRUG TRADE.

This is a certified true and correct copy of the records kept in the Spartanburg Magistrate's Court.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

\_\_\_\_\_  
ANY SPARTANBURG COUNTY MAGISTRATE

Within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable: in the event the identity of such person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Spartanburg, SC  
7-28, 20 09

[Signature] (L.S.)  
Signature of Judge

221411

## RETURN

I received the attached Search Warrant 8/3, 20 09, and have executed it as

Follows: On 8/3, 20 09 at 4:29 o'clock P M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Residence

Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: Search warrant open by

D. Garcia: ① Five plants of marijuana located by D. Garcia in the  
backyard and patio area of residence. ② One Pelouze Model SPS  
grey digital scale located in kitchen cabinet above coffee maker and microwave  
along with two boxes of baking soda, one bottle of GNC Inositol Powder,  
two blue dish bowls containing an off-white powder residue, and a small clear  
plastic bag containing an off-white rock like substance by M. Hutchins.  
③ A sum of U.S. currency located in master bed room inside entertainment center  
drawer along with a title to a 2008 Suzuki motorcycle (VIN: JS2JB42A083101160)  
by M. Hutchins. ④ Various grow utensils and grow pumps located in the  
attic by M. Hutchins. ⑤ Light bulbs and tubing found in bonus room closet located  
by M. Hutchins. ⑥ Chest drawers converted into grow apparatus containing  
marijuana  
four plants in top compartment and twenty-two marijuana plants in the bottom compartment  
in bonus room by M. Hutchins.

This inventory was made in the presence of Lt. S. Cooper, M. Hutchins, D. Garcia, H. Beck,

AND M. Deering, P. Norris, Sgt. J. Pharis, T. McJunkin, C. Raymond

I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 4

Day of Aug 2009

0041  
Signature of Judge

(L.S.)

(Signature of Executing Office)

This is a certified true copy  
of the records kept in the  
Spartanburg Magistrate's Court.  
JAN 16 2010 565-12

## RETURN

I received the attached Search Warrant 8/5, 20 09, and have executed it as

Follows: On 8/5, 20 09 at 4:29 o'clock P M,

I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Residence  
 Name of person searched or "at the place of search" with.  
 Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant: continued from page 1

- by P. Garcia. ⑥ Dell computer desktop with monitor, keyboard, and mouse  
along with an Hewlett Packard printer and Sony audio speakers located in  
bonus room by M. Deering. ⑦ One small clear plastic bag containing  
a white powder substance located in two blue dish bowls from item entry #2  
under a small clear plastic bag containing an off-white rock like substance  
from item #2 in kitchen cabinet above coffee maker and microwave.  
⑧ One hydro grow system with one of five marijuana plants from item entry #1  
inside of it located by M. Hutchins in the backyard of residence.  
⑩ A sum of U.S. currency located in the driver side of a Green Toyota  
Tundra pick-up truck (VIN: 5TBBT48115135676 SC-TAG: P331306) located by  
Sgt. J. Pharis. ⑪ An Elik Audio invoice located in master bedroom dresser drawer  
by M. Hutchins. ⑫ An Aerogrow system located in kitchen by kitchen sink by M. Hutchins  
⑬ Jensei audio receiver located by front door of residence by M. Hutchins. Search warrant closed at 7:04 pm.  
 This inventory was made in the presence of Lt. S. Cooper, M. Hutchins, D. Garcia, H. Beck,

AND M. Deering, P. Norris, Sgt. J. Pharis, T. McJunkin, C. Raymond  
 I swear this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 4

Day of Aug 2009

Signature of Judge

(L.S.)

This is certified true and correct  
 Signature of (L.S.)  
 of the records kept in the  
 Spartanburg Magistrate's Court

JM C. Crew  
6-5-12

**SOUTH CAROLINA LAW ENFORCEMENT DIVISION**

**NIKKI R. HALEY**  
*Governor*



**MARK A. KEEL**  
*Chief*

March 4, 2013

Mr. Anthony Chapman, #251075  
Lieber Correctional Institution CA-44  
P.O. Box 205  
Ridgeville, SC 29472

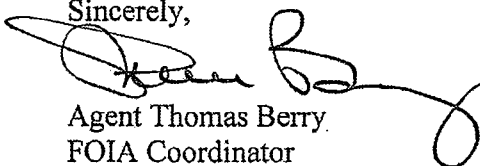
RE: FOIA 2013-107

Dear Mr. Chapman:

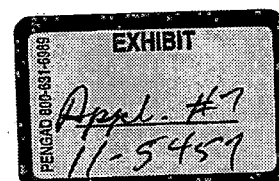
We received your letter dated February 11, 2013. A thorough search of our database with the information you provided on your arrest on August 3, 2009 reveals that no evidence from this case was submitted to the SLED Forensic Laboratory for analysis.

You may wish to contact the Spartanburg County Sheriff's Department for any information they may have concerning this matter.

Sincerely,

  
Agent Thomas Berry  
FOIA Coordinator

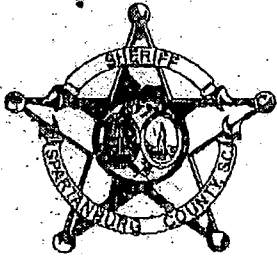
FOIA 2013-107



# Spartanburg County

## Forensic Analysis Lab

Chuck Wright, Sheriff



Matt Hutchins (SCSO)  
SCSO  
PO Box 771  
Spartanburg SC 29304

### DRUG ANALYSIS DEPARTMENT

Date: 6/25/2009  
Lab Number: L09-M364  
Incident Date: 06/18/2009  
Case/War. #: 2009061080  
(S): Chapman, Anthony

The items submitted for analysis were examined with your assurance that the submitted specimens have not nor will be submitted to any other laboratory or agency for examination.

### ITEMS OF EVIDENCE:

L09-M364

Item 1: Green plant material

#### Results:

Marijuana found

2.67 gram(s)

C-1

I am a Chemical Analyst employed by the Spartanburg County Sheriff's Office, certified by the South Carolina Law Enforcement Division (SLED) as a chemist or analyst qualified to perform testing and analysis for controlled dangerous substances prohibited by law in this state by Title 44, Chapter 53 of the Code of Laws and Rule 61-4 of the Department of Health and Environmental Control.

