

STATE OF SOUTH CAROLINA
In The Supreme Court

ORIGINAL

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

RECEIVED

The Honorable Perry H. Gravely, Circuit Court Judge

SEP 10 2013

Appellate Case No. 2018-000627

S.C. SUPREME COURT

TITUS L. ROUSE,

Respondent,

v.

STATE OF SOUTH CAROLINA,

Petitioner.

SUPPLEMENTAL APPENDIX

ALAN WILSON
Attorney General

TRICIA A. BLANCHETTE

DESHAWN H. MITCHELL
Assistant Attorney General
S.C. Bar # 101813
Post Office Box 11549
Columbia, SC 29211
(803) 734-3737

Post Office Box 2147
Leesville, SC 29070
(803) 908-3266

ATTORNEY FOR RESPONDENT

ATTORNEY FOR PETITIONER

INDEX

INDEX i

EXHIBIT RECORD AND RECEIPT FORM1

PLAINTIFF’S EXHIBIT #1 – Preliminary Hearing Transcript.....2

PLAINTIFF’S EXHIBIT #2 – Discovery List26

PLAINTIFF’S EXHIBIT #3 – K-9 Certificates32

PLAINTIFF’S EXHIBIT #5 (A–F) – Photos34–39

PLAINTIFF’S EXHIBIT #6 – Letter from Robert Simms (Jan. 25, 2016)40

PLAINTIFF’S EXHIBIT #7 – Affidavit of Edward Cooper42

PLAINTIFF’S EXHIBIT #8 – Report of John Redman44

PLAINTIFF’S EXHIBIT #9 – Letter by C. Rauch Wise (June 5, 2014)47

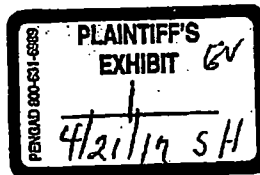
PLAINTIFF’S EXHIBIT #10 – Drug Analysis Report.....66

PLAINTIFF’S EXHIBIT #11 – Statement of Eye Witness68

PLAINTIFF’S EXHIBIT #12 – Letter from C. Rauch Wise (Aug. 7, 2014).....69

PLAINTIFF’S EXHIBIT #13 – Letter from C. Rauch Wise (Aug. 8, 2014).....71

PLAINTIFF’S EXHIBIT #14 – Search Warrant.....72



1 STATE OF SOUTH CAROLINA) ORIGINAL
 2) COURT OF GENERAL SESSIONS
 3 COUNTY OF GREENVILLE)
 4 STATE OF SOUTH CAROLINA,)
 5 Plaintiff.)
 6 TITUS ROUSE,)
 7 Defendant.)

8 -----
 9 Preliminary hearing taken in the
 10 aforementioned matter was heard before the
 11 Honorable Judge Robert Simms, at Greenville
 12 County Courthouse, 305 East North Street,
 13 Greenville, South Carolina, on the 12th day
 14 of July, 2012.
 15 -----

1 APPEARANCES:
 2 BRENNAN TOWNSEND, Esquire
 3 Assistant Solicitor
 4 Thirteenth Judicial Circuit
 5 Court of General Sessions
 6 305 East North Street
 7 Greenville, South Carolina
 8 Attorney for Plaintiff.
 9 RICHARD H. WARDER, Esquire
 10 15 Primrose Street (29601)
 11 Post Office Box 26133
 12 Greenville, South Carolina 29601-2254
 13 Attorney for Defendant.

14 - - - - -
 15 INDEX OF EXAMINATION

16 PAGE
 17 TESTIMONY OF DEPUTY MICHAEL GIOVANNI
 18 DIRECT EXAMINATION: BY MS. TOWNSEND 4
 19 CROSS-EXAMINATION: BY MR. WARDER 13
 20 - - - - -

1
2
3
4
5
6
7
8
9
10

INDEX OF EXHIBITS

PAGE

THERE WERE NO EXHIBITS INTRODUCED.

- - - - -

(In the following transcript, a dash [--] is used to indicate an unintentional or purposeful interruption in a sentence, or to indicate halting speech or an unfinished sentence in dialogue.)

- - - - -

1 MS. TOWNSEND: Your Honor, this
2 is the matter of the State versus
3 Titus Rouse, Warrant number
4 N201021, charged with trafficking
5 in heroin. The State calls Deputy
6 Giovanni.

7 THE COURT: Deputy Giovanni, come
8 to the stand.

9 DEPUTY MICHAEL GIOVANNI,
10 being first duly sworn/affirmed, was
11 examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. TOWNSEND:

14 Q. Deputy, could you please state your
15 full name and employer for the record.

16 A. Yes, ma'am. My name is Michael
17 Giovanni. I work with the Greenville
18 County Sheriff's office in the uniform
19 patrol division.

20 Q. Okay. And can you describe how you
21 became involved in this incident?

22 A. Yes, ma'am. On this particular day,
23 the 27th of May, I was contacted by my
24 supervisor, and he advised me that a
25 narcotics tip had come in through the

1 front desk. He asked me to respond to
2 the service center and get an unmarked
3 car and try to conduct an investigation
4 based on the tips that we were provided
5 with.

6 Q. Okay. And then what happened after
7 that?

8 A. The tip that -- that had come into the
9 front desk basically stated that on
10 Orchard Park Drive there was a black
11 male subject that went by the street
12 name Slick, that was staying in the
13 hotel there and was in possession of
14 several ounces of heroin. We were told
15 that he was in possession of a white
16 Mercedes-Benz. He would be around 30
17 years of age and was fairly clean-cut.
18 Based on that information that we were
19 provided with I responded to that area.
20 We were initially told that he thought
21 it was a Comfort Inn. Wasn't
22 completely sure that it was a Comfort
23 Inn, but he knew it started with a "C,"
24 and it turns out there are several
25 hotels on Orchard Park that start with

1 a "C." I spent about two hours in the
2 area riding back and forth just
3 checking the hotels and never did
4 locate anything. It wasn't extremely
5 busy that particular day, and because
6 of that I was allowed to stay over
7 there and continue to watch the area.
8 And because I was alone the Sergeant
9 decided to send another officer over
10 there to ride in the car with me. And
11 when I -- I say "alone," I mean I was
12 in -- the particular car I was in I was
13 by myself. We had another officer in
14 the area that was a K-9 deputy. When
15 Deputy White, who is the other officer
16 who got into the car with me, when he
17 responded I picked him up down the
18 street, and we returned back to the
19 area and decided to park in this kind
20 of abandoned building down at the end
21 of the street close to the Courtyard
22 Marriott. There's like a turnaround
23 area there. We were sitting in that
24 area there and had a pretty good view
25 of the Courtyard, the hotel where this

JUDY COMP & ASSOCIATES, INC.

1 actually -- this incident actually
2 occurred in the Clarion Hotel, which is
3 on the opposite side of the hotel where
4 this happened. As we were sitting in
5 that spot, we were there probably ten
6 minutes or so from the time that we
7 parked when Deputy White observed a
8 white Mercedes pull into the incident
9 location. We circled around at that
10 point, and as we made our way around
11 the building we observed a car, this
12 Mercedes, parked. It was parked in a
13 parking spot at the rear right corner
14 of the property, the front of the car
15 facing in, and the rear facing out. I
16 circled by, drove past the car, and
17 observed that you have the tag number
18 South Carolina 1349DY. I called
19 Dispatch and asked them to run that
20 license plate and got another view of
21 the vehicle as they ran that tag. They
22 told me that it came back through an
23 Infinity. Based on the fact that it
24 came back through an Infinity I decided
25 to ride back by the car again to see if

JUDY COMP & ASSOCIATES, INC.

1 I had misread the tag. As I passed the
2 front corner of the building turning to
3 the left going back towards where the
4 car was parked I observed the defendant
5 getting into the car and backing out of
6 the parking space. He backed out and
7 started to approach where I was at, and
8 based on where I was parked at I had no
9 choice but to just continue forward.
10 We passed each other. I got a very
11 clear look at his face, and he made --
12 he -- he continued on going back
13 towards the entrance of the hotel, made
14 a right turn and got out of view. By
15 the time I got my car turned around and
16 got back out there, the car was
17 abandoned. The car was parked. The
18 front door was standing open. The
19 front driver's door was standing open,
20 and there was nobody around the car. I
21 called for additional units to respond,
22 and several other cars did respond. We
23 got some K-9 units out there, and they
24 began a track. The defendant was not
25 seen by myself jumping out of the car.

1 I didn't see where he ran to, had no
2 idea where he had gone, but we circled
3 the hotel. They started the track.
4 After probably 15 minutes or so, you
5 know, walking around with the track, I
6 returned back to the back corner where
7 the -- where the actual car was parked
8 at to start with and was watching that
9 area in case the defendant tried to
10 come back and go into a hotel room on
11 that corner. While I was watching that
12 I had observed him come out from in
13 front of the car -- excuse me. From in
14 front of the -- the hotel, and was
15 talking to another black male subject
16 next to a red Lincoln Town Car. When I
17 saw him he was standing -- he didn't
18 have a shirt on. He had a towel draped
19 around his neck, and when I pointed at
20 him he turned back and went out of
21 view, and I -- I immediately walked up
22 towards that area and took a couple
23 other deputies with me. And he had
24 gone inside the hotel office area, the
25 lounge. When I walked in there we

1 began talking to him. He provided an
2 I.D. to the other deputy that was with
3 me, Deputy White. And I don't remember
4 which one it was that he provided to me
5 right offhand, but he -- he provided
6 one I.D., and then after we talked to
7 him for a few minutes I eventually told
8 him that I know that he was the one
9 driving the car, I observed him, and
10 there was no doubt in my mind that he
11 was the one driving the car. He told
12 me that -- he -- he looked right at me,
13 and he told me basically that the only
14 reason that he had jumped out of the
15 car and ran was because he thought that
16 he had child support warrants on him.
17 At that point he provided the second
18 I.D. that he had in his possession. He
19 had both of them in his wallet. He was
20 detained. We took him outside after.
21 After we took him outside he was
22 Mirandized on video, and at that point
23 he was confronted about the narcotics.
24 I, myself, did not find the actual
25 narcotics, but they were located just

1 on the other side of the concrete wall
2 about ten feet from the front of the
3 car, and the defendant's slippers were
4 also found right beside the bag. And
5 from that point he was transported to
6 the Southern Area Command to talk with
7 the narcotics investigator, and I
8 responded to obtain a Search Warrant
9 for the room. Based on that Search
10 Warrant we did check the defendant's
11 room where he was staying, and there
12 was no further contraband found at that
13 point.

14 Q. Okay. Now the concrete wall, you said
15 it was located how close to the
16 vehicle?

17 A. About ten feet from the front of the
18 car where the car actually stopped at.
19 There was a small space between the two
20 buildings, and he had jumped over that
21 wall, and the narcotics were left there
22 in a bag, and his slippers were also
23 there. The space here houses like air
24 conditioning units in between the two
25 buildings, and it's just like a little

1 alleyway that goes back toward the rear
2 of the building.

3 Q. Okay. And how were you able to
4 determine that the slippers belonged to
5 the defendant?

6 A. Well, he was barefoot at the time, and
7 later on when we were talking to him he
8 did tell us that he ran out of the
9 slippers, and that was on video.

10 Q. And what was the narcotics that were
11 found? Can you go into that? How much
12 and what kind?

13 A. Yes. It was in a bag. It was still in
14 a brick style form. It had kind of
15 cracked in half a little bit, but it
16 ended up being 1.1 ounces of brown
17 heroin, and it was field tested, and it
18 did test positive. We also took the
19 bag that the narcotics were found in
20 and separated it from the drugs and
21 placed that bag into evidence to be
22 processed for latent prints. I don't
23 know the results of that yet. I didn't
24 get an opportunity to check that.

25 Q. And all these incidents occurred in

1 Greenville County?

2 A. Yes, ma'am, they did.

3 Q. And pardon me, I probably should know
4 the answer to this, but in relation --
5 1.1 ounces would be equal to how many
6 grams?

7 A. Thirty -- roughly 34. There were 32
8 grams.

9 Q. Okay. All right.

10 MS. TOWNSEND: Please answer any
11 questions from defense.

12 THE WITNESS: Okay.

13 CROSS-EXAMINATION

14 BY MR. WARDER:

15 Q. Officer, you went out there to find an
16 individual named Slick; is that right?

17 A. Yes, sir.

18 Q. And has my client ever become
19 identified as "Slick," or are you able
20 to say that that's a gentleman named
21 Slick, or that --

22 A. No. He did not make mention of his
23 street name, no.

24 Q. Now did the informant see my client and
25 say that was Slick?

- 1 A. Not afterwards, no. He -- he
2 identified him based on the information
3 he provided to us, which was a black
4 male in a white Mercedes.
- 5 Q. Okay. So my client was identified
6 because he was a black male and drove a
7 white Mercedes?
- 8 A. Yes. And he was at the incident
9 location, the hotel on Orchard Park
10 Drive.
- 11 Q. Okay. Now I thought the informant
12 didn't give you the --
- 13 A. He didn't give us the specific incident
14 location, but he did give us a hotel on
15 Orchard Park Drive.
- 16 Q. Okay.
- 17 A. A black male around 30 years of age
18 driving a white Mercedes.
- 19 Q. Okay. And how did the informant know
20 about what he --
- 21 A. The informant was actually at this
22 location earlier in the day and had had
23 contact with the defendant. He was
24 there when another subject who actually
25 made a purchase of heroin from the

1 defendant, and that information was
2 subsequently passed on to us.

3 Q. Now the Mercedes, you said, drove off
4 as you came in. You said it did have
5 tinted windows?

6 A. It did not have tinted windows, no.

7 Q. Okay. And was it going fast or slow?

8 A. Probably five miles an hour.

9 Q. And you say it went around the front of
10 the lodge or motel?

11 A. Yes.

12 Q. And the next time you saw it it was
13 parked and had the door open?

14 A. Yes.

15 Q. How long would that have been?

16 A. Twenty-five seconds maybe at the most.

17 Q. Okay.

18 A. Just long enough for me to turn my car
19 around. We were facing in the opposite
20 direction, so I had to turn around to
21 get back around to the front of the
22 building.