I used the following legally reliable forensic laboratory procedures in this analysis:

- |                                                      |                                             |                                                |
|------------------------------------------------------|---------------------------------------------|------------------------------------------------|
| <input checked="" type="checkbox"/> Chemical Test    | <input type="checkbox"/> Solubility         | <input type="checkbox"/> Liquid Chromatography |
| <input checked="" type="checkbox"/> Microscopic Test | <input type="checkbox"/> Gas Chromatography | <input type="checkbox"/> Published Literature  |
| <input type="checkbox"/> Infrared Spectroscopy       | <input type="checkbox"/> Mass Spectrometry  | <input type="checkbox"/> Other:                |

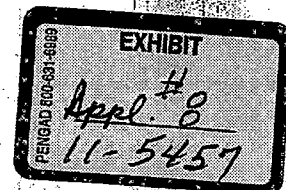
Signature:

Ashley C. Harris

Date

\*No signature. Not Copy  
of original report.  
Reprinted from database  
1-21-14 @ 1001 hrs by  
Ashley C. Harris

*Ashley C. Harris*



STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

IN THE COURT OF COMMON  
SEVENTH JUDICIAL CIRCUIT

Anthony Chapman, #251075 )

C.A. No.: 2011-CP-42-5457

Plaintiff, )

MEMORANDUM

vs. )

State of South Carolina, )

Defendant. )

**ISSUE: Does this Court have jurisdiction in the PCR case where the Applicant's post trial motion from his guilty plea has never been ruled on by the Court?**

At the conclusion of the PCR hearing the Court asked the question of whether the circumstances surrounding the document filed by the Applicant ten days after his guilty plea divested the Court of jurisdiction in the present case.

The record shows that within ten days of the Applicant's guilty plea the Applicant filed the attached document titled as a Rule 59(e) Motion for Reconsideration. Despite the caption of the Applicant's self-filed motion, the substance of the Motion was appropriate under Rule 29(a). A review of the Clerk's file and record show that the Appellant's Motion has never been ruled on by the Court. The question presented is whether that motion can be considered valid under Rule 29(a), SCRCrimP, and if so, what effect does it have on the

jurisdiction of this Court to now render a ruling at the conclusion of the Applicant's PCR case?

The Applicant's post plea motion was timely under Rule 29(a). Rule 29(e) simply requires that a motion must be "made" within ten days of the conviction and sentence. Unlike the rules applicable to a notice of appeal, which expressly require service on the respondent to be effective, Rule 29(a) is far less restrictive requiring only that the motion be made within ten days of the conviction. Applying the less restrictive terms of Rule 29(a), the Applicant made his motion timely by filing it with the Clerk of Court.

The record further shows that the Applicant subsequently made diligent attempts to have his motion heard. Attached is a copy of the Applicant's letter to the Clerk of Court inquiring as to the status of his post plea motion. Also, attached is a copy of a response from the Clerk of Court which clearly failed to answer the Applicant's question concerning the status of his motion. Nor is there any indication in the record that the Clerk of Court took any further action on the motion. It is clear from the record that the Applicant never abandoned his motion nor was it ever ruled upon. It therefore remains pending.

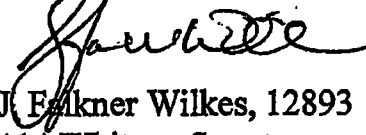
Technically, the time for appeal is stayed until the Applicant's post trial motion is decided. However, until a notice of appeal is filed, the circuit court

retains full jurisdiction. Although the PCR could possibly be considered as premature, the Court nevertheless has jurisdiction over the Applicant's PCR, as well as his unresolved post trial motion.

The Applicant seeks a ruling on his post plea motion and submits that this Court retains jurisdiction to do so. The Court can, in its discretion, determine a Rule 29(a) motion on briefs or have a hearing and take additional testimony to decide the motion. The Applicant submits that it would be appropriate for the Court stay a decision on the PCR and convene a hearing on the issues raised in the Applicant's Rule 29(a) motion. In the event the Court grants the Applicant a new trial under Rule 29(a), then the PCR will become moot. In the event that the Court denies relief under Rule 29, then once the decision is final, the Court can issue a ruling on the issues raised in the PCR. The Applicant submits that this procedure will provide due process and cure any procedural issues caused by the lack of prior ruling on the Applicant's motion.

WHEREFORE, the Applicant should be granted a new trial pursuant to Rule 29(a), and/or in the alternative, his conviction reversed based on the grounds shown in his post conviction relief action.

Respectfully submitted,



J. Falkner Wilkes, 12893  
114 Whitsett Street  
Greenville, SC 29601  
(864) 282-1292  
(864) 271-6035 facsimile

Counsel for Applicant

May 15, 2014.

Atch # 2

Anthony Chapman  
Defendant,

MOTION FOR RECONSIDERATION

V

State of South Carolina  
County of Spartanburg,

Pursuant to Rule 59 (e) of the S.C.R.C.P. defendant would like to respectfully request that this Honorable Court reconsider it's decision in accepting the defendant's guilty plea based on the following facts:

On Tuesday October 5, 2010, defendant reluctantly plead guilty to the charges of trafficking crack cocaine, possession of cocaine with the intent to distribute, and manufacturing marijuana. The defendant believes this Honorable Court should investigate the malicious prosecutorial misconduct by the Spartanburg County Sheriffs Office in procuring the evidence used against the defendant, arrest, and ultimate guilty plea rendered. No supporting probable cause previously existed to give the arresting officers authorization to utilize an undercover informant that was wired during multiple conversations with the defendant.

The defendant also believes his due process and 14<sup>th</sup> amendment rights were violated in that the evidence used was illegally obtained. The county officers must use county funds to make a "control buy" and this was not done, although the search warrants used against the defendant indicate that county funds were used. The defendant was not afforded the documentary evidence to substantiate the claim that the county used it's own funds, nor is this on file at the Clerk of Court. By this action alone, the defendant believes that the county Magistrate was deliberately mislead in issuing a search warrant for the case.

The defendant believes that this process has been fundamentally compromised from the onset from by the Spartanburg County Sheriffs Office and request that this Honorable Court review and reconsider it's decision in this case.

S/ *Anthony Chapman*  
Pro se litigant  
*Big Coule Chapman*

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2010 OCT 15 AM 10:57  
M. HOPE BLACKLEY

10-669

FILED  
U.S. DISTRICT COURT  
LANCASHIRE COUNTY

12-26-2010

Dear M. Hope Blackley,

2011 JAN -4 AM 9:46

I recently wrote your office requesting the status of my Motion for Reconsideration that I filed in October 2010. Your office replied back stating that I need to confer with my former attorney Michael Brown. Mr. Brown no longer represents me. I filed that Motion for Reconsideration on a Pro Se basis. So I'm again, for the fourth time, asking for the status of that motion. Your help in this matter would be greatly appreciated.

Thank You + God Bless

Anthony Chapman #251075  
KEI-REE B2-39  
4344 Broad River Rd.  
Columbia, SC 29210

Anthony B. Chapman

## Spartanburg County

Spartanburg County Court House  
180 Magnolia Street  
P. O. Box 3483  
Spartanburg, SC 29304-3483



M. Hope Blackley  
Clerk of Court

Phone (864) 596-2591  
Fax (864) 596-2239

January 4, 2011

Anthony Chapman #251075  
RCFR&E B2-39  
4344 Broad River Road  
Columbia, SC 29210

Mr. Chapman,

We are in receipt of your letter in reference to the status of your motion. Please note that we only file documents in this office. When filing documents on a Pro Se basis it is your responsibility to file the document (s) with the appropriate offices. Sorry we could not answer your question at this time. If we can be of further assistance to you please let us know.

T. Camp/ Deputy Clerk

|                              |   |                              |
|------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA      | ) | IN THE COURT OF COMMON PLEAS |
|                              | ) | SEVENTH JUDICIAL CIRCUIT     |
| COUNTY OF SPARTANBURG        | ) |                              |
|                              | ) |                              |
| Anthony B. Chapman, #251075, | ) | 2011-CP-42-5457              |
|                              | ) |                              |
| Applicant,                   | ) |                              |
|                              | ) |                              |
| v.                           | ) | MEMORANDUM OF LAW            |
|                              | ) |                              |
| State of South Carolina,     | ) |                              |
|                              | ) |                              |
| Respondent.                  | ) |                              |
|                              | ) |                              |

The Respondent would respectfully show this Court:

#### PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the January 2010 term of General Sessions for manufacturing marijuana (2002-GS-20-0546), trafficking in methamphetamine or crack (2002-GS-20-0082), and possession with intent to distribute (PWID) (2002-GS-20-0132). Michael D. Brown, Esquire, represented the Applicant. On October 5, 2010, the Applicant pled guilty to the lesser included offense of trafficking in cocaine 28-100g and pled guilty as indicted to the other two charges. The Honorable J. Derham Cole sentenced the Applicant to confinement for twenty years each for trafficking in cocaine 28-100g and PWID cocaine, second offense, and five year for manufacturing marijuana, second offense. All sentences were ordered to run concurrently.

On October 15, 2010, the Applicant filed a document with the Spartanburg County Clerk of Court's office *pro se* and captioned as "Motion for Reconsideration." In the document, Applicant stated that the motion was filed pursuant to Rule 59(e), SCRCF. On April 29, 2011, the Applicant then filed a *pro se* document titled "Notice of Intent to Appeal." Respondent has

also received a copy of a document titled "Notice and Motion for Belated or Out of Time Appeal," dated September 20, 2011. The South Carolina Court of Appeals dismissed the Applicant's appeal as not timely by written Order dated October 12, 2011. The Remittitur was issued October 28, 2011.

In his Application, the Applicant alleged that he was being held in custody unlawfully for the following reasons:

- 1) Ineffective assistance of counsel, in that;
  - a) Counsel failed to investigate,
  - b) Counsel failed to inform the Applicant of discovery pertaining to arrest,
  - c) Counsel stated that no appeal could be filed,
  - d) Counsel failed to challenge the search warrant and arrest, and
- 2) Involuntary guilty plea.

#### MEMORANDUM OF LAW

Applicant pled guilty on October 5, 2010, following the denial of pre-trial motions to exclude Applicant's statement and suppress evidence resulting from the search warrant. As the record indicates, the judge reviewed with Applicant the rights that he was giving up by pleading guilty, including the right to contest the judge's decisions regarding the pre-trial motions. (Tr. p. 92). Specifically, the judge told Applicant he "[could not] plead guilty and receive a sentence and then say, well, I'm going to appeal the judge's decision." (Tr. p. 92-3). Applicant answered affirmatively when asked if he understood that he would be giving up those rights. (Tr. p. 93).

However, in the documents provided by the Spartanburg County Clerk of Court, a *pro se* document captioned, "Motion for Reconsideration," and filed on October 15, 2010, was included. As evidenced by the language of the Motion, the "Motion for Reconsideration," was filed pursuant to the South Carolina Rules of Civil Procedure, but appears to be a motion seeking to withdraw Applicant's guilty plea.

Respondent submits that the *pro se* document is not valid and should not be considered in determining the resolution of Applicant's post-conviction relief matter.

First, while the document is captioned, "Motion for Reconsideration," the Applicant based the motion on Rule 59(e), SCRCP, which is not proper for a post-trial motion in General Sessions. Rule 59(e) allows a judge to reconsider or alter or amend his order in a civil matter, not criminal matter. Applicant initially appeared to be requesting to withdraw his guilty plea in the motion, but then proceeded to allege various claims of prosecutorial misconduct and attack the search and arrest warrants. Applicant also alleged due process violations.

Second, Applicant filed the document with the Spartanburg County Clerk of Court, but he failed to serve the Seventh Circuit Solicitor's Office. As the South Carolina Rules of Civil Procedure indicate, a motion "shall be served upon each of the parties of record." Rule 5, SCRCP.

Respondent submits that the Motion should not be considered in resolution of the Applicant's post-conviction relief matter because it was improperly filed and never served on the Seventh Circuit Solicitor's office. However, even if the motion had been considered properly filed, served, and considered on its merits, the Applicant can demonstrate no prejudice from the failure to rule on the motion. The South Carolina Supreme Court has held that "once a defendant enters a guilty plea, whether to allow withdrawal of the plea is left to the sound discretion of the trial judge." State v. Barton, 325 S.C. 522, 530, 481 S.E.2d 439, 443 (Ct. App. 1997). Furthermore, the Court looks to the record of the plea and the voluntariness of the plea when determining if the trial judge abused his discretion in denying a motion to withdraw a plea. State v. Rikard, 371 S.C. 295, 301, 638 S.E.2d 72, 75 (Ct. App. 2006). The record is clear in this

matter that the Applicant entered his plea freely and voluntary, with full knowledge of the charges he faced and potential sentences he could receive.