23 Q. And when you saw it that time you
24 didn't observe anyone in it?

25 A. No, there was nobody in the car.

- 1 Q. And did you look in the area that the
2 slippers and the drugs were found at
3 that time?
- 4 A. No.
- 5 Q. How long was it before you looked into
6 that area?
- 7 A. I, myself, did not look. The only
8 thing that I was doing at that time was
9 looking for the person that had run
10 from the car, but I did not look
11 immediately over the top of the wall.
12 It was probably 15 minutes until the
13 actual narcotics were found.
- 14 Q. Okay. And you say my client identified
15 the slippers?
- 16 A. Yes.
- 17 Q. Said they were his?
- 18 A. He said that he had run out of his
19 slippers, yes.
- 20 Q. Did he say he ran out of those
21 slippers?
- 22 A. Not the particular slippers we had. No
23 we never showed him the slippers that
24 we had.
- 25 Q. You never showed them to him?

- 1 A. No.
- 2 Q. Did my client ever admit that they were
3 his drugs or his slippers, either one?
- 4 A. He did not admit possession of those
5 particular slippers. He said that he
6 had run out of his slippers, and, of
7 course, he denied having any
8 association with narcotics directly to
9 me. Now what he told the narcotics
10 investigator or anybody else, I don't
11 know.
- 12 Q. Do you know where he was in the interim
13 of time, the 15 minutes that were --
- 14 A. The only thing that I was told was that
15 he was at the swimming pool for a short
16 period of time, and that the officers
17 that were actually doing the tracking
18 went to look for him and actually
19 talked to him at the pool, and the pool
20 is directly alongside of where these
21 narcotics were found.
- 22 Q. No one staked the car out to watch it
23 to make sure no one --
- 24 A. Everybody was watching the car the
25 whole time. He never returned to the

1 vehicle, but he was sitting at the
2 pool, which is right in front of where
3 the car was stopped at. So he had a
4 clear view of the car and a clear view
5 of where the narcotics were dropped at.

6 Q. When he was sitting in the pool was he
7 in swimming attire?

8 A. He was wearing a swimming trunks like
9 shorts, and he had a towel around his
10 neck. That's what the other officers
11 told me. And he also had this towel
12 around his neck when I saw him standing
13 out at the front corner of the
14 building.

15 Q. How about the one driving the car? How
16 was that fellow dressed?

17 A. He -- he had a shirt on like a tank
18 top, and I remember seeing his watch.
19 He had a large watch on his wrist.

20 Q. Did he have a large watch when you saw
21 him the next time?

22 A. He had a large watch in his possession,
23 yes. It was in his pocket.

24 Q. Was he alone at the motel, or did he
25 return to the motel?

- 1 A. He returned to the motel.
- 2 Q. Did you participate in the search of
3 his room?
- 4 A. Pardon?
- 5 Q. You participated in the search of the
6 motel room?
- 7 A. I did, yes.
- 8 Q. Okay. How did you identify it was his
9 room?
- 10 A. The clerk told us that the room was
11 registered to him.
- 12 Q. He was registered in the name of Slick
13 or anything like that?
- 14 A. No. It wasn't registered in the name
15 "Slick." It was registered to one of
16 the two I.D.s that he had in his
17 possession.
- 18 Q. Okay. And the car, was it registered
19 in his name?
- 20 A. No. He told me that the car belonged
21 to a friend of his.
- 22 Q. Do you know if that friend was there
23 that day or not?
- 24 A. I have no idea. He was not there at
25 the time we were out there, no.

- 1 Q. Did you check to see if he was there,
2 or if he rented a room, or anything?
- 3 A. Well, he initially told me that a
4 friend of his had obtained the hotel
5 room, and later on changed his story
6 and said that he had obtained the hotel
7 room. When we made contact with him
8 initially inside -- inside of the
9 office area he told us that his friend
10 had rented the room, and he was just
11 there. Later on when he produced the
12 second I.D., the second I.D. was the
13 actual name that the room was
14 registered under. And furthermore, the
15 clerk told me that the defendant comes
16 there quite frequently.
- 17 Q. Did you talk to anybody in the pool to
18 see how long he had been at the pool or
19 how long he had been swimming?
- 20 A. I did not myself, no. There were
21 several other officers out there who
22 talked to many different people. But
23 I, myself, no, I didn't talk to anybody
24 at the pool.
- 25 Q. How long were you there that day?

- 1 A. Total, from the time that this whole
2 thing started until we left after
3 searching the room, probably three
4 hours. It was after, you know, I had
5 to leave and go obtain a Search Warrant
6 and return back. There were other
7 officers out there the entire time.
8 Start to finish probably roughly three
9 hours.
- 10 Q. And were you alone in the car when you
11 first saw action?
- 12 A. No. I was not. Deputy White was in
13 the car with me at that point. I was
14 alone in the car prior to that just
15 checking the area and had not found
16 anything until that point.
- 17 Q. Was your fellow officer with you when
18 you next saw the defendant and (cannot
19 understand the tape).
- 20 A. We were apart at that point. I -- I
21 told him to come back into the office
22 with me, and when he walked in the two
23 of us were in there talking to the
24 defendant.
- 25 Q. Did you (shuffling of papers creates

1 noise so that cannot understand what is
2 being said on the tape).

3 A. Well, they -- they brought a bloodhound
4 out there, and, you know, I can't
5 comment on how they operate one way or
6 the other, but the dog was out there,
7 and they did make contact with him at
8 the pool, but they continued on after
9 that point. (Tape runs out.) Well,
10 they talked -- they talked to him
11 briefly, but they didn't stop and talk
12 to him in a capacity like he was the
13 defendant.

14 Q. Were the two dogs out there a drug dog
15 and a bloodhound?

16 A. Yes. The drug dog itself, I don't know
17 if they ever even got him out of the
18 car. I don't know. He -- Deputy
19 Cannon was the one that was out there
20 originally with me. We were in the
21 area for several minutes. He stayed
22 out there for probably two hours, and
23 he was actually the one who -- who
24 talked with the defendant afterwards
25 when we were -- when he Mirandized him,

1 and so forth, on his videotape. But as
2 far as his (inaudible) dog I don't know
3 if he ever got him out or not. I was
4 on the opposite side of the building.

5 Q. You said there was a videotape made of
6 talking to the defendant in
7 interrogation?

8 A. Yes. Deputy Cannon's video recorded
9 the conversation back and forth.

10 Q. Is that on the in-car camera?

11 A. Yes.

12 MR. WARDER: Thank you very much.

13 MS. TOWNSEND: Your Honor, the
14 State moves that he might be bound
15 over.

16 THE COURT: There's finding of
17 probable cause of this case and
18 will be bound over for defendant.

19 (HEARING ADJOURNED)

1 STATE OF SOUTH CAROLINA)
 2) CERTIFICATE
 3 COUNTY OF GREENVILLE)
 4 I, JUDITH T. COMP-STERNIK, a Notary Public,
 5 duly commissioned and qualified in and for
 6 the State of South Carolina, do hereby
 7 certify that the recording tape of General
 8 Sessions Preliminary Court hearing in the
 9 aforementioned case was transcribed under my
 10 direction; and that this transcript is a
 11 true record of said proceedings. I further
 12 certify that I am not of kin or counsel to
 13 the parties in this case, am not in the
 14 regular employ of counsel for any of said
 15 parties, nor am I interested in the results
 16 of this case.
 17 IN WITNESS WHEREOF, I have hereunto set my
 18 hand and affixed my official seal this
 19 9th day of August, 2012.
 20 Judith T. Comp-Sternik
 21 Notary Public for South Carolina
 22 My Commission Expires: 02/25/13

State of South Carolina
Solicitor, Thirteenth Judicial Circuit



Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. Walter Wilkins

July 3, 2012

Richard Warder, Esq.
P.O. Box 26133
Greenville, SC 29616

RE: STATE OF SOUTH CAROLINA vs. TITUS NICCOLA LEE ROUSE
Trafficking in Heroin
Warrant/Ticket # (s) N201021

Dear Mr. Warder:

Enclosed please find the following discoverable material, pursuant to Rule 5, South Carolina Rules of Criminal Procedure:

1. Copy of the above referenced warrant/ticket(s).
2. GCSO Incident Report case 12-077095 by Michael Giovanni dated 5-28-12 (1 page).
3. Supplemental Report by Michael Giovanni dated 5-28-12 (4 pages).
4. Supplemental Report by John White dated 5-28-12 (4 pages).
5. Supplemental Report by Steven Picone dated 5-28-12 (3 pages).
6. Statement of Steven Vasallo (1 page).
7. Copy of Search Warrant (4 pages).
8. Vehicle Tow and Inventory Record (1 page).
9. Drug Analysis Report (1 page).
10. Property Report (2 pages).
11. DPS Crime Scene Investigation Report (1 page).
12. NCIC Criminal History.

Pursuant to Rule 609(b) of the South Carolina Rules of Evidence, this shall serve as advance written notice of the State's intention to use all convictions of crimes in excess of ten (10) years old to impeach the Defendant in this matter. Those crimes are listed on the Defendant's NCIC report of criminal activity. This will be the only notification in this regard.

Richard Warder, Esq.
July 3, 2012
Page 2

Please contact our office regarding a mutually convenient time for you to view evidence, which may be contained in the Property and Evidence Room at the Law Enforcement Center here in Greenville County. Pursuant to discovery rules, we will allow you to inspect the evidence that may be utilized at trial.

Please make every effort to protect the disclosure of any personal identifying information released to you through the discovery process. Such personal identifying information would include, but not limited to, names, addresses, date of birth, social security numbers, driver's license numbers, bank account numbers, credit card numbers and telephone numbers for any witness, victim or defendant.

Also, please find enclosed the State's Request for Reciprocal Discovery and the State's Request for Notice of Alibi and/or Insanity Defense, pursuant to Rule 5, South Carolina Rules of Criminal Procedure.

If you have any questions regarding this defendant's case(s), please do not hesitate to call me. I look forward to working with you.

Sincerely,

Sara Lee Drawdy
Assistant Solicitor

RE: TITUS NICCOLA LEE ROUSE

*** Please acknowledge receipt of discovery by signing here and returning a copy of this to me within 10 days. If I do not hear from you or receive a copy of this acknowledgement within the allotted time, I will assume you received the enclosed documents and have no objections.

Attorney for Defendant

State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. Walter Wilkins

March 6, 2014

Richard Warder, Esq.
P.O. Box 26133
Greenville, SC 29616

Re: STATE OF SOUTH CAROLINA vs. TITUS NICCOLA LEE ROUSE
Warrant # (s): N-201021

Dear Dick:

Pursuant to Rule 5 (C) South Carolina Rules of Criminal Procedure, Continuing Duty to Disclose, the State has recently received additional evidence or material previously requested or ordered, which is subject to discovery or inspection under this rule. The additional discovery is as follows:

1. Photographs, 5 pages;
2. Chain of Custody Reports, 8 pages.

Please note that the State may introduce video recording(s) relevant to this case, which are also available for viewing and downloading on the internet, at www.greenvillecounty.org, using the attorney log-in screen in the Solicitor's Department. Instructions for downloading and viewing video(s) can be found at the log-in screen. Please let me know if you have problems accessing this information, and I will assist you. (VIDEO AVAILABLE IN GREENVILLE COUNTY CASES ONLY AT THIS TIME). There may also be a 911 recording available in this case. Please provide a blank CD to receive a copy. Otherwise, you may contact my investigator to make an appointment to listen to the recording.

If you have any questions regarding this defendant's case(s) or need any further assistance, please do not hesitate to contact me.

Sincerely,

Joyce K. Monts
Assistant Solicitor

JLK/msk

STATE v. TITUS NICCOLA LEE ROUSE
ASST SOL: JOYCE K. MONTS
DEFENSE ATTORNEY: RICHARD WARDER
WARRANT/TICKET #(S) N201021

DISCOVERY AFFIDAVIT- SUPPLEMENTAL

I, _____, LEGAL INVESTIGATOR, HEREBY
CERTIFY THAT I HAVE ON THIS DATE PLACED THE STATE'S SUPPLEMENTAL
DISCOVERY IN THE ABOVE REFERENCED MATTER IN THE ATTORNEY'S
DROP BOX.

ATTORNEY/ INVESTIGATOR

DATE

ACKNOWLEDGEMENT OF RECEIPT

I, _____, HEREBY CERTIFY THAT I HAVE ON THIS
DATE RECEIVED THE STATE'S SUPPLEMENTAL DISCOVERY FOR THE ABOVE
REFERENCED MATTER.

ATTORNEY/ INVESTIGATOR

DATE

State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. Walter Wilkins

March 20, 2014

Richard Warder, Esq.
P.O. Box 26133
Greenville, SC 29616

Re: STATE OF SOUTH CAROLINA vs. TITUS NICCOLA LEE ROUSE
GCSO case # 012012077095

Dear Mr. Warder:

Pursuant to Rule 5 (C) South Carolina Rules of Criminal Procedure, Continuing Duty to Disclose, the State has recently received additional evidence or material previously requested or ordered, which is subject to discovery or inspection under this rule. The additional discovery is as follows:

1. Supplemental Report by Deputy Cannon dated 7-04-12, 2 pages;
2. Supplemental Report by Deputy Redman dated 6-01-12, 3 pages.

Please note that the State may introduce video recording(s) relevant to this case, which are also available for viewing and downloading on the internet, at www.greenvillemounty.org, using the attorney log-in screen in the Solicitor's Department. Instructions for downloading and viewing video(s) can be found at the log-in screen. Please let me know if you have problems accessing this information, and I will assist you. (VIDEO AVAILABLE IN GREENVILLE COUNTY CASES ONLY AT THIS TIME). There may also be a 911 recording available in this case. Please provide a blank CD to receive a copy. Otherwise, you may contact my investigator to make an appointment to listen to the recording.

If you have any questions regarding this defendant's case(s) or need any further assistance, please do not hesitate to contact me.

Sincerely,

Joyce K. Monts
Assistant Solicitor

STATE v. TITUS NICCOLA LEE ROUSE
ASST SOL: JOYCE K. MONTS
DEFENSE ATTORNEY: RICHARD WARDER
WARRANT/TICKET #(S) N201021

DISCOVERY AFFIDAVIT- SUPPLEMENTAL

I, _____, LEGAL INVESTIGATOR, HEREBY
CERTIFY THAT I HAVE ON THIS DATE PLACED THE STATE'S SUPPLEMENTAL
DISCOVERY IN THE ABOVE REFERENCED MATTER IN THE ATTORNEY'S
DROP BOX.

ATTORNEY/ INVESTIGATOR

DATE

ACKNOWLEDGEMENT OF RECEIPT

I, _____, HEREBY CERTIFY THAT I HAVE ON THIS
DATE RECEIVED THE STATE'S SUPPLEMENTAL DISCOVERY FOR THE ABOVE
REFERENCED MATTER.

ATTORNEY/ INVESTIGATOR

DATE

PLAINTIFF'S EXHIBIT
3
4/21/17 SH

North American Police Work Dog Association

AL CANNON & K9 NERO



has achieved the high standards set forth by and to the satisfaction of the North American Police Work Dog Association. This accreditation is only valid when this Police K9 Team is being utilized through direct assignment from their law enforcement employer.

It is to be known that on the
16th day of DECEMBER, 2011

We do approve accreditation for

OBEDIENCE, ARTICLE SEARCH, AREA SEARCH, TRACKING, BUILDING SEARCH, AGGRESSION CONTROL,
NARCOTIC DETECTION TEAM,
(MARIJUANA, COCAINE, HEROIN, METHAMPHETAMINE)

M. JANUSZKIEWICZ / R. JONES / M. T. S.

Master Trainer

President

No 31434

Void if membership not current. Expires 11yr from accreditation date

North American Police Work Dog Association

This is to certify that

JOHN REDMAN & K9 DUKE



has achieved the high standards set forth by and to the satisfaction of, the North American Police Work Dog Association. This accreditation is only valid when this Police K9 Team is being utilized through direct assignment from their law enforcement employer.

Let it be known that on the

16th day of DECEMBER, 2011

we do approve accreditation for

TRAILING TEAM

M. JANUSZKIEWICZ / R. JONES, M.T.s

Master Trainer

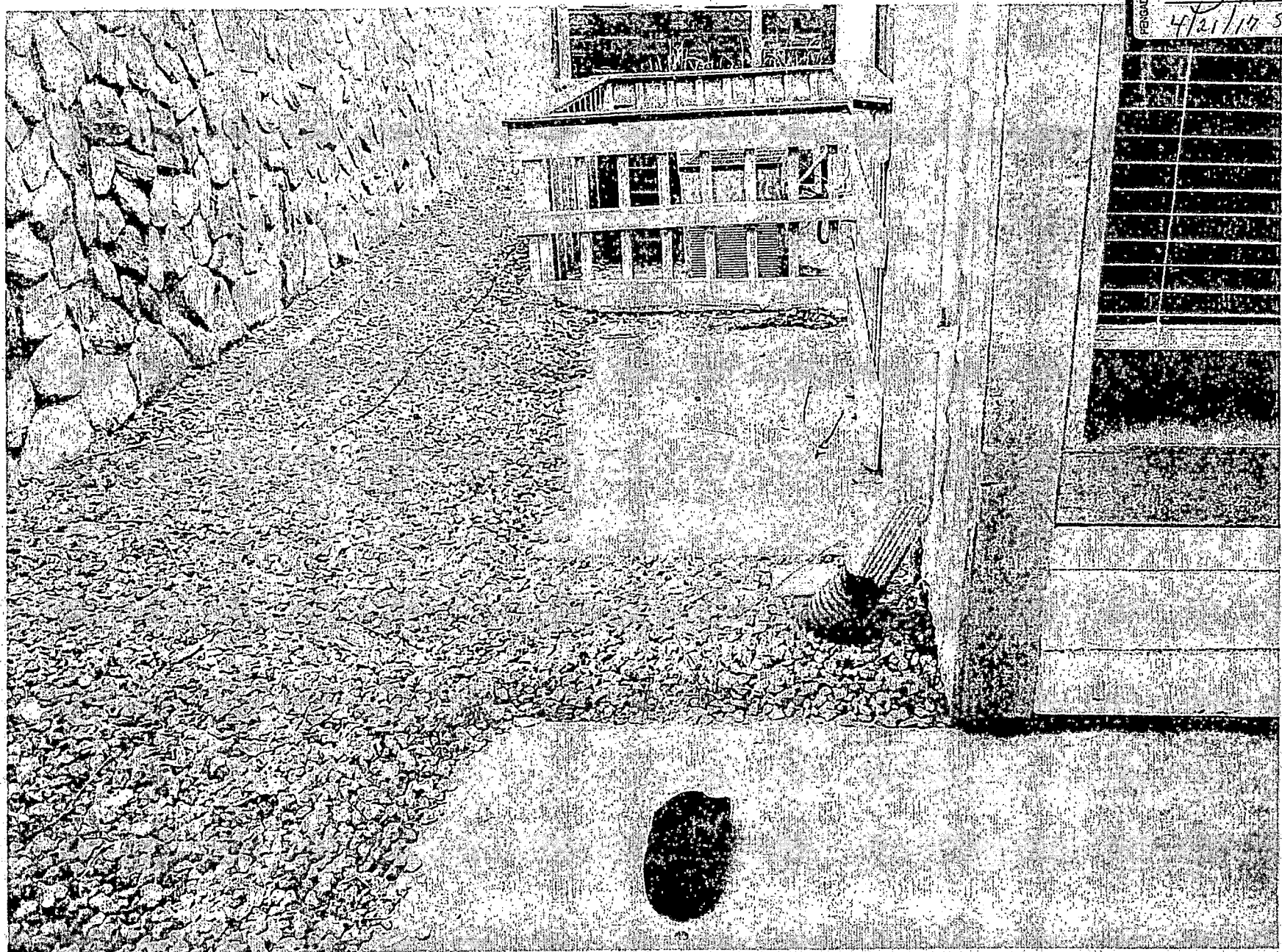
President

Void if membership not current. Expires 1 yr from accreditation date.