Therefore, Respondent submits that the motion was not valid, asks that this Court find the motion invalid on its face, and requests that this Court rule on the post-conviction relief matter denying all of the Applicant's claims.

CONCLUSION

For the foregoing reasons, Respondent respectfully asks this court to deny the Applicant's post-conviction relief application.

Respectfully,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

KAREN C. RATIGAN  
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE  
Assistant Deputy Attorney General

By:   
ATTORNEYS FOR RESPONDENT  
Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211

May 29, 2014

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

)  
)

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

Anthony B. Chapman,

)  
)

2011-CP-42-5457

Applicant,

)  
)

v.

)  
)

**CERTIFICATE OF SERVICE BY MAIL**

State of South Carolina,

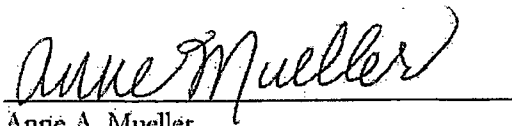
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Respondent.

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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 Respondent's Memorandum of Law in the above-captioned matter on the following person(s) by depositing same in the United States mail, postage prepaid:

J. Falkner Wilkes, Esquire  
114 Whitsett Street  
Greenville, South Carolina 29601



Annie A. Mueller

Legal Assistant for the Respondent

DATED this 29<sup>th</sup> day of May, 2014.

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

Anthony Chapman, #251075 )

Plaintiff, )

vs. )

State of South Carolina, )

Defendant. )

IN THE COURT OF COMMON  
SEVENTH JUDICIAL CIRCUIT

C.A. No.: 2011-CP-42-5457

ORDER

(Granting Rule 29 Hearing and  
Holding PCR Ruling in Abeyance)

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2014 JUL 18 AM 9:07  
M. HOPE BLACKLEY

THIS MATTER CAME TO COURT by way of a post conviction relief hearing in the above captioned case.

A post conviction relief hearing was held in the above captioned case. At the hearing the issue of whether the circumstances surrounding a document filed by the Applicant ten days after his guilty plea constituted an unresolved motion under Rule 29 of the Rules of Criminal Procedure. Although titled as a Rule 59(e) Motion for Reconsideration the substance of the motion was appropriate under Rule 29(a). It is clear from the substance of the motion that the Applicant intended it to be a motion for a new trial under Rule 29. A review of the Clerk's file and record show that the Applicant's motion has never been ruled on by the Court. It further appears that the Applicant never abandoned his intention to have the motion heard.

The issue of the post trial motion arose during the Applicant's post

conviction relief hearing. Although the Applicant has had a full hearing on his issues raised by way of his PCR application, a ruling would be premature until the Applicant has had an opportunity to present and obtain a ruling on his Rule 29 motion.

The Applicant has requested the Court stay a decision on the PCR and convene a hearing on the issues raised in the Applicant's Rule 29(a) motion. In the event the Court grants the Applicant a new trial under Rule 29(a), then the PCR will become moot. In the event that the Court denies relief under Rule 29, the Court will then issue a ruling on the remaining issues presented in the PCR.

WHEREFORE, IT IS ORDERED, that the Applicant be granted a hearing on his Rule 29 motion. That this hearing should be held as soon as possible. That the ruling on the remaining issues raised the Applicant in his PCR shall be held in abeyance pending the Court's ruling on the Rule 29 motion.

Judge Couch does not retain jurisdiction of the Rule 29 motion and the motion may be set and heard before any judge of the Circuit Court. The parties shall notify Judge Couch once a ruling has been had on the Applicant's Rule 29 motion so that Judge Couch can issue a ruling on the Applicant's remaining PCR issues.



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IT IS SO ORDERED.

  
\_\_\_\_\_  
Roger L. Couch, Circuit Judge

This 15<sup>th</sup> day of July, 2014,  
Spartanburg, South Carolina.

FILED  
CLERK OF COURT  
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|                              |   |                                  |
|------------------------------|---|----------------------------------|
| STATE OF SOUTH CAROLINA      | ) |                                  |
|                              | ) | IN THE COURT OF GENERAL SESSIONS |
| COUNTY OF SPARTANBURG        | ) |                                  |
| The STATE of South Carolina, | ) |                                  |
|                              | ) |                                  |
| Prosecutor,                  | ) |                                  |
|                              | ) | ORDER                            |
| -vs-                         | ) |                                  |
|                              | ) | Denying Rule 29 Motion           |
| Anthony Bernard CHAPMAN,     | ) |                                  |
|                              | ) | 2010-GS-42-00667;                |
|                              | ) | 2010-GS-42-00668;                |
| Defendant.                   | ) | 2010-GS-42-00669                 |
|                              | ) |                                  |

This matter came before this Court on motion of the defendant pursuant to Rule 59(e), SCRCrP, seeking the Court to "reconsider its decision in accepting the defendant's guilty plea ..." based upon "malicious prosecutorial misconduct by the ... Sheriff's Office", and violation of his rights to "due process and 14<sup>th</sup> amendment".

The defendant appeared at the hearing held in this matter with counsel, J. Faulkner Wilkes, Esq. and the State was represented by J. Edward Hunter of the circuit solicitor's office. The request for relief was treated as a motion timely filed pursuant to Rule 29(a), SCRCrP.

The record reflects that the defendant represented by Michael D. Brown, Esq. entered pleas of guilty on the above-referenced indictments to Manufacturing Marijuana 2<sup>nd</sup> offense, Trafficking in Crack Cocaine 2<sup>nd</sup> offense, and Possession With Intent to Distribute Cocaine 2<sup>nd</sup> offense subsequent to a suppression hearing. He was sentenced to concurrent sentences of 5 years, 20 years, and 20 years.

After considering the record in this case including the transcript from the suppression and plea hearing, the argument of counsel, and the applicable law, this Court finds that the defendant's motion to vacate the sentence and plea of guilty should be and is therefore denied.

It Is So Ordered.

February 12, 2016

  
 J. DERHAM COLE, Presiding Judge  
 The Seventh Judicial Circuit Court

FILED  
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 2016 FEB 12 PM 4:27  
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STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

Anthony B. Chapman, #251075,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2011-CP-42-5457

ORDER OF DISMISSAL

SCANNED

CLERK OF COURT  
SPARTANBURG COUNTY  
2016 MAY 20 PM 2:51  
M. HOPE BLACKLEY

This matter comes before the Court by way of an Application for Post-Conviction Relief ("PCR") filed December 8, 2011. Respondent made a Return on or about September 11, 2012. The Court convened an evidentiary hearing into the matter on January 21, 2014, at the Spartanburg County Courthouse. Applicant was present at the hearing and represented by J. Falkner Wilkes, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel, Michael D. Brown, Esquire, ("Counsel"), Eddie Hunter, Esquire, with the Seventh Circuit Solicitor's Office, and Matt Hutchins of the Spartanburg County Sheriff's Department also testified. The Court had before it a copy of the plea transcript, the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the pleadings, the return, and the exhibits introduced at the hearing. The Court finds as follows:

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### I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In January 2010, the Spartanburg County Grand Jury indicted Applicant for manufacturing marijuana (2002-GS-20-0546), trafficking in methamphetamine or crack (2002-GS-20-0082), and possession with intent to distribute cocaine ("PWID") (2002-GS-20-0132). Michael D. Brown, Esquire, represented Applicant. On October 5, 2010, Applicant pleaded guilty to the lesser included offense of trafficking in cocaine 28-100g and pleaded guilty as indicted to the other two charges before the Honorable J. Derham Cole. Pursuant to the State's recommendation, Judge Cole sentenced the Applicant to confinement for concurrent terms of twenty years each for trafficking in cocaine 28-100g and PWID cocaine, second offense, and five years for manufacturing marijuana, second offense.

On October 15, 2010, Applicant filed a pro se document captioned "Motion for Reconsideration." In the document, he stated that the motion was filed pursuant to Rule 59(e), SCRCrP. On April 29, 2011, Applicant then filed a pro se document titled "Notice of Intent to Appeal." Respondent also received a copy of a document titled "Notice and Motion for Related or Out of Time Appeal," dated September 20, 2011. The South Carolina Court of Appeals dismissed the Applicant's appeal as not timely by written Order dated October 12, 2011. The Remittitur was issued October 28, 2011.

At Applicant's PCR hearing on January 21, 2014, the issue of whether the circumstances surrounding Applicant's filing of the pro se document titled "Motion for Reconsideration," ten days after his guilty plea constituted an unresolved motion under Rule 29, SCRCrP. The Court issued an Order on July 18, 2014, finding that the Order was a proper motion under Rule 29,

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SCRCrimP, and holding the PCR matter in abeyance until the motion was ruled upon. On February 12, 2016, the Honorable J. Derham Cole denied the Rule 29 motion by written Order.

## II. ALLEGATIONS

In his application, Applicant alleged he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of counsel; in that,
  - a. Counsel failed to investigate
  - b. Counsel failed to inform Applicant of discovery pertaining to arrest,
  - c. Counsel stated that no appeal could be filed,
  - d. Counsel failed to challenge the search warrant and arrest, and
2. Involuntary Guilty Plea.

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 SPARTANBURG COUNTY  
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## III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the evidentiary hearing. The Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. The 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.

### A. Summary of Testimony

Applicant testified that his case started out as a jury trial. He testified Michael Brown represented him for at least a year. Applicant testified that he met with Brown once while he was out on bond during the entire year. Applicant testified he saw Counsel the day before trial and that they talked about going to trial. Applicant testified that a Jackson v. Denno<sup>1</sup> hearing was

<sup>1</sup> 378 U.S. 368 (1964).

held the day of trial. Applicant testified he told Counsel that he wanted to appeal and asked Brown to file the appeal. Applicant testified that he wanted to withdraw the guilty plea and that he made a motion within eight days after the plea. Applicant testified that a suppression hearing was held at the time of trial. He testified he did not believe Counsel was effective. Applicant testified that there was a material false statement in the affidavit used to obtain the search warrant, which was that the confidential reliable informant ("CRI") bought a quantity of marijuana at the house. Applicant stated that Counsel should have used the video, could have challenged the chain of custody and done a chemical analysis. Applicant testified that Counsel did not introduce the video. He testified he had seen a copy of the video.

Applicant testified that the search warrant was challenged in the suppression motion. Applicant introduced the search warrant and affidavit attached as Applicant's Exhibit No. 6 at the hearing. He indicated that paragraph two of the affidavit contained the statement he believed was false, which was that on June 18, 2009, the CRI purchased marijuana and saw marijuana being grown behind the house. Applicant testified that there were other theories he wanted Counsel to use. He stated that no drugs were ever sold out of the residence. Applicant testified that based on the video, the CRI entered his garage and was conducting a search without Applicant being present. Applicant testified that he left the CRI downstairs to take his son upstairs and the CRI went back and looked around the garage. Applicant testified that he never gave permission for recording and would not have let him in if he knew he was recording.

Applicant testified that he pleaded guilty on the advice of Counsel. Applicant testified that if Counsel told him his Fourth Amendment rights had been violated and that there was a chance jury would have suppressed the drugs, he would not have pleaded guilty. Applicant testified that after the guilty plea, he told Counsel there were things that should have been said.

Applicant testified the plea judge did not ask if he thought Counsel did a good job. Applicant stated he testified at the suppression hearing.

Officer Matt Hutchins testified that at the time he was a Senior Narcotics Agent with the Spartanburg County Sheriff's Department. He testified that the Spartanburg County analysis of the substance was completed on June 25, 2009, and the substance was found to be 2.67 grams of marijuana. He testified those were the drugs referenced in the controlled buy in the affidavit supporting the search warrant. Hutchins testified the chemist sends a copy to the solicitor's office but it is unsigned because it is not the original. He testified the search warrant was executed at the time the arrest warrant was executed. He testified that crack cocaine and marijuana were found. Hutchins testified that regarding the chain of custody, the substances all had the solicitor's markings and he could identify them. Hutchins also testified that the video from June 18, 2009, showed marijuana being grown. Hutchins testified that the CRI also reported marijuana being grown on July 28, 2009.

Eddie Hunter of the Seventh Circuit Solicitor's Office testified regarding the chain of custody for the first charge. He testified that he did not have drug analysis or chain for the June 18, 2009, offense. Hunter testified that he had a note in his file dated November 2, 2009, regarding discovery being turned over. Hunter testified that Applicant was permitted to see the video prior to trial. The video was introduced as Applicant's Exhibit No. 9.