Nº 31443

1. Greenville Forensics

PLAINTIFF'S
EXHIBIT
5A
4/21/17 SH



1. Greenville Forensics

PLAINTIFF'S
EXHIBIT
5B
4/21/17 5H

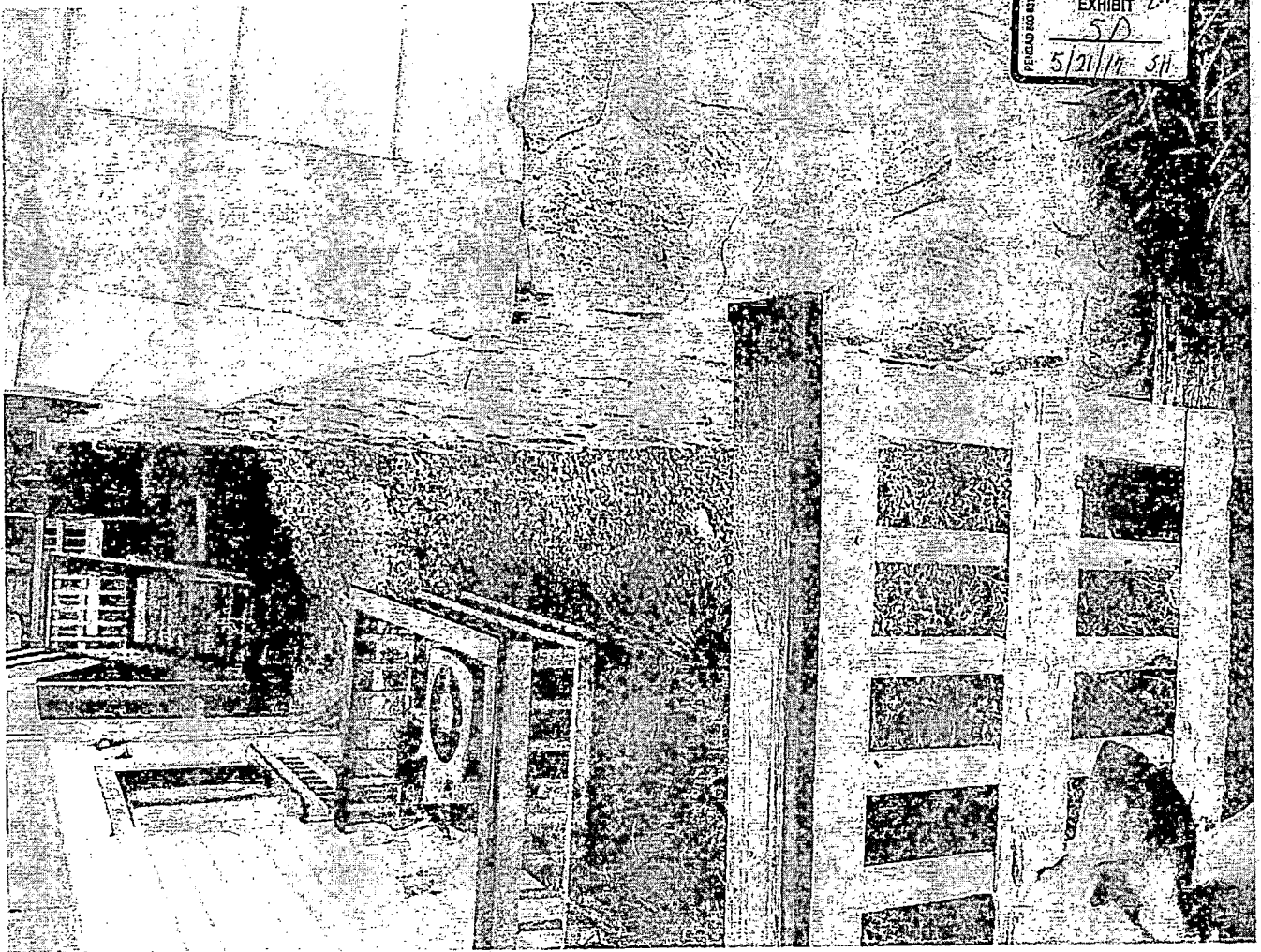


1. Greenville Forensics



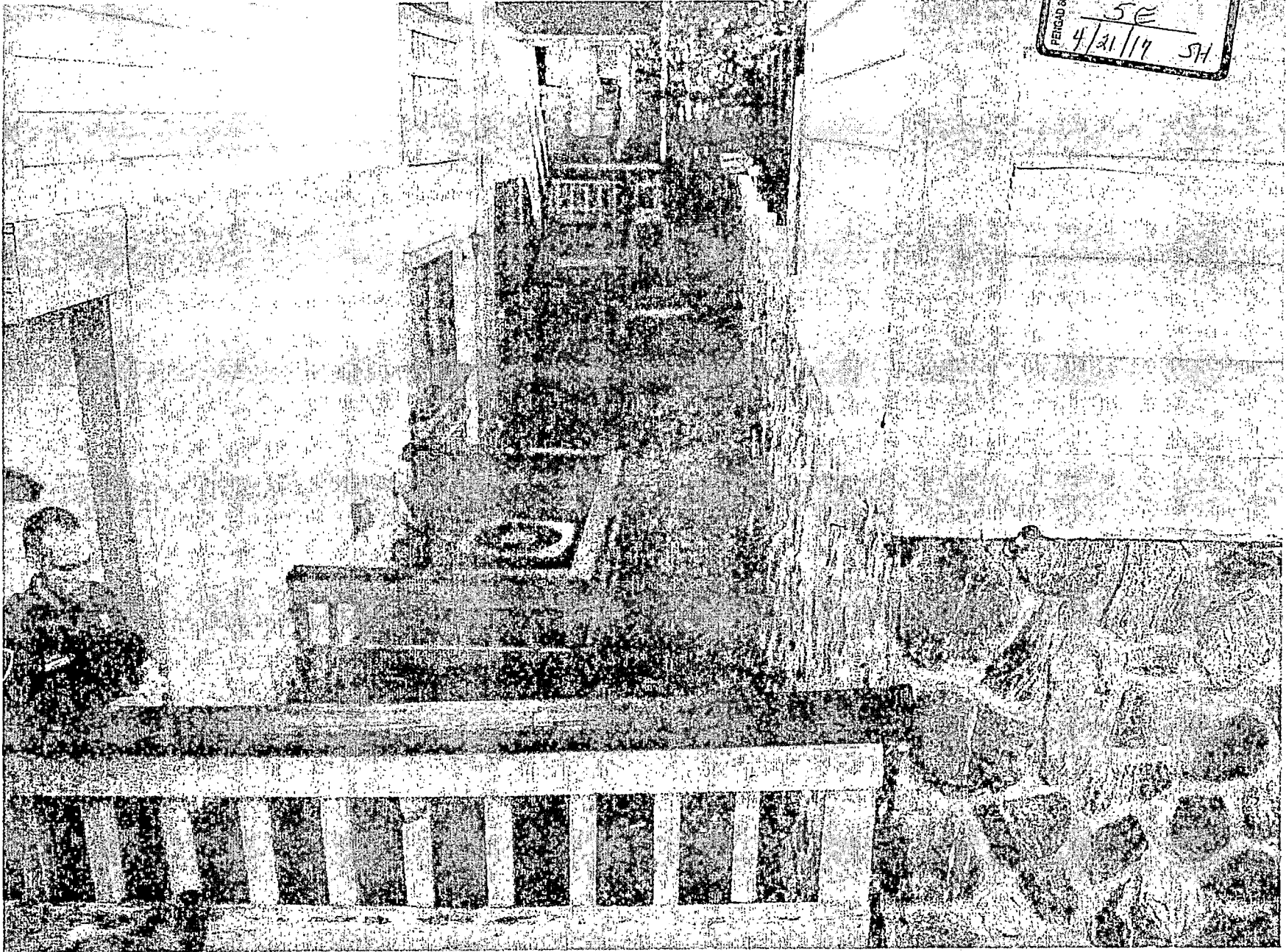
1. Greenville Forensics

PLAINTIFF'S
EXHIBIT
5D
5/21/17 SH



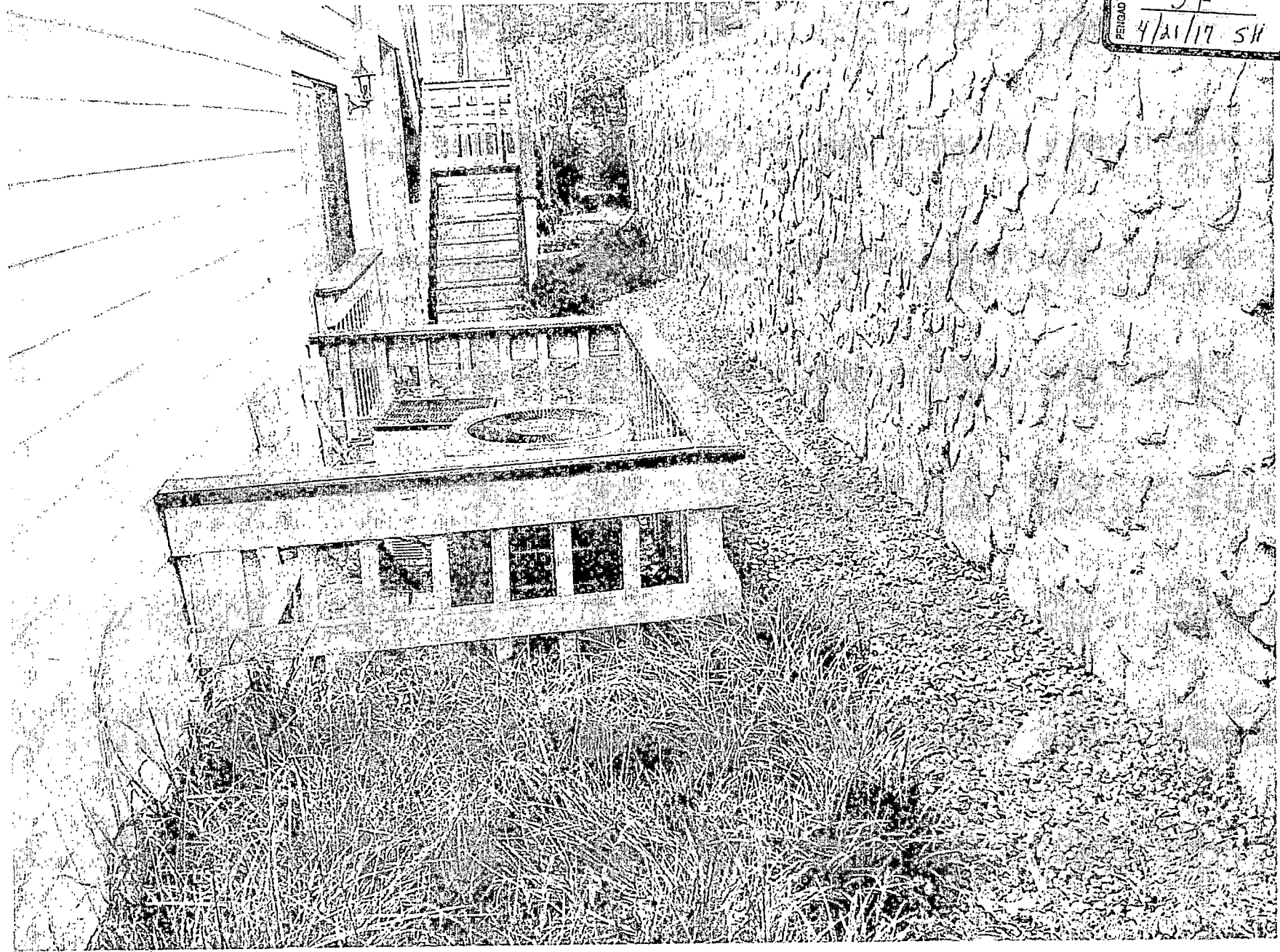
1. Greenville Forensics

PLAINTIFF'S
EXHIBIT EV
5E
4/21/19 SH



1. Greenville Forensics

PERIOD 800-031-0889
PLAINTIFF'S
EXHIBIT EV
SF
4/21/17 SH





PLAINTIFF'S
EXHIBIT *BV*
6
4/21/17 SH

40
C 2



ROBERT F. SIMMS
GREENVILLE COUNTY MAGISTRATE
100 S. Main Street, Suite A • Greer, South Carolina 29650 • 864.877.7464

25 January 2016

Titus Niccola Lee Rouse
BRCI Wat. 186 287818
4460 Broad River Road
Columbia, SC 29210

RE: Production of Documents under FOIA

Mr. Rouse,

In response to your letter requesting a record, please note that your request is properly addressed to the clerk of the prelim court, and if you find the enclosed document is not sufficient, you should address a separate request to the prelim court, by way of the Clerk of Court, Paul B. Wickensimer, Greenville County Clerk of Court, 305 East North Street, Greenville, SC 29601.

However, I do keep copies of the prelims over which I presided. See the enclosed photocopy of a Greenville County Preliminary Docket. It is a copy of a single page in that docket. I used this docket for the July 12, 2012 Preliminary Hearings held in the Greenville County Courthouse. A copy of this docket with the general findings of probable cause was filed with the clerk the day of this preliminary hearing. That copy would include the letter "B" for "Bind over," beside each case where I found probable cause did exist and I bound over the case for indictment.

However, your case happened to be the only one on that page on which I wrote notes. Consequently, I know I found probable cause sufficient to bind over your case for indictment. These notes appear only on my copy of the docket, not the official copy filed with the clerk on the day of the hearing.

I trust the enclosed document fulfils your request.

Regards,

Robert F. Simms



Greenville County Bond Court
PRELIMINARY DOCKET BY NAME FOR PRELIMINARY HEARINGS

Sorted by: Dat
Simms, Robert F
Print Date/Time: 07/

Requested Date(s): 07/12/2012, 8:30:00AM to 07/12/2012, 5:00:00PM

N200640

1:30:00PM

Def: Adams, Brandon Dashun Dob: 04/27/1993

Off: Owens, Matthew

Addl Parties: Defendant Attorney:
Randall Lee Chambers

0122 -- Weapons / Pointing and presenting firearms at a person
05/13/2012

EVENT COMMENTS:

M994546

1:40:00PM

Def: Hopkins, Joe Earl Jr Dob: 10/16/1966

Off: Swift, P

Addl Parties: Defendant Attorney:
Randall Lee Chambers

3198 -- Drugs / manufacture, distribution, etc. of
methamphetamine, 1st. Possession With Intent to Distribute on

EVENT COMMENTS:

M994547

1:40:00PM

Def: Hopkins, Joe Earl Jr Dob: 10/16/1966

Off: Swift, P

Addl Parties: Defendant Attorney:
Randall Lee Chambers

0326 -- Resisting / Resisting Arrest, Oppose, resist, or assault law
enforcement officer serving process on 04/12/2012

EVENT COMMENTS:

N201021

1:45:00PM

Def: Rouse, Titus Niccola Lee Dob: 07/31/1981

Off: Giovanni, Michael

Addl Parties: Defendant Attorney:
Richard H Warder

0149 -- Drugs / Trafficking in Heroin, morphine, etc., 28 g or more on
05/27/2012

EVENT COMMENTS: 1349EY(SL)

- No thing about how the officers proceeded is destructive to the legitimacy of the probable cause for the searches or arrest
- The proximity of the drugs + slips and the circumstances and admissions concerning the slips and the flight matter

M991821

1:50:00PM

Def: Hughes, Shantanavus S L Dob: 06/12/1993

Off: Jones, Jeremy

Addl Parties: Defendant Attorney: Larry
H Cooke

3468 -- Vehicle / Poss., conceal, sell, or dispose of stolen vehicle,
value \$10,000 or more on 01/05/2012

EVENT COMMENTS:

N200207

2:00:00PM

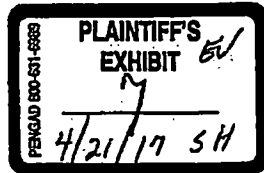
Def: Davis, Barry Lee Jr Dob: 09/12/1990

Off: Walters, J

Addl Parties: Defendant Attorney: Larry
Holmes Cooke

3198 -- Drugs / manufacturing of methamphetamine, 1ston
04/30/2012

EVENT COMMENTS:



1 State of South Carolina

Affidavit of Edward Cooper

2
3
4 I, Edward Cooper having been duly sworn declare under penalty of perjury pursuant to
5 the laws of the State of South Carolina that I am now, and at all times herein-mentioned, have
6 been a resident of the State of South Carolina, a citizen of the United States of America, am over
7 the age of eighteen years, am competent to testify as a witness if needed in this matter.

8
9 On March 2, 2015, I, Edward Cooper personally visited Hawthorn Suites by Wyndham
10 located at 48 McPrice Ct., Greenville, SC and searched the entire property for any sign, posting,
11 or notice that the aforesaid property to show the property is under police jurisdiction. This
12 investigator could not locate any sign, posting, or notice anywhere on the property.

13
14 After searching the property, I, Edward Cooper personally spoke with the on duty
15 manger, Mr. John Davis (White Male, looks to be in his late 50's) with a contact number if
16 needed of (864) 297-0099. Mr. Davis confirmed Hawthorn Suites by Wyndham is private
17 property and no sign, posting, or notice is located on the property. Mr. Davis also confirmed,
18 although the property is private, he requested the local police to take jurisdiction of the property
19 6 months ago from this date to patrol the property due to drug problems and to ensure the safety
20 of the residents.
21

22
23 **SIGNED and DATED** at Anderson, South Carolina this 10th day of March, 2015.

24
25 Edward Cooper

26

27 License: #RD20538A / State of South Carolina

28 Upstate Private Investigators, LLC.
210 N. McDuffie St.
Anderson, SC 29621

PH: (864) 940-3393 / FAX: (864) 751-1636
shawkins@upstateprivateinvestigators.com
www.upstateprivateinvestigators.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

State of South Carolina,
County of Anderson

SWORN, ATTESTED, and SIGNED before me on Jan 29th, 2015

Heather K Cartee
Print Notary Name

Heather K Cartee
Signature of Notary Public

7-10-2019
Notary Public for the State of SC

(Seal or Stamp Above)

Notary Commission Expiration Date

Original Report Status Change Additional Victims Additional Stolen Property

Supplemental Report Other Report Additional Defendants Additional Recovered Property

Incident Type Trafficking Heroin > 28 grams Parcel District CJ11 Page 1 of 3 Pages

I.D. OVERFLOW

Complainant Victim #1

Subject's Name (Last, first, initials) State of South Carolina

Address _____ City _____ State _____ Zip Code _____

Height _____ Weight _____ Hair _____ Eyes _____ Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Peculiarities, Etc. _____

Victim Relationship To Subject _____ Gender _____ Residency _____ Race _____ Sex _____ Age _____ Date of Birth _____

Weight _____ Height _____ Hair _____ Eyes _____ Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Peculiarities, Etc. _____

Victim No. 1 Visible Injury Yes No

Complaint of Any Non-Visible Injuries Yes No

Victim Using Alcohol Yes No Unk

Drugs No Yes Type: _____

Two-Man Veh One Man Veh ALONE ASSISTED

Subject No. _____ Using Alcohol No Yes Unk

Using Drugs No Yes Type: _____

Arrested on Current Offense

Arrestee Armed Yes No

Weapon Type _____

Juvenile Disposition Handled Released Referred To Other Authority

On View Arrest Summoned Custody

Arrest Location _____

Gang Affiliation: NG - Not Gang Related

NARRATIVE

Overflow:

Giovanni, M J: Complainant 1

RACE: White, Caucasian, SEX: Male, RESIDENT: Primary Jurisdiction, Mobile: (864)271-5210
4 McGee St Greenville 29611 CJ11 (Greenville City)

Rouse, Titus Lee: Subject 1

Subject Types: Suspect, Warrant, Arrest

ADDRESS: 2410 E Lee Rd Greenville SC 29615 02, ETHNICITY: N, RESIDENT: J, RACE: B, SEX: M, AGE: 30, DOB: 07/31/1981,
DL STATE/NUMBER: SC/007934343

Physical Description

HEIGHT: 602, WEIGHT: 180, VISIBLE INJURY: NO, NON-VISIBLE INJURY: NO, USING ALCOHOL: Unknown, USING DRUGS: Unknown, ARREST ON CURRENT OFFENSE, CUSTODY, ARREST LOCATION: 48 McPrice Ct Greenville SC 29615 CJ11 (Greenville City)

Charges

CHARGE 1: Trafficking Heroin over 28 grams WARRANT #: N201021

Vehicles

Vehicle #1

COLOR: White, MAKE: Mercedes-Benz, MODEL: E320, MAKE: 4-D, VEHICLE YEAR: 1999, VALUE: Unknown, TAG #: 1349BY, TAG STATE: SC, TAG YEAR: 2012, PROPERTY LOSS CODES: Suspect, VEHICLE LOCKED: No, KEYS IN VEHICLE: Yes, VIN NUMBER: WDBJF65H9XA725930, MILEAGE: 209641

Narrative:

HANDLER: J.D. REDMAN *821/C12

K-9: DUKE

USAGE #: 81

INCIDENT LOCATION: 48 MCPRICE CT. GREENVILLE, SC 29615

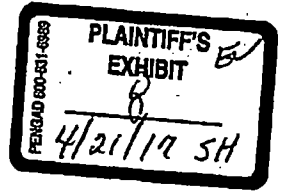
DATE AND TIME: 05/27/12

ACTIVITY TYPE: TRACK

WEATHER: CLEAR, HOT, MILD WIND

TIME REQUESTED: 1859

TIME ARRIVED: 1904



PROPERTY

| Status | Property Type | Quantity | Property Make | Color | Description | Serial #/OAN | Value |
|--------|-------------------------------|----------|----------------|-------|--------------------------|--------------|-------|
| Szd | 10-Drug/Narcotic | 1 | Heroin | | 32grams brown substance | none | 0 |
| Szd | 77-Other | 2 | Apple / Droid | | cell phones | | 150 |
| Szd | 07-Computer Hardware/Software | 1 | Toshiba | | Laptop computer and cord | 703940690 | 100 |
| Szd | 77-Other | 2 | black slippers | | black fleece slippers | none | 5 |
| Szd | 77-Other | 2 | receipts | | receipts | none | 1 |

ADMIN

Subject Identified Yes No

Subject Located Yes No

Active Admin Closed Arrested Under 18 Ex-Cleared Under 18

Unfounded Arrested 18 and Over Ex-Cleared 18 and Over

Reason For Exceptional Clearance Offender Death No Prosecution Victim Declines Cooperation Extradition Denied Juvenile No Arrest

| Reporting Officer(s) | Date | Unit#/Star# | Approving Officer | Date | Unit#/Star# |
|----------------------|------------|-------------|-------------------|------------|-------------|
| REDMAN, JOHN | 06/01/2012 | C12 / 60321 | KELLETT, MICHAEL | 06/04/2012 | K-2 / 00193 |

Follow Up Investigation Yes No

Original Report Status Change Additional Victims Additional Stolen Property Incident Type Trafficking Heroin > 28 grams

Supplemental Report Other Report Additional Defendants Additional Recovered Property Patrol District CJ11 Page 2 of 3 Pages

I.D. OVERFLOW

Complainant Victim Subject Runaway Wanted Arrest Missing Jail Other

Subject Name (Last, first, middle) _____ Victim Relationship To Subject _____ Sex _____ Resident _____ Race _____ Sex _____ Age _____ Date of Birth _____

Address _____ City _____ State _____ Zip Code _____ Patrol District _____ Day Phone _____ Evening Phone _____

Height _____ Weight _____ Hair _____ Eyes _____ Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Pectus/Illos, Etc. _____

Victim No. _____ Victim Injury: Yes No Complaint of any Non-Visible Injuries: Yes No Victim Using Alcohol: Yes No Unk Two-Man Veh: One Man Veh: ALONE Explain: _____ Drugs: No Yes Type: _____ Detective Other: ASSISTED

Subject No. _____ Using Alcohol: No Yes Unk Arrested on Current Offense _____ Using Drugs: No Yes Type: _____ Unk Cleared By Arrest on Prior Offense _____

Arrestee Armed: Yes No Weapon Type _____ On View Arrest Summoned Custody

Juvenile Disposition: Handled Released Referred To Other Authority

Arrest Location _____ Gang Affiliation: NG - Not Gang Related

NARRATIVE

PERIMETER: YES
 SABRE 1: NO
 COVER DEPUTIES: M/D WEINMUELLER (E16) AND DEPUTY WHITE (C28)
 START SEARCH/TRACK: 1909
 END SEARCH/TRACK: 1926
 CLEAR TIME: 2008
 APPREHENSION: YES
 ARREST: 1
 WARRANTS SERVED: 1
 DRUGS: 32 GRAMS (HEROIN)

I RESPONDED TO THE INCIDENT LOCATION IN REFERENCE TO A SUBJECT FLEEING A SUSPICIOUS VEHICLE. I ARRIVED ON SCENE AND MET WITH DEPUTY CANNON (K10). HE ADVISED ME THAT THE SUSPICIOUS VEHICLE WAS LEFT ABANDONED AND RUNNING IN THE PARKING LOT. HE SAID THAT THE DRIVER WAS POSSIBLY IN POSSESSION OF HEROIN. DEPUTY CANNON (K10) ADVISED ME THAT HIS K-9 ALERTED TO THE VEHICLE (SEE SUPPLEMENTAL). I ADVISED DEPUTY CANNON (K10) THAT I WOULD ATTEMPT A TRACK WITH K-9 DUKE. WHILE I WAS SPEAKING WITH HIM I OBSERVED A BLACK MALE WATCHING US FROM THE POOL AREA. I ASKED HIM IF HE NEEDED ASSISTANCE AND HE RESPONDED THAT HE DIDN'T. I THEN ASKED HIM IF HE OBSERVED ANYONE RUNNING FROM THE VEHICLE. HE SAID YES AND THEN NO. HE THEN SAID THAT A SUBJECT WENT DOWN THE PARKING LOT TOWARDS THE HOTEL NEXT DOOR. I ASKED SEVERAL OTHER PEOPLE IN THE POOL AREA AND NO ONE OBSERVED ANYONE.

I PUT ON LATEX GLOVES AND TOOK A STERILE GAUZE PAD AND WIPED THE STEERING WHEEL AREA OF THE VEHICLE. I PLACED THE GAUZE PAD INTO A ZIPLOCK BAG AND PLACED IT NEXT TO THE VEHICLE. I THEN HARNESSED K-9 DUKE (CERTIFIED BY THE NORTH AMERICAN POLICE WORK DOG ASSOCIATION IN TRAILING). I OPENED THE BAG AND DROP SCENTED DUKE. DUKE PULLED TO THE FENCE DIRECTLY IN FRONT OF THE VEHICLE AND THEN PULLED DOWN THE PARKING LOT. HE TURNED RIGHT INTO THE FIRST OPENING AND CONTINUED DOWN THE SIDEWALK. HE CAME TO THE END OF THE SIDEWALK AREA AND CIRCLED IN THE PARKING LOT. HE THEN PULLED BACK TOWARDS HAYWOOD RD. AND ENTERED THE COMPLEX AGAIN. WE EXITED IN THE AREA OF THE ROOM THAT DEPUTY GIOVANNI (E58) SAID THAT THE SUBJECT WAS BELIEVED TO BE STAYING IN. THERE WERE MULTIPLE OFFICERS AND PEOPLE IN THAT AREA. DUKE CIRCLED IN THE PARKING LOT AND THEN PULLED BACK TO THE CENTER OF THE COMPLEX. DUKE TURNED LEFT IN THE MIDDLE OF THE COMPLEX AND CAME TO THE POOL AREA. WE PASSED SEVERAL PEOPLE WALKING AS WE TRAVELED. DUKE CAME TO A LANDSCAPED AREA THAT WAS BELOW THE POOL AND BELOW THE SUBJECT'S VEHICLE AND HE CIRCLED. I NOTICED A DARK PAIR OF SLIPPERS AND A PLASTIC BAG LAYING ON THE GROUND IN THAT AREA. I LOOKED CLOSER AND OBSERVED A BROWN SUBSTANCE

PROPERTY

| Status | Property Type | Quantity | Property Make | Color | Description | Serial #/OAN | Value |
|--------|---------------|----------|---------------|-------|-------------|--------------|-------|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

ADMIN

| | | | | | |
|--|---|---|--|---|-------------|
| Subject Identified | Subject Located | <input type="checkbox"/> Active <input type="checkbox"/> Admin Closed | <input type="checkbox"/> Arrested Under 18 | <input type="checkbox"/> Ex-Cleared Under 18 | |
| <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Unfounded | <input checked="" type="checkbox"/> Arrested 18 and Over | <input type="checkbox"/> Ex-Cleared 18 and Over | |
| Reason For Exceptional Clearance: <input type="checkbox"/> Offender Death <input type="checkbox"/> No Prosecution <input type="checkbox"/> Victim Declines Cooperation <input type="checkbox"/> Extradition Denied <input type="checkbox"/> Juvenile No Arrest | | | | | |
| Reporting Officer(s) | Date | Unit#/Star# | Approving Officer | Date | Unit#/Star# |
| REDMAN, JOHN | 06/01/2012 | C12/00821 | KELLETT, MICHAEL | 06/04/2012 | K-2/00183 |
| Follow Up Investigation: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (When) | | | | | |

Original Report Status Change Additional Victims Additional Stolen Property Incident Type Trafficking Heroin > 28 grams

Supplemental Report Other Report Additional Defendants Additional Recovered Property Patrol District CJ11 Page 3 of 3 Pages

I. D. OVERFLOW

Complainant Victim Subject Runaway Wanted Arrest Missing Jail Other

Subject's Name (Last, first, Middle) _____ Victim Relationship To Subject _____

Address _____ City _____ State _____ Zip Code _____ Patrol District _____ Day Phone _____ Evening Phone _____

Weight _____ Height _____ Hair _____ Eyes _____ Patch Hair, Scars, Tattoos, Glasses, Clothing, Physical, Peculiarities, Etc. _____

Victim No. _____ Victim Injured Yes No Complaint of any Non-Violent Injuries Yes No Victim Using Alcohol Yes No Unk Two-Man Veh One Man Veh ALONE ASSISTED Other ASSISTED

Explain: _____ Subject No. _____ Using Alcohol No Yes Unk Arrested on Current Offense

Using Drugs No Yes Unk Cleared By Arrest on Prior Offense

Arrestee Armed Yes No Weapon Type _____ On View Arrest Summoned Custody

Juvenile Disposition Handled Released Referred To Other Authority Gang Affiliation: NG - Not Gang Related

Arrest Location _____

INSIDE THE BAG THAT APPEARED TO BE POSSIBLY BE HEROIN. AT THAT TIME I WAS ADVISED THAT DEPUTY GIOVANNI (E58) LOCATED THE SUBJECT. HE ADVISED THAT THE SUBJECT WAS THE SAME PERSON WE SPOKE TO AT THE POOL EARLIER.

M/D WEINMUELLER (E16) STOOD BY WITH THE LOCATED ITEMS. I TOOK DUKE OUT OF HIS HARNESS AND RETURNED HIM TO MY PATROL VEHICLE. I THEN ASSISTED M/D WEINMUELLER (E16) IN FIELD TESTING THE BROWN SUBSTANCE. WE ALSO PRESERVED THE PLASTIC BAG TO HAVE IT PROCESSED FOR LATENT PRINTS. THE SUBSTANCE FIELD TESTED POSITIVE FOR HEROIN.

THE SUBJECT STATED LATER THAT HE FLED ON FOOT INTO THE COMPLEX RESULTING IN HIM LOOSING HIS SHOES. HE SAID THAT HE WENT TO HIS ROOM AND CHANGED CLOTHES BEFORE RETURNING TO THE POOL AREA WHERE HE WAS OBSERVED BY DEPUTY CANNON (K10) AND ME. HE SAID THAT HE THEN LEFT THE POOL AREA AND WENT TO THE FRONT OF THE COMPLEX WHERE DEPUTY GIOVANNI (E58) MADE CONTACT WITH HIM.

I CLEARED THE SCENE WITHOUT ANY FURTHER ACTION.

NARRATIVE

PROPERTY

| Status | Property Type | Quantity | Property Make | Color | Description | Serial # / OAN | Value |
|--------|---------------|----------|---------------|-------|-------------|----------------|-------|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

ADMIN

Subject Identified Yes No Subject Located Yes No Active Admin Closed Arrested Under 18 Ex-Cleared Under 18

Unfounded Arrested 18 and Over Ex-Cleared 18 and Over

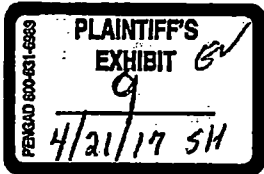
Reason For Exceptional Clearance Offender Death No Prosecution Victim Declines Cooperation Extradition Denied Juvenile No Arrest

Reporting Officer(s) _____ Date _____ Unit#/Star# _____ Approving Officer _____ Date _____ Unit#/Star# _____

REDMAN, JOHN 08/01/2012 C12/00821 KELLETT, MICHAEL 08/01/2012 K-2/00183

Follow Up Investigation Yes No

47
ACJ



LAW OFFICE OF
C. RAUCH WISE
Attorney & Counselor at Law
305 Main Street
Greenwood, SC 29646
e-mail rauch@simplepc.net

RICHARD WARDER

JUN 9 2014

RECEIVED

Telephone
(864) 229-5010
Facsimile
(864) 229-2665

C. Rauch Wise

June 5, 2014

Richard Warder
15 Primrose St.
Greenville, SC 29601

Ré: Titus Lee Rouse #00287818

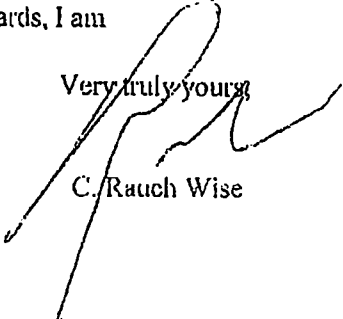
Dear Dick:

Titus Rouse has retained me to assist you in his case. I was involved in a case about twenty years ago that the South Carolina Supreme Court reversed for insufficiency of evidence. I am enclosing herewith a copy of my brief in that case.

Sometime in the next couple of weeks, we need to get together so that I could go look at the scene where the used drugs were found. Look forward to working with you on this case.

With kindest regards, I am

Very truly yours,


C. Rauch Wise

CRW/sll
Enclosure

A 2

*The State of South Carolina
In The Supreme Court*

Appeal From Greenwood County
In The Court of General Sessions

Honorable Frank Eppes

Case No. 92-GS-24-456

State,

Respondent,

vs

Schanen Duvene Watts

Appellant.