Counsel testified that he was retained about a year prior to the plea. Counsel stated that he tries to keep a log of when he visits with his clients. He testified that he has notes in his file that he met with Applicant on three occasions—December 18, 2009, September 27, 2010, and October 4, 2010. Counsel testified that he and Applicant discussed the federal statutes and the nature in which the authorities came in. Counsel testified there were problems with the search

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and questioning of Applicant. He stated that he talked with Applicant about the statements that were made during questioning. Counsel testified that he told Applicant it would be up to the Court whether the statements would be admissible. Counsel testified he did not agree with the statement about the Fourth Amendment violations. Counsel testified he did not consider entering the video in at the suppression hearing. Counsel testified the first video was black and white and the second video was in color, and both had audio. Counsel testified that his conversation with Applicant revolved around the Court's ruling on the suppression motions and stated that the decision to move forward was left up to Applicant. Counsel testified he spoke with narcotics regarding a plea deal and twenty years. Counsel testified he was aware at some point of a pro se motion for reconsideration and withdrawing.

Counsel testified that he discussed the chain of custody issue and always told him that they could challenge the chain at trial. Counsel testified that he raised issues at the pretrial motions that he discussed with Applicant. Counsel testified he was not sure if he had chain of custody documents on the initial controlled buy. Counsel testified he did not address the issue of chain of custody at the pretrial hearing.

#### **B. Ineffective Assistance of Plea Counsel**

In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). The applicant "must first demonstrate that counsel was deficient and then must also show the deficiency resulted in prejudice." Walker v. State, 407 S.C. 400, 404-05, 756 S.E.2d 144, 146 (2014). "The

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two-part test adopted in Strickland also applies to challenges to guilty pleas based on ineffective assistance of counsel." Holden v. State, 393 S.C. 565, 572, 713 S.E.2d 611, 615 (2011).

The applicant must first 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). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, he would not have [pleaded] guilty, but would have insisted on going to trial." Thompson v. State, 340 S.C. 112, 116, 531 S.E.2d 294, 297 (2000).

The record reflects that prior to Applicant's plea, Counsel made a pretrial motion in which he challenged the search warrant and moved to suppress Applicant's statements. The plea judge denied the motions, finding that the statement was made freely and voluntarily and that the search warrant appeared to be valid. Applicant also testified at the suppression hearing. Following the judge's ruling in the suppression hearing, Applicant pleaded guilty. The plea judge informed Applicant on the record that if his ruling regarding the suppression motion was incorrect, the method of correcting the mistake would be for Applicant to have a trial. He then admonished Applicant that by pleading guilty, he was giving up his right to contest his ruling and waiving his right to contest any illegal search and seizure. (Tr. pp. 91-93). The plea judge also confirmed that Applicant was aware of his constitutional rights and that he understood that by pleading guilty he was waiving those rights. Applicant stated that he understood the rights he

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was giving up and that he still wished to plead guilty. Applicant stated that he was making the decision on his own and that he was satisfied with the decision. Applicant stated he was pleading guilty to each indictment because he did commit the crimes as described in the indictments. Applicant confirmed that he was satisfied with Counsel's representation and that he had sufficient time to discuss the decision to plead with him.

*Failure to inform Applicant of discovery*

Applicant testified Counsel met with him only once. Counsel testified he met with Applicant at least three times. Counsel testified he reviewed all discovery with Applicant, and Applicant admitted he had seen a copy of the video of the controlled buy. This Court finds Counsel adequately conferred with Applicant and reviewed all discovery with him. See Moody v. Polk, 408 F.3d 141, 148 (4th Cir. 2005) ("[T]here is no established 'minimum number of meetings between counsel and client prior to trial necessary to prepare an attorney to provide effective assistance of counsel.'" (citing United States v. Olson, 846 F.2d 1103 (7th Cir. 1988))). Applicant has failed to satisfy his burden of proving counsel's performance was deficient in this regard, or that any alleged deficiency prejudiced him. Accordingly, this Court finds this allegation is without merit and it is therefore denied and dismissed.

*Failure to investigate*

Applicant alleged Counsel failed to conduct a proper investigation. To show ineffective assistance in this regard, Applicant must present evidence to show what counsel could have discovered had he been more fully prepared for the trial. Jackson v. State, 329 S.C. 345, 354, 495 S.E.2d 768, 772 (1998). Failure to conduct an independent investigation does not constitute

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ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)).

This Court finds trial counsel conducted a proper investigation, adequately conferred with Applicant regarding the State's burden of proof and any potential defenses, and was thoroughly competent in his representation. Counsel reviewed all the evidence against Applicant and discussed it with him. Counsel testified that he discussed potential defenses with Applicant, including the challenges to the search and Applicant's statements. Applicant failed to produce any evidence regarding any additional investigation that Counsel could have pursued.

Therefore, this Court finds that Applicant has failed to meet his burden of proving that Counsel was deficient in this regard. This Court further finds that Applicant failed to produce any evidence of how any further investigation would have affected the outcome at trial. See Glover v. State, 318 S.C. 496, 499, 458 S.E.2d 538, 540 (1995) ("[A]pplicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice."). Accordingly, this Court finds Applicant has failed to prove either prong of Strickland, and this allegation must be denied and dismissed with prejudice.

***Failure to challenge the search warrant and arrest***

Applicant alleged Counsel failed to properly challenge the search warrant. However, Counsel made pretrial motions challenging both the search warrant and the admissibility of Applicant's statement. Ultimately, the motions were not successful. After the judge denied the suppression motions, Counsel consulted with Applicant and properly advised him regarding his option to go forward with the trial or plead guilty. Counsel negotiated a plea to the lesser

122  
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included offense of trafficking in cocaine base second offense, with a recommendation of twenty years and concurrent sentencing. Though Applicant testified he had other theories that he wanted Counsel to explore, he failed to present sufficient evidence showing what these theories would have been or how they would have been successful. See Arnette v. State, 306 S.C. 556, 557, 413 S.E.2d 803, 804 (1992) (counsel not ineffective for failing to advise of potential defense where no evidence exists to support the defense).

This Court finds Applicant has failed to satisfy his burden of showing that Counsel's performance fell below an objective standard of reasonableness. Furthermore, Applicant admitted to the plea judge that he was guilty, and stated that he understood that the agreement reached was a twenty year sentence and he stated that he wanted the judge to go along with that recommendation. This Court finds Applicant has failed to satisfy his burden of showing that but for any alleged deficiency of Counsel, Applicant would not have pleaded guilty, but would have insisted on going to trial. Accordingly, this Court finds Applicant has failed to show ineffective assistance of counsel and this allegation is therefore denied and dismissed.

#### ***Failure to file an Appeal***

This Court finds that trial counsel was not ineffective for failing to file an appeal. The United States Supreme Court has rejected a "bright-line rule that counsel must always consult with the defendant regarding an appeal." Roe v. Flores-Ortega, 528 U.S. 470, 480, 120 S.Ct. 1029, 1036, 145 L. Ed. 2d 985 (2000). It instead held that "counsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that

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he was interested in appealing." *Id.* "[A]lthough not determinative, a highly relevant factor in this inquiry will be whether the conviction follows a trial or a guilty plea, both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings." *Id.*

This Court finds that this allegation is without merit and the Applicant has failed to carry his burden of proving counsel failed to file an appeal on his behalf. Counsel made pretrial motions to suppress on Applicant's behalf that were not successful. Counsel then conferred with Applicant regarding his options to proceed with trial or enter a plea. Counsel negotiated a favorable plea offer on Applicant's behalf and testified that Applicant made the decision to plead. Applicant clearly stated on the record that he understood that if the judge accepted the plea, he would receive a twenty year sentence. In addition, the plea judge admonished him that he was waiving any challenge to the evidence by pleading guilty. This Court finds that there is no evidence that a rational defendant would want to appeal or that the Applicant indicated he wanted to appeal. Accordingly, this Court finds that Applicant has failed to satisfy his burden as to this allegation, and it is therefore denied and dismissed.

### C. Involuntary Guilty Plea

Applicant alleges he was coerced to plead guilty and that therefore his plea was involuntary. This Court finds Applicant's guilty plea was entered freely and voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 23 L.Ed.2d 274 (1969). Defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record,

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and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 97 S. Ct. 1621, 52 L.Ed.2d 136 (1977)). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Crawford v. United States, 519 F.2d 347 (4th Cir.1975).

An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citing Hill v. Lockhart, 474 U.S. 52; Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000); Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000); Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994)).

This Court finds that the record fully supports the knowing and voluntary nature of Applicant's guilty plea. Applicant has presented no reason why he should be allowed to depart from the truth of his statements made at the plea hearing. Applicant's Counsel made challenges to the search warrant and made a motion to suppress Applicant's statements. The plea judge denied the motions and admonished Applicant that by pleading guilty he was waiving any challenges he had to the Court's ruling. The record reflects that Applicant told the plea judge that he was not threatened, coerced, or forced to plead guilty. Counsel informed Applicant of his

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U.S. District Court  
Spartanburg County, SC  
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constitutional rights, and Applicant waived these rights, including the right to challenge the search and seizure of the drugs, the admission of his statement, his right to a jury trial, right to remain silent, and right to confront witnesses. Applicant has failed to show that Counsel's performance was deficient or that any alleged deficient performance prejudiced him. Accordingly, this Court hereby denies and dismisses Applicant's allegation that his guilty plea was involuntary.

#### **D. All Other Allegations**

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

#### **IV. CONCLUSION**

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek

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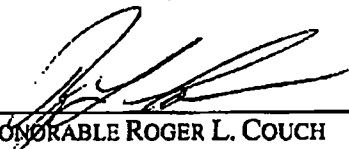
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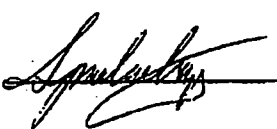
appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED THAT:**

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 20<sup>th</sup> day of May, 2016.

  
THE HONORABLE ROGER L. COUCH  
Presiding Judge  
Seventh Judicial Circuit

, South Carolina

CLERK OF DISTRICT COURT  
SPARTANBURG COUNTY  
2016 MAY 20 PM 2:57  
M. HOPE BLACKLEY

WITNESSES

1. SENTENCE MADE ☒

2. REPORT ENTERED ☒

3. CARD INDEXED ☒

4. INDEXED ☒

5. CHECKED WARRANTS ☒

6. CHECKED SIGNATURES ☒

7. ASSESSMENT AND ☒

TRAFFIC VIOLATIONS COPY ☒

ARREST WARRANT NUMBER

M088868

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date: 1/15/10

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO.

10-GS-42-0667

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JAN 18 2010

TERM

THE STATE

vs.

ANTHONY BERNARD CHAPMAN

Indictment for

MANUFACTURING MARIJUANA

SC Code: 44-53-370

MARC KITCHENS

2010 JAN 27 PM 3:04

SPARTANBURG COUNTY

FILED

STATE OF SOUTH CAROLINA     )  
                                          )  
COUNTY OF SPARTANBURG     )

## INDICTMENT

At a Court of General Sessions, convened on

IAN 15 2010

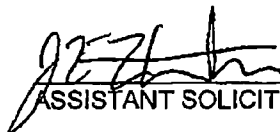
, the Grand

Jurors of Spartanburg County present upon their oath:

**MANUFACTURING MARIJUANA**

That Anthony Bernard Chapman did in Spartanburg County on or about August 3, 2009, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Marijuana, a schedule I controlled substance under provisions of § 44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
ASSISTANT SOLICITOR

## STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS

277

COUNTY OF SPARTANBURG

STATE VS.

Anthony Bernard Chapman L

AKA:

Race: B Sex: M Age: 37

DOB: SS#

Address:

City, State, Zip: Spartanburg, SC 29303

DL#: SID#:

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was  
TO: Manufacturing Marijuana 2nd Offense (0-10 years &/or \$0-10,000)

INDICTMENT/CASE#: 2010GS4200667

A/W#: M088868

Date of Offense: 8/3/2009

S.C. Code § : 44-53-0370(b)

CDR Code #: 0187

## SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 44-53-0370 of the S.C. Code of Laws, bearing CDR Code # 0187

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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] 74198 [Signature] [Signature] 69349  
HUNTER, JAMES EDWARD SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed 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:☐ 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.☐ 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 ☐ OrderedTotal: \$     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(I) (Vehicle Assessment)    | \$40/ea | \$        |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ 5.00   |
| § 44-53-450(C) (Conditional Discharge) | \$350   | \$        |
| 3% to County (if paid in installments) |         | \$ 8.40   |
| TOTAL                                  |         | \$ 288.40 |

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (06/2010)

PTUP

    days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp.    May serve W/E beginning    Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly  
pmts. of \$     beginning    \$     paid to Public Defender FundOther:    ☐ Condition Discharge, § 44-53-450(C) requires  
\$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel,  
§ 47.12 requires \$500 be paid to Clerk  
during probation.