BRIEF OF APPELLANT

C. RAUCH WISE
WISE & TUNSTALL
408 Main Street
Greenwood, SC 29646
(803) 229-5010

ATTORNEY FOR APPELLANT

TABLE OF CITATIONS

| Cases: | Page |
|---|----------|
| <i>Bell v. Leake</i> , 266 S.C. 563, 225 S.E.2d 188 (1976) | 14 |
| <i>Borum v United States</i> , 380 F.2d 595 (D.C. Cir. 1967) | 6, 10,11 |
| <i>Bowen v. Texas</i> , (Tx. Ct. Cr. App. 1970) | 6 |
| <i>Commonwealth v. Cichy</i> , 227 Pa. Super. 480, 323 A.2d 817 (1974) | 5 |
| <i>Crouch v. Tennessee</i> , 498 S.W.2d 97 (1973) | 6 |
| <i>In re Stacy Ray A.</i> , 303 S.C. 291, 400 S.E.2d 141 (1991) | 7 |
| <i>Ivey v. State</i> , 176 So.2d 611 (Fla. Ct. App. 3d Dist. 1965) | 6 |
| <i>Jackson v. Virginia</i> , 443 U.S. 307 (1979) | 5 |
| <i>Krulewitch v. United States</i> , 336 U.S. 440 (1949) | 11 |
| <i>Ladd v. State</i> , 363 So.2d 1017 (Ala. Cr. App. 1978) | 5 |
| <i>McLain v. State</i> , 198 Miss. 831, 24 So.2d 15 (1945) | 6 |
| <i>Musgrove v. Maryland</i> , 3 Md. App. 54, 237 A.2d 804 (Md. Ct. App. 1968) | 6 |
| <i>People v. Donahue</i> , 50 Ill. App.3d 392, 365 N.E.2d 710 (1977) | 5, 7 |
| <i>People v. Johnson</i> , 158 Cal. App.3d 850, 204 Cal. Rptr. 877 (Ct. App. 2d Dist. (1984) | 5, 9 |
| <i>Solis v. People</i> , 485 P.2d 903 (1971) | 6 |
| <i>State v. Attardo</i> , 263 S.C. 546, 211 S.E.2d 868 (1975) | 8 |
| <i>State v. Brown</i> , 267 S.C. 311, 227 S.E.2d 674 (1976) | 8 |
| <i>State v. Burton</i> , 301 S.C. 305, 391 S.E.2d 583 (1991) | 14 |
| <i>State v. Gilliam</i> , 245 S.C. 311, 140 S.E.2d 480 (1953) | 6 |
| <i>State v. Hudson</i> , 277 S.C. 200, 284 S.E.2d 777 (1981) | 13 |

State v. Key, 282 S.C. 413, 319 S.E.2d 338 (1984) 12

State v. Minton, 228 N.C. 518, 46 S.E.2d 296 (1948) 6

State v. Schrock, 283 S.C. 129, 322 S.E.2d 450 (1984) 7

Townsley v. United State, 236 A.2d 63 (D.C. Cir. 1967) 8

United States v. Chesher, 678 F.2d 1353 (9th Cir. 1982) 10

United States v. Corso, 439 F.2d 956 (4th Cir. 1971) 5, 7

United States v. Edwardo-Franco, 885 F.2d 1002, 1011 (2d Cir. 1989) 11

Watts v. State, 569 So.2d 889 (Fla. App. 1st Dist. 1990) 5, 8, 9

Wilkerson v. State, 232 So.2d 217 (Fla. App. 2d Dist. 1970) 6

Statutes:

S. C. Code of Laws (1976) § 44-53-375 12

Other:

Annot., *Fingerprints, palm prints or bare footprints as evidence*, 28 A.L.R.2d 1115 (1953) 6

TABLE OF CONTENTS

| | Page |
|--|------|
| TABLE OF CITATIONS | ii |
| STATEMENT OF ISSUES ON APPEAL | 1 |
| STATEMENT OF THE CASE | 2 |
| STATEMENT OF FACTS | 3 |
| ARGUMENT | 2 |
| I. Did the trial judge err in failing to direct a verdict for the defendant when the only evidence was his fingerprint found on the bottom of the plate containing the crack cocaine when the evidence did not prove that he touched the plate when it contained the cocaine? | 5 |
| II. Did the trial judge err in charging the jury they may infer from the possession of more than one gram that the defendant possessed crack cocaine with intent to distribute when the legislature specifically rejected that standard and had imposed an unconstitutional standard of prima facie? | 11 |
| III. Did the trial judge err in admitting into evidence testimony about a crack cocaine street dealer profile when no testimony ever indicated that the actions of the defendant were in keeping with the profile of a crack cocaine street dealer? | 12 |
| IV. Did the trial judge err in failing to charge that the jury may infer that drugs found on the property of a person belong to the person occupying the property? | 13 |
| V. Did the trial judge err in not sentencing the defendant to a youthful offender sentence when the defendant qualified for youthful offender and the trial judge did not give a legally valid reason for not sentencing him to a youthful offender sentence? | 13 |
| CONCLUSION | 14 |

STATEMENT OF ISSUES ON APPEAL

- I. Did the trial court err in failing to direct a verdict for the defendant when the only evidence against the defendant was his fingerprint found on the bottom of the plate containing the crack cocaine when the evidence did not prove that he touched the plate when it contained the cocaine?
- II. Did the trial judge err in charging the jury they may infer from the possession of more than one gram that the defendant possessed crack cocaine with intent to distribute when the legislature specifically rejected that standard and had imposed an unconstitutional standard of prima facie?
- III. Did the trial judge err in admitting into evidence testimony about a crack cocaine street dealer profile when no testimony ever indicated that the actions of the defendant were in keeping with the profile of a crack cocaine street dealer?
- IV. Did the trial judge err in failing to charge that the jury may infer that drugs found on the property of a person belong to the person occupying the property?
- V. Did the trial court err in not sentencing the defendant to a youthful offender sentence when the defendant qualified for youthful offender and the trial judge did not give a legally valid reason for not sentencing him to a youthful offender sentence?

STATEMENT OF THE CASE

Members of the Greenwood Metropolitan Narcotics unit arrested Shannon Duvane Watts on August 1, 1991 and charged him with trafficking in cocaine and trafficking in crack cocaine. The Greenwood County grand jury indicted him on March 10, 1992 on the charges of possession of cocaine with the intent to distribute and possession of crack cocaine with intent to distribute. He was tried before the Honorable Frank Epps and a jury on March 11-12, 1992. The jury convicted him on the charge of possession of crack cocaine with intent to distribute. They acquitted him on the charge of possession of cocaine with intent to distribute. On March 12, 1992 Judge Epps sentenced him to twenty years imprisonment and a fine of twenty-five thousand and no/100 (\$25,000.00) dollars. The defendant filed his Notice of intent to appeal on March 20, 1992.

STATEMENT OF FACTS

On July 14, 1991 agents of the Greenwood Metropolitan Narcotics Unit searched underneath the house next to the house in which the defendant resided. The officers did not have a search warrant, but did have the permission of a resident of the house to conduct the search. Under the house the officers found a sack that contained a small saucer and thirty-seven rocks of crack cocaine on the plate. Nearby they found 8.568 grams of cocaine. At the time of the search, the officers did not arrest anyone.

The officers sent the plate and plastic bag to the South Carolina Law Enforcement Division to be tested for fingerprints. The report showed that the bottom of the plate contained a fingerprint matching the right middle finger of the defendant. No evidence indicted that the plate contained the crack cocaine when the defendant touched the plate.

No witness testified to seeing the defendant until after the officers found the drugs. The state did not produce any testimony that the defendant was ever near the drugs. The state did not produce any testimony that the defendant had ever sold or used any drugs. The only evidence connecting the defendant with the drugs was his fingerprint found on the bottom of the plate containing the crack cocaine.

During the trial the state, over the objection of the defendant, introduced testimony concerning what it sought to call a "crack cocaine street dealer profile." The state did not, however, ever introduce any testimony that the defendant fit the description of a "crack cocaine street dealer profile" or performed any of the actions attributable to a "crack cocaine street dealer profile."

The trial judge charged that the jury could infer that a person possesses crack cocaine with the intent to distribute if the amount of crack cocaine was one gram or more. The statute provided for a prima facie standard.

QUESTION II

DID THE TRIAL JUDGE ERR IN CHARGING THE JURY THEY MAY INFER FROM THE POSSESSION OF MORE THAN ONE GRAM THAT THE DEFENDANT POSSESSED CRACK COCAINE WITH INTENT TO DISTRIBUTE WHEN THE LEGISLATURE SPECIFICALLY REJECTED THAT STANDARD AND HAD IMPOSED AN UNCONSTITUTIONAL STANDARD OF PRIMA FACIE?

In his charge, the trial judge told the jury that they could infer that the defendant possessed crack cocaine with the intent to distribute from the possession of more than one gram of crack cocaine. Rec. on App. at 128, ll 7-9. The defendant objected to the charge. Rec. on App. at 109, 13-25 to 110, ll 1-6.

In *State v. Key*, 282 S.C. 413, 319 S.E.2d 338 (1984) this court held unconstitutional a prima facie standard. On June 8, 1987, some three years after that decision, the legislature passed S. C. Code of Laws (1976) § 44-53-375. In that section the legislature chose to use the prima facie standard although this court had declared that standard unconstitutional some three years earlier.

In view of this history, this court must conclude the intent of the legislature was to reject the inference standard and attempt to re-assert the prima facie standard. As the legislature consciously chose to use the prima facie standard over the inference standard, the trial judge should not have charged inference. To charge the inference standard was to re-write the legislation. This court is prohibited from re-writing legislation. As the prima facie standard is clearly unconstitutional, the trial judge should have simply not charged on the issue of possession of more than a gram of crack cocaine. Lack of clarity by the

ARGUMENT

QUESTION I

DID THE TRIAL COURT ERR IN FAILING TO DIRECT A VERDICT FOR THE DEFENDANT WHEN THE ONLY EVIDENCE AGAINST THE DEFENDANT WAS HIS FINGERPRINT FOUND ON THE BOTTOM OF THE PLATE CONTAINING THE CRACK COCAINE WHEN THE EVIDENCE DID NOT PROVE THAT HE TOUCHED THE THE PLATE WHEN IT CONTAINED THE COCAINE?

In reviewing the evidence in this case to determine if it is sufficient to convict, *Jackson v. Virginia*, 443 U.S. 307 (1979) guides the court. In that case the United State Supreme Court held there must be substantial evidence by which a reasonable trier of fact could conclude beyond a reasonable doubt the defendant was guilty. The state has not met that standard in this case.

When the state relies solely upon fingerprint evidence to convict, the evidence must show that the defendant made the fingerprint at the time the crime was committed. *Watts v. State*, 569 So.2d 889 (Fla. App. 1st Dist. 1990); *People v. Johnson*, 158 Cal. App.3d 850, 204 Cal. Rptr. 877 (Ct. App. 2d Dist. 1984); *Ladd v. State*, 363 So.2d 1017 (Ala. Cr. App. 1978); *People v. Donahue*, 50 Ill. App.3d 392; 365 N.E.2d 710 (1977); *Commonwealth v. Cichy*, 227 Pa. Super. 480, 323 A.2d 817 (1974); *United States v. Corso*, 439 F.2d 956 (4th Cir. 1971); *Crouch v. Tennessee*, 498 S.W.2d 97 (1973); *Solis v. People*, 485 P.2d 903 (1971); *Wilkerson v. State*, 232 So.2d 217 (Fla. App. 2d Dist. 1970); *Bowen v. Texas*, (Tx. Ct. Cr. App. 1970); *Musgrove v. Maryland*, 3 Md. App. 54, 237 A.2d 804 (Md. Ct. App. 1968); *Borum v United States*, 380 F.2d 595 (D.C. Cir. 1967); *Ivey v. State*, 176 So.2d 611 (Fla. Ct. App. 3d

Dist. 1965); *State v. Gilliam*, 245 S.C. 311, 140 S.E.2d 480 (1953); *State v. Minton*, 228 N.C. 518, 46 S.E.2d 296 (1948); *McLain v. State*, 198 Miss. 831, 24 So.2d 15 (1945); *See, generally, Annot., Fingerprints, palm prints or bare footprints as evidence*, 28 A.L.R.2d 1115 (1953). In the present case, the evidence does not prove that the defendant made the fingerprint when the crack cocaine was on the plate. It does not prove that the defendant knew that someone intended to use the plate as a crack cocaine container. The testimony was that the fingerprint could have been present as long as five days. Rec. on App. at 89, ll 8-14. The evidence as such, is not sufficient to convict the defendant.

The Illinois Appellate Court has summed up the general rule by saying "a defendant's fingerprint found in the place where a crime was committed, or in the immediate vicinity, may be sufficient proof of identity as to sustain a conviction if the fingerprint could have been impressed only at the time the crime was committed." *People v. Donahue*, 50 Ill. App.3d at ___, 365 N.E.2d at 712.

When the state relies upon circumstantial evidence, the state must prove that the circumstances relied upon are consistent with each other and point conclusively to the guilt of the defendant to the exclusion of every other reasonable hypothesis. The evidence to sustain a conviction must do more than raise a suspicion. It must point conclusively to the guilt of the accused. *State v. Schrock*, 283 S.C. 129, 322 S.E.2d 450 (1984). The state has not met its burden of proof in the present case. The state has in essence said we have proven that your fingerprint is on the plate, now you must prove that you innocently placed it there. Such burden shifting is improper. *In re Stacy Ray A.*, 303 S.C. 291, 400 S.E.2d 141 (1991).

The Fourth Circuit has recognized that a fingerprint alone is not sufficient to convict. In *United States v. Corso*, 439 F.2d 956 (4th Cir. 1971) the court reversed a conviction of the defendant when the only evidence connecting him with the burglary was the presence of the fingerprints of the defendant on a matchbook cover used to jam a lock. The court said "[t]he probative value of an accused's fingerprints upon a readily movable object is highly questionable, unless it can be shown that such prints could have been impressed *only* during the commission of the crime." *Id.* at 957 (emphasis in the original).