Presiding Judge

Judge Code:

Sentence Date:

[Signature]  
2053  
October 5, 2010

WITNESSES

1. SENTENCE MADE

2. REPORT ENDED

3. CARD FILLED

SPTG CO SHERIFF'S OFFICE

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

FACE CARD MADE

TRAFFIC VIOLATIONS COPY

Computer

Computer

ARREST WARRANT NUMBER

M088869

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 1/15/10

VERDICT

DOCKET NO.

10-GS-42-0668

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JAN 18 2010

TERM

THE STATE

vs.

ANTHONY BERNARD CHAPMAN

Indictment for

TRAFFICKING IN  
METHAMPHETAMINE OR  
COCAINE BASE

SC Code: 44-53-375

MARC KITCHENS

2010 JAN 27 PM 3:04

SPARTANBURG COUNTY

FILED  
COURT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

## INDICTMENT

At a Court of General Sessions, convened on JAN 15 2010, the  
Grand Jurors of Spartanburg County present upon their oath:

**TRAFFICKING IN METHAMPHETAMINE OR COCAINE BASE**

That Anthony Bernard Chapman did in Spartanburg County on or about August 3, 2009, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess more than (100) one hundred grams of Methamphetamine or Cocaine Base, a schedule II controlled substance, in violation of §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG  
STATE VS.

Anthony Bernard Chapman L

AKA:

Race: B Sex: M Age: 37

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

\*CDL Yes ☐ No ☒ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Trafficking crack cocaine 2nd - 28-100grams 7-30 years and \$50,000

in violation of § 44-53-03750

of the S.C. Code of Laws, bearing CDR Code # 0389

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea(s): ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

HUNTER, JAMES EDWARD

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed 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.☐ 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 USC 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 (SCCA Surcharge)          | \$5     | \$ 5.00   |
| § 44-53-450(C) (Conditional Discharge) | \$350   | \$        |
| 3% to County (if paid in installments) | \$      | \$ 8.40   |
| TOTAL                                  | \$      | \$ 288.40 |

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (06/2010)

## IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS4200668

A/W#: M088869

Date of Offense: 8/3/2009

S.C. Code § : 44-53-0375(C)

CDR Code #: 0368

## SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

74198 *Anthony Chapman* *Michael D.B.* 69749  
 SC Bar# Defendant Attorney for Defendant SC Bar#

## PTUP

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

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:

☐ Condition Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition  
☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code:

Sentence Date:

*Michael D.B.*  
 2053  
 October 5, 2010

WITNESSES

1. SENTENCE MADE

2. REPORT MADE

3. CARD FILLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND

8. CARD MADE

TRAFFIC VIOLATIONS COPY

ARREST WARRANT NUMBER

M088867

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date: 1/15/10

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO.

10-GS-42-0669

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

JAN 18 2010

TERM

THE STATE

vs.

ANTHONY BENARD CHAPMAN

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE  
COCAINE

SC Code: 44-53-370

CDR Code:

Class MIS/A

MARC KITCHENS

2010 JAN 27 PM 3:04

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

## INDICTMENT

At a Court of General Sessions, convened on JAN 15 2010, the  
Grand Jurors of Spartanburg County present upon their oath:

**POSSESSION WITH INTENT TO DISTRIBUTE**

That Anthony Bernard Chapman did in Spartanburg County on or about August 3, 2009, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine, a schedule II controlled substance or controlled substance analogue, in violation of § 44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
ASSISTANT SOLICITOR

COUNTY OF SPARTANBURG  
 STATE VS.  
Anthony Bernard Chapman L.  
 AKA: \_\_\_\_\_  
 Race: B Sex: M Age: 37  
 DOB: [REDACTED]  
 City, State, Zip: Spartanburg, SC 29303  
 DL#: \_\_\_\_\_ SID#: \_\_\_\_\_

INDICTMENT/CASE#: 2010GS4200669

A/W#: M088867

Date of Offense: 8/3/2009

S.C. Code §: 44-53-0370(B)

CDR Code #: 0184

# SENTENCE SHEET

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was  
 TO: PWID Cocaine (Powder) 2nd Offense (5-30 years &/or \$0-50,000)

☐ CONVICTED OF or ☒ PLEADS

in violation of § 44-53-0370 of the S.C. Code of Laws, bearing CDR Code # 0184

☒ 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] 2498 [Signature] Michael D. G. 69349  
 HUNTER, JAMES EDWARD SC Bar# \_\_\_\_\_ Defendant Attorney for Defendant SC Bar# \_\_\_\_\_

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,  
 for a determinate term of 20 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.

☐ 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   | \$ <u>100.00</u> |
| § 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    | \$ <u>25.00</u>  |
| § 14-1-213 (Drug Court Surcharge)      | \$150   | \$ <u>150.00</u> |
| § 50-21-114(BUI Breath Test Fee)       | \$50    | \$               |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea | \$               |
| Proviso 90.5 (SCCJA Surcharge)         | \$5     | \$ <u>5.00</u>   |
| § 44-53-450(C) (Conditional Discharge) | \$350   | \$               |
| 3% to County (if paid in installments) | \$      | \$ <u>8.40</u>   |
| TOTAL                                  |         | \$ <u>288.40</u> |

Clerk of Court/ Deputy Clerk KG McKinney

Court Reporter: Linda Myzette

SCCA/217 (06/2010)

PTUP \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. \_\_\_\_\_

May serve W/E beginning \_\_\_\_\_

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: \_\_\_\_\_

☐ Condition Discharge, § 44-53-450(C) requires  
 \$350 be paid to the Clerk prior to case disposition

☐ Appointed PD or appointed other counsel,  
 § 47.12 requires \$500 be paid to Clerk  
 during probation.

Presiding Judge

Judge Code: \_\_\_\_\_

Sentence Date: October 5, 2010