In reversing a case in which the only evidence against the defendant was a fingerprint, the Court of Appeals for the District of Columbia held:

When the prosecution relies wholly upon circumstantial fingerprint evidence, as it does in this case, it must negate at least some of the reasonable inferences that can be drawn from that evidence. Because the Government did not attempt to negate any of the reasonable inferences consistent with innocence, reasonable doubt of appellant's guilt must necessarily exist"

Townley v. United State, 236 A.2d 63, 65 (D.C. Cir. 1967)

In the present case the state did not negate the possibility that the defendant touched the plate when he innocently handled it by giving it to someone, moving it, or otherwise touching the plate when it did not contain crack cocaine. Even if crack cocaine were on the plate when the defendant touched it, such evidence is not sufficient to convict. If the defendant were shown the plate with crack cocaine on it, touched it briefly and gave it back to the giver, the facts would not be sufficient to convict. The state would have failed to prove an intent to control the cocaine. The state did not negate a reasonable

explanation. It has relied solely upon the fact that the fingerprint of the defendant was found on the plate.¹

To prove illegal possession of a controlled substance, the state must prove that the defendant (1) possessed the controlled substance, (2) knew of the illegal nature of the controlled substance, and (3) had the intent to control the illegal controlled substance. See, *State v. Attardo*, 263 S.C. 546, 211 S.E.2d 868 (1975) and *State v. Brown*, 267 S.C. 311, 227 S.E.2d 674 (1976). If any of these elements is missing, the conviction will not stand. In the present case, the mere presence of a fingerprint does not establish the necessary elements.

In *Watts v. State*, 569 So.2d 889 (Fla. Ct. App. 1st Dist. 1990) the court reversed a conviction for possession of cocaine and possession of drug paraphernalia when the sole evidence against the defendant was his fingerprints on a beer can that someone had converted to a crack cocaine smoking pipe. The court held "[a]lthough the evidence established that two fingerprints of the defendant were found on one of the two beer cans, there is no evidence establishing whether the prints were placed on the can before or after the can was converted into drug paraphernalia." *Id.* at 889. In the present case no evidence established whether the defendant made the print on the plate before or after the plate was converted to a crack cocaine holder.

In *People v. Johnson*, 158 Cal. App.3d 850, 204 Cal. Rptr. 877 (Ct. App. 2d Dist. 1984) the sole evidence against the defendant was his fingerprint found on a bottle containing PCP. The officers found the bottle in an overhang about seven feet above the

¹ Obviously the state did not have sufficient evidence to arrest the defendant at the time of the finding of the cocaine and crack cocaine. The fingerprint was also the sole evidence relied upon by the jury as they acquitted the defendant of the cocaine charges.

touched the jars. The testimony was that the fingerprints could remain on the jars indefinitely or for years.³ In reversing the case, the court held "the Government produced no evidence, *either direct or circumstantial*, which could support an inference that the fingerprints were placed on the jars during commission of the crime. [T]o allow this conviction to stand would be to hold that anyone who touches anything which is found later at the scene of a crime may be convicted, provided he was within a mile and a half of the scene when the crime may have been committed." *Id.* at 597 (emphasis in original) To allow the conviction of the defendant in this case to stand, this court would hold that anyone who touches a plate upon which crack cocaine is later found, would be guilty of possession of crack cocaine if that person lived in the neighborhood.

"There is, of course, strong temptation to relax rigid standards when it seems the only way to sustain convictions of evildoers." *Krulewitch v. United States*, 336 U.S. 440, 457 (1949)(Jackson, J., concurring). "This is especially true where the conviction is for a narcotics violation at a time when the country is engaged in a 'war on drugs.'" *United States v. Edwardo-Franco*, 885 F.2d 1002, 1011 (2d Cir. 1989). The courts of this nation have a duty to protect those accused of crime as well as the public. When a conviction is affirmed that does not meet the proper standard of proof, both the public and the defendant lose.

³ While the expert in this case testified that the fingerprints could have been on the plate for five days or longer, other experts have testified that fingerprints will last for years or months. See, e.g., *Solis v. People*, 485 P.2d 903 (Colo. 1971) and *United States v. Corso*, 439 F.2d 957 (4th Cir. 1971). In the present case it was not known if the plate had been exposed to the elements for five days or only for one day. If the plate had been inside a house prior to being placed under the house, the fingerprints in this case could arguably have been present for a considerably longer period of time. Tr. at 100, ll 15-21.

explanation. It has relied solely upon the fact that the fingerprint of the defendant was found on the plate.¹

To prove illegal possession of a controlled substance, the state must prove that the defendant (1) possessed the controlled substance, (2) knew of the illegal nature of the controlled substance, and (3) had the intent to control the illegal controlled substance. See, *State v. Attardo*, 263 S.C. 546, 211 S.E.2d 868 (1975) and *State v. Brown*, 267 S.C. 311, 227 S.E.2d 674 (1976). If any of these elements is missing, the conviction will not stand. In the present case, the mere presence of a fingerprint does not establish the necessary elements.

In *Watts v. State*, 569 So.2d 889 (Fla. Ct. App. 1st Dist. 1990) the court reversed a conviction for possession of cocaine and possession of drug paraphernalia when the sole evidence against the defendant was his fingerprints on a beer can that someone had converted to a crack cocaine smoking pipe. The court held "[a]lthough the evidence established that two fingerprints of the defendant were found on one of the two beer cans, there is no evidence establishing whether the prints were placed on the can before or after the can was converted into drug paraphernalia." *Id.* at 889. In the present case no evidence established whether the defendant made the print on the plate before or after the plate was converted to a crack cocaine holder.

In *People v. Johnson*, 158 Cal. App.3d 850, 204 Cal. Rptr. 877 (Ct. App. 2d Dist. 1984) the sole evidence against the defendant was his fingerprint found on a bottle containing PCP. The officers found the bottle in an overhang about seven feet above the

¹ Obviously the state did not have sufficient evidence to arrest the defendant at the time of the finding of the cocaine and crack cocaine. The fingerprint was also the sole evidence relied upon by the jury as they acquitted the defendant of the cocaine charges.

decisions of this court has not caused this dilemma. The refusal of the legislature to follow prior decisions of this court causes the dilemma.

QUESTION III

DID THE TRIAL JUDGE ERR IN ADMITTING INTO EVIDENCE TESTIMONY ABOUT A CRACK COCAINE STREET DEALER PROFILE WHEN NO TESTIMONY EVER INDICATED THAT THE ACTIONS OF THE DEFENDANT WERE IN KEEPING WITH THE PROFILE OF A CRACK COCAINE STREET DEALER?

The admission of evidence rest largely within the discretion of the trial judge. To be admissible, the evidence must bear some relation to the issues onvolved and not be unduly prejudicial. In the present case, the state, over the objection of the defendant, introduced evidence of what it called a "crack cocaine street dealer profile." Rec. on App. at 12, ll 23-25 to 14 1-3. The testimony of the "crack cocaine street dealer profile" runs for some seven page in the record. Rec. on App. at 13-21. At no time does any of the testimony relate to this defendant or any activities observed on July 14, 1991, the day the officers found the drugs. The state did not establish how that testimony related to this defendant.

Ed Ford testified that he made his observations before July 14, 1991 at some unknown time. (Rec. on App. at 58-61). He never testified as to seeing the defendant or seeing any drugs. He never testified that he saw anybody going near where the officers found the drugs. His testimony simply lacked any probative value as far as proving any relationship this defendant had to the drugs in question. As such the trial court should have excluded the testimony.

As the testimony did not show a relationship of this defendant to the drugs in question, the evidence was of no probative value and could only serve to confuse the jury and prejudice them against the defendant. *State v. Coleman* 301 S.C. 57, 389 S.E. Ld 659 (1990).

QUESTION IV

DID THE TRIAL JUDGE ERR IN FAILING TO CHARGE THAT THE JURY MAY INFER THAT DRUGS FOUND ON THE PROPERTY OF A PERSON BELONG TO THE PERSON OCCUPYING THE PROPERTY?

This court has held that it is proper for a jury to infer that when drugs are found on the property of a person, the jury may infer that the drugs belong to the owner of the property. *State v. Hudson*, 277 S.C. 200, 284 S.E.2d 777 (1981). The defendant requested such a charge in this case. Rec. on App. at 110.

If the law creates an inference that the crack cocaine belongs to someone other than the defendant, the jury surely should be informed of that law. In the present case the court did not inform the jury of that inference.

QUESTION V

DID THE TRIAL COURT ERR IN NOT SENTENCING THE DEFENDANT TO A YOUTHFUL OFFENDER SENTENCE WHEN THE DEFENDANT QUALIFIED FOR YOUTHFUL OFFENDER AND THE TRIAL JUDGE DID NOT GIVE A LEGALLY VALID REASON FOR NOT SENTENCING HIM TO A YOUTHFUL OFFENDER SENTENCE?

This court has said the when the defendant request a youthful offender sentence, then the trial judge should state on the record the reason for denying the

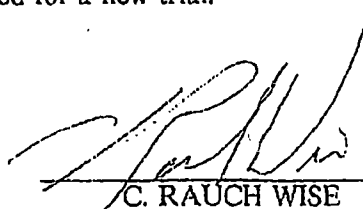
defendant a youthful offender sentence. *See, Bell v. Leake*, 266 S.C. 563, 225 S.E.2d 188 (1976). When asked in the present case, the trial judge responded "I'm not going to consider him for that due to the seriousness of crack cocaine and so many people die from it, and its epidemic here and in other places." Rec. on App. 122.

This court in *State v. Burton*, 301 S.C. 305, 391 S.E.2d 583 (1991) has in essence held that the reason provided by the trial judge is not a legally sufficient reason for denying a defendant a youthful offender sentence. In *Burton* this court held that a trial judge may legally sentence a defendant who otherwise qualifies to a youthful offender sentence for distribution of crack cocaine. The trial judge gave no other basis for his decision. As the defendant qualified for a youthful offender sentence, the trial judge erred in not sentencing him to a youthful offender sentence.

CONCLUSION

Due to the lack of substantial evidence to sustain the verdict, this case should be reversed. Due to the improper charge by the trial judge and the improper admission of evidence, the case should at least be remanded for a new trial.

February 19, 1992



C. RAUCH WISE
Wise & Tunstall
408 Main Street
Greenwood, SC 29646

(803) 229-5010
S.C. Bar No. 006188

Attorney for Appellant



County of Greenville

"...At Your Service"

DEPARTMENT OF PUBLIC SAFETY

Page 1 of 1

DRUG ANALYSIS REPORT

Department: Greenville Sheriff's Office
 Officer: Giovanni, M.
 Subject: Rouse, Titus Lee

Case Number: 01-2012-077095
 Report Number: 1
 Incident Date: 05/27/2012
 Received From: Property & Evidence
 Received Date: 05/29/2012



This is an official report of the Greenville County Department of Public Safety Crime Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no examinations of evidence submitted in this case have been or will be conducted by any other laboratory or agency.

*James M. Dorriety, Assistant County Administrator
 Department of Public Safety*

EXAMINATIONS CONDUCTED

CHEMICAL TEST MICROSCOPIC INFRARED SPECTROSCOPY
 ULTRAVIOLET SPECTROSCOPY GAS CHROMATOGRAPHY MASS SPECTROSCOPY

ITEMS OF EVIDENCE:

Item MG1: Rock substance
 Results: Heroin found, 26.59 grams C-I

I am a Criminalist employed by Greenville County to perform chemical and physical examinations on evidence submitted by law enforcement agencies in criminal cases, and to testify in courts of record in the state of South Carolina on such examinations.

Sean F. Collins
 Sean F. Collins

06/05/2012

**Greenville County Forensic Division
CRIME SCENE INVESTIGATION REPORT**

AGENCY: Greenville County Sheriff's Office
AREA: CJ-11

CASE NUMBER: 1-12-077095

| | | | |
|----------------|--|--------------------|--------------------------------------|
| INCIDENT TYPE: | Narcotics Investigation (In-house Processing) | INCIDENT LOCATION: | 23 Winterberry Ct. Greenville, SC |
| VICTIM: | | ADDRESS: | |
| COMPLAINANT: | Deputy Giovanni | ADDRESS: | 4 McGee St. Greenville, SC |
| INV. OFFICER | Giovanni | UNIT NUMBER | E58 |

Page 1 of 1

INCIDENT SUMMARY/ACTION (S) TAKEN:

On 06/02/2012 at approx. 2117 hrs, the R/O received evidence for latent processing from the temporary storage locker. This evidence package contained 1 baggie which used to contain narcotics (labeled MG2).

The R/O observed the item was a clear plastic zip-lock bag. The R/O processed the plastic baggie using cyanoacrylate fuming and magnetic powder, ending with negative results.

After processing, the item was re-packaged and placed in the secure evidence storage at the Crime Scene Office at approx. 2131 hrs.

All of the above actions took place at the Crime Scene Office.

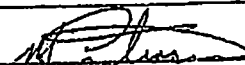
On 06/03/2012, the R/O placed the evidence into Locker # 23 at P/E.

No further actions were taken.

Incident Date: 06/02/2012

| | | | | |
|----------------|-----------|---------|-------------|-------------|
| Received: 2117 | En Route: | Arrive: | Clear: 2131 | CS/En Route |
|----------------|-----------|---------|-------------|-------------|

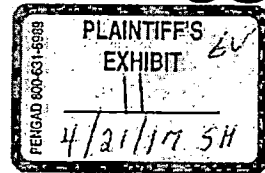
- 6 JUN 14 23

| | | | | | | | |
|----------------------|---|--------|------|--------|-----|------|----------|
| REPORTING OFFICER | Kretschmar, Dustin DK | STAR # | 9013 | UNIT # | 928 | DATE | 06/03/12 |
| REPORTING OFFICER | | STAR # | | UNIT # | | DATE | |
| APPROVING SUPERVISOR |  | STAR # | 9565 | UNIT # | 912 | DATE | 6/4/12 |

Edgewide

Greenville County Sheriff's Office

4 McGee St.
Greenville, South Carolina 29601



VICTIM/WITNESS STATEMENT

FIELD STATEMENT

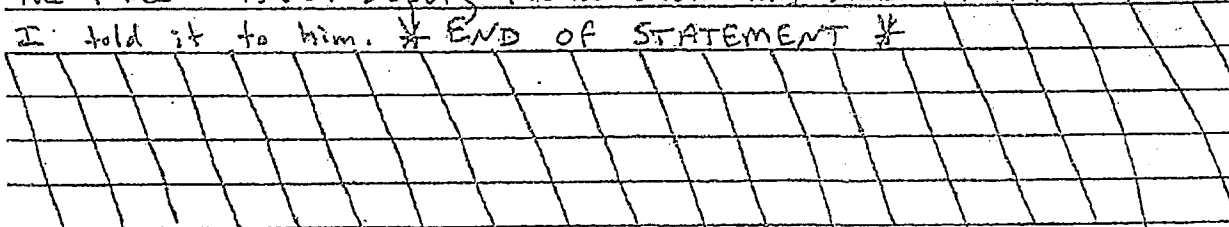
Case Number 12-077095

Date 05/27/12

I, STEVEN VASALLO, do hereby give freely and voluntarily this statement to DEPUTY S. PICONE C33 and _____ who have identified themselves to me to be Deputies of the Greenville County Sheriff's Office, Greenville, South Carolina.

~~40~~ years old and reside at _____

On 05/27/12 at approximately 6:30pm, my wife and I checked in at the front desk of the Hawthorne Suites. I drove around the parking lot looking for room 313. When I located the room, I parked my van in a parking space. A couple of seconds later, a white Mercedes parked right next to my van. A black male wearing baggy white shorts, black and white shoes and black and white shirt exited the driver side of the Mercedes. The black male said "what's up" and walked up the stairs of the hotel to room ~~313~~ 324. The black male came back out of the room with a laptop and got back into the white Mercedes and left like he was in a hurry. He then drove off and I noticed the Police outside. Deputy Picone wrote this statement for me as I told it to him. * END OF STATEMENT *



28 MAY 2012 07 24

I have read the above statement of 1 of 1 pages and it is true and correct as best as I recall.

WITNESS:

[Signature]
#1254 C33

[Signature: Esteban Vasallo]
I have received a copy of this statement.

Esteban Vasallo.

Sworn before me this _____ day of _____

NOTARY PUBLIC FOR SOUTH CAROLINA



LAW OFFICE OF
C. RAUCH WISE
 Attorney & Counselor at Law
 305 Main Street
 Greenwood, SC 29646
 e-mail rauch@simplepc.net

C. Rauch Wise

Telephone
 (864) 229-5010
 Facsimile
 (864) 229-2663

August 7, 2014

Titus Lee Rouse #00287818
 Trenton Correctional Institution
 84 Greenhouse Road
 Trenton, SC 29847

Dear Titus:

I am enclosing a copy of the drug code for your review. The section under which you were sentenced is contained on pages 8 and 9 of the drug statute. You pled under a first offense of possession of 4 grams or more, but less than 14 grams. That provided for a sentence of 7 to 25 years. This sentence is a no parole offense in which you must serve 85%.

I am enclosing herewith a copy of S.C. Code § 24-13-100 which defines a no parole offense as a class A, B, or C felony. Your charge was a class B felony.

I am also enclosing herewith a copy of S.C. Code § 24-13-150 which states that an inmate must serve 85% of the actual term of imprisonment imposed before they can be released to community supervision. That would mean that you would be required to serve 85% of the 12 years.

For all practical purposes, there is no appeal for a guilty plea. The only exceptions would be where a Judge imposed a sentence that exceeded the statutory maximum or if the defendant contends the Judge should have sentenced him under a youthful offender sentence and did not. Due to your age, you would not be eligible for a youthful offender sentence. I can think of no appealable issues that would be involved in your sentencing. A disagreement with the sentence is simply not a basis to perfect an appeal.

You also asked about a post conviction relief petition. You have one year from June 6, 2014, to file any post conviction relief. After that, the filing of any PCR would be time barred unless evidence of actual innocence is uncovered. Actual innocence means exactly that. Proof that you were actually innocent and not that you had a stronger case.

If you are successful in a PCR, you will not be eligible for a time cut. The only relief that can be granted to you is the right to go back and try the case from the beginning. If you are tried

and convicted, you would be subject to a mandatory 25 year sentence as indicated on page 9 of the drug statute. You had a second offense due to the fact that you had a prior distribution charge. It does not matter whether the distribution was heroin or any other substance. A prior possession would not qualify as a prior conviction under some circumstances.

Neither Dick nor myself would be able to represent you at a post conviction relief hearing. The issues at a post conviction relief hearing would be whether or not you freely and voluntarily entered your plea and whether or not your attorneys adequately represented you in investigating and advising you concerning this matter. As I stated before, a post conviction relief petition is not a means of obtaining a time cut.

As we discussed in Greenville, due to the testimony that the dog tracked the trail to the drugs and the shoes and the claim that you admitted the shoes were yours, the case would in fact go to the jury. Without the dog tracking the route, I feel there would be a strong possibility of the Judge directing a verdict, and, if he did not, reversing the conviction on appeal.

Please remember the statement made by Judge Miller in which he said that there are two reasons to go to trial. One is when you have an absolute sure winner, and the other is when you have nothing to lose. Without the dog evidence, while we may not have had an absolute sure winner, I felt very good about our chances.

After you have reviewed these documents, if you have any further questions, you are more than welcome to call. If you would like, you can also call me. My office will not accept a call from an inmate if I am not in the office. Experience has shown that it is much cheaper to refuse the call rather than accept the call and inform the caller that I am not in the office.

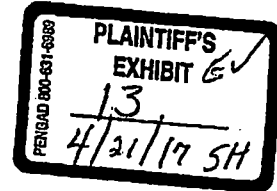
I hope this letter answers your questions.

With kindest regards, I am

Very truly yours,


C. Rauch Wise

CRW/slt
Enclosures



LAW OFFICE OF
C. RAUCH WISE
Attorney & Counselor at Law
305 Main Street
Greenwood, SC 29646
e-mail rauch@simplepc.net

C. Rauch Wise

Telephone
(864) 229-5010
Facsimile
(864) 229-2665

August 8, 2014

Joyce Krolack Monts
Thirteenth Circuit Solicitor Ofc
Greenville Cnty Courthouse
305 E. North St., Ste. 325
Greenville, SC 29601

Re: Titus Rouse

Dear Joyce:

In view of our discussion yesterday concerning parole eligibility, I went back to my office and checked the statute. I am enclosing herewith a copy of §24-13-150, which says that the person serving a no parole offense must serve 85% of the sentence.

With kindest regards, I am

Very truly yours,


C. Rauch Wise

CRW/slt
Enclosure

cc Richard Warder

STATE OF SOUTH CAROLINA

County of

Greenville 12-77095



SEARCH WARRANT

COPY

Date 5/27/12

Officer M.J. Giovanni E5B +1117

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF Greenville 12-77095

Personally appeared before me, one M. J. GIOVANNI ESB #1117 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

Any and all heroin, Contraband, Paraphernalia, Papers, Monies, and Effects related to the use, distribution, and packaging of heroin or any other contraband. Any items of personal property tending to identify subject(s) in control of room to be searched.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

Room number 323 located at the (Hawthorn Suites by Wyndham) located off of Orchard Park Drive address of 48 McPrice Court. This hotel is located next to the Clarion hotel and is a wood and rock style structure. The room in question is on the far right side of the property at the rear. Room 323 is a second floor room at the top of the stairway and is clearly marked 323 with a sign attached to the left side of the door frame about 5 feet up from the bottom.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

Affiant had information from a confidential informant advising that a black male subject nicknamed "slick" driving a white four door mercedes benz was in possession of a large amount of heroin in the suspects hotel room. A description of the hotel was provided by the informant (Next to chinese restaurant on Orchard Park Dr, with a pool in the center of the hotel. The informant was not sure on a name for the subject. After checking the area, a hotel matching the description provided was found (Hawthorn Suites) and a white four door Mercedes Benz was located parked and unoccupied at the far right rear of the property displaying SC tag 1349BY. Dispatch ran that tag and it came back to an Infiniti. After circling the property, a black male driver was observed entering the vehicle and backing out of the parking space. When he realized that law enforcement was present he abandoned the vehicle and ran on foot. The subject was found several minutes later and after a brief track, approximately 1.1 ounces of heroin was found in a baggie abandoned just over a concrete wall about ten feet away from the suspects mercedes along with a pair of slippers. The location the narcotics were found is in close proximity to where the suspect ran to when he fled the vehicle. Furthermore, the suspect has been identified and provided a SC drivers license (Robert T Irby) that identifies the suspect as the same subject who rented room 323 at the incident location. Post miranda, the suspect also stated that there may be some marijuana in the room that he left behind. It was later found that the subjects real name was Titus Rouse.

Sworn to and Subscribed before me
this 27th day of May, 2012
Breaston (L.S.)
Signature of Judge

[Signature] ESB #1117
Affiant

Address 4 McGee St
Greenville SC, 29601
Phone 864-467-5335

RETURN

I received the attached Search Warrant MAY 27, 192012, and have executed it as follows:
On MAY 27, 192012 at 9:57 o'clock P. M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with OCCUPANT
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: _____
* NO ITEMS TAKEN

This inventory was made in the presence of M. MAY * 574
AND SGT. SILVER (EO4)

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this _____
day of _____, 19 _____

Signature of Judge (L.S.)

[Signature] #205 E16
(Signature of Officer Executing Warrant)

ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF Greenville

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

Room number 323 located at the (Hawthorn Suites by Wyndham) located off of Orchard Park Drive address of 48 McPrice Court. This hotel is located next to the Clarion hotel and is a wood and rock style structure. The room in question is on the far right side of the property at the rear. Room 323 is a second floor room at the top of the stairway and is clearly marked 323 with a sign attached to the left side of the door frame about 5 feet up from the bottom.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Any and all heroin, Contraband, Paraphernalia, Papers, Monies, and Effects related to the use, distribution, and packaging of heroin or any other contraband. Any items of personal property tending to identify subject(s) in control of room to be searched.

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

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 the 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.

Greenville, S. C.
May 27 2018

[Signature] (L. S.)
Signature of Judge

STATE OF SOUTH CAROLINA

County of

Greenville 12-77095

COPY

SEARCH WARRANT

Date 5/27/12

Officer M.J. Giovanni E58 #1117

28 MAY 2012 07 12

1- 2012-077095

STATE OF SOUTH CAROLINA

COUNTY OF Greenville 12-77095

AFFIDAVIT

Personally appeared before me, one M. J. GIOVANNI ESB #1117 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

Any and all heroin, Contraband, Paraphernalia, Papers, Monies, and Effects related to the use, distribution, and packaging of heroin or any other contraband. Any items of personal property tending to identify subject(s) in control of room to be searched.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

Room number 323 located at the (Hawthorn Suites by Wyndham) located off of Orchard Park Drive address of 48 McPrice Court. This hotel is located next to the Clarion hotel and is a wood and rock style structure. The room in question is on the far right side of the property at the rear. Room 323 is a second floor room at the top of the stairway and is clearly marked 323 with a sign attached to the left side of the door frame about 5 feet up from the bottom.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

Affiant had information from a confidential informant advising that a black male subject nicknamed "slick" driving a white four door mercedes benz was in possession of a large amount of heroin in the suspects hotel room. A description of the hotel was provided by the informant (Next to chinese restaurant on Orchard Park Dr, with a pool in the center of the hotel. The informant was not sure on a name for the subject. After checking the area, a hotel matching the description provided was found (Hawthorn Suites) and a white four door Mercedes Benz was located parked and unoccupied at the far right rear of the property displaying SC tag 1349BY. Dispatch ran that tag and it came back to an Infiniti. After circling the property, a black male driver was observed entering the vehicle and backing out of the parking space. When he realized that law enforcement was present he abandoned the vehicle and ran on foot. The subject was found several minutes later and after a brief track, approximately 1.1 ounces of heroin was found in a baggie abandoned just over a concrete wall about ten feet away from the suspects mercedes along with a pair of slippers. The location the narcotics were found is in close proximity to where the suspect ran to when he fled the vehicle. Furthermore, the suspect has been identified and provided a SC drivers license (Robert T Irby) that identifies the suspect as the same subject who rented room 323 at the incident location. Post miranda, the suspect also stated that there may be some marijuana in the room that he left behind. It was later found that the subjects real name was Titus Rouse.

not true - just want P/C to search

Sworn to and Subscribed before me
this 27th day of May, 2012
[Signature] (L.S.)
Signature of Judge

[Signature] ESB #1117
Affiant
Address 4 McGee St
Greenville SC, 29601
Phone 864-467-5335

28 MAY 2012 07 12

ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF Greenville

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

Room number 323 located at the (Hawthorn Suites by Wyndham) located off of Orchard Park Drive address of 48 McPrice Court. This hotel is located next to the Clarion hotel and is a wood and rock style structure. The room in question is on the far right side of the property at the rear. Room 323 is a second floor room at the top of the stairway and is clearly marked 323 with a sign attached to the left side of the door frame about 5 feet up from the bottom.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Any and all heroin, Contraband, Paraphernalia, Papers, Monies, and Effects related to the use, distribution, and packaging of heroin or any other contraband. Any items of personal property tending to identify subject(s) in control of room to be searched.

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

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 the 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.

Greenville, S.C.
May 27 2012

[Signature]
Signature of Judge (L.S.)

28
MAY 2012

07

13

RETURN

I received the attached Search Warrant MAY 27, 2012, and have executed it as follows:
On MAY 27 2012 at 9:57 o'clock P M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with OCCUPANT
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:

~~NO ITEMS TAKEN~~

[Empty lines for inventory list]

This inventory was made in the presence of M. MAY # 574
AND SGT. SILVER (EO4)

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this _____
day of _____, 19 _____

(L.S.)
Signature of Judge

[Signature] #905 E16
(Signature of Officer Executing Warrant)

28 MAY 2012 07 12