

VOLUME II OF II

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
The Honorable R. Markley Dennis, Jr., Trial Judge
The Honorable John C. Hayes, Post-Conviction Relief Judge

RECEIVED
JUN 23 2017
S.C. SUPREME COURT

Appellate Case No: 2016-000885

THERRON RICHARDSON,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA,

PETITIONER.

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1 we'll be selecting juries for this week. So you are
2 excused for the week. You do not need to call in
3 tonight and check. You are finished.

4 You will turn in the letters that need to be
5 given with respect to your mileage and other
6 information the clerk needs. I think your juror
7 checks will be coming in short order, usually at the
8 end of all the cases. So thank you so much for your
9 time. I know this was a difficult and very serious
10 case. I do appreciate your deliberation and
11 patience. Thank you.

12

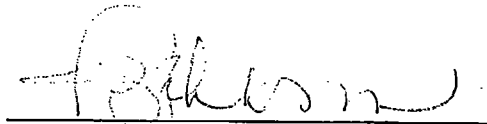
(END OF PROCEEDINGS)

CERTIFICATE

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Charleston, South Carolina, on this 20th day of February, 2013.

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



Teresa B. Johnson

Circuit Court Reporter

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Stephanie P. McDonald, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

THERRON R. RICHARDSON,

APPELLANT

APPELLATE CASE NO. 2012-213431

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in denying defense counsel's motion to suppress evidence seized from appellant's residence in response to a criminal domestic violence call by the police, when the evidence was not found in plain view in a room in which the police were "interviewing, detaining, or pursuing a suspect" under S.C. Code § 16-25-70(H)(1)(a) and where the evidence found was inadmissible in a court of law as the statute mandates?

STATEMENT OF THE CASE

Appellant was convicted of trafficking in cocaine, four (4) counts of possession of a firearm by a person convicted of a crime of violence, and one (1) count of possession of a firearm during commission of a violent crime after a jury trial held before the Honorable Stephanie McDonald on November 13 – 15, 2012, in Charleston County. Appellant was sentenced to thirty (30) years on the cocaine charge and to five (5) years on the weapons charges. One of the weapon charges was ordered to be served consecutively to the cocaine sentence. Donna K. Taylor, Esquire, and D. Lynn Bowley, Esquire, were the trial attorneys. Emmanuel Ferguson, Esquire, and Culver Kidd, Esquire, were the assistant solicitors.

This appeal follows.

ARGUMENT

The trial court erred in denying defense counsel's motion to suppress evidence seized from appellant's residence in response to a criminal domestic violence call by the police when the evidence was not found in plain view in a room in which the police were "interviewing, detaining, or pursuing a suspect" under S.C. Code § 16-25-70(H)(1)(a), and the evidence was not admissible in a court of law as provided by the statute.

Pursuant to a prior motion to suppress evidence seized from appellant's residence under the Fourth Amendment to the United States Constitution and Article I, § 10 of the South Carolina Constitution, a hearing was held before the Honorable R. Markley Dennis, Jr., on May 9, 2012.¹

Deputy Bowers with the Charleston County Sheriff's Department testified at the hearing that on October 17, 2010, he was dispatched to 1956 Old Fort Avenue on an "in-progress domestic violence call." He learned "a female had called in and said that her boyfriend had choked her and that she had locked herself in a room inside the house for her safety." (R. 14, line 1 – R. 15, line 12). Deputy Alexander also arrived at the scene. Deputy Bowen approached the front door and noticed that there was no doorknob, just a deadbolt lock which he thought was unusual. He knocked on the door and got no response. He went to the side of the house and a door there also had no doorknob, just a deadbolt lock. They went to the back of the house and found a sliding glass door that was partially open. They entered the house and began to look for people. (R. 15, line 23 – R. 19, line 18). They did not find anyone in the house. During the search of the house, they found a scale with white powder residue on it on a counter in the bathroom off the master bedroom. There was a razor blade next to the scale. They looked inside the closet and found a safe on the floor. It was closed, but money was strewn in front of it. They noticed money in an open bank bag lying on

¹ The discussion concerning the statutory issue commences at R. 6, infra.

the floor. Under the bed in the master bedroom they saw several guns. They secured the scene and waited for Sergeant York to get there. She was briefed when she arrived and she called the drug investigation unit. (R. 20, line 16 – R. 22, line 24). Deputy Bowen said he asked dispatch to triangulate where the call had come from and it showed from Romney Street, some twenty minutes away. (R. 33, line 23 – R. 34, line 9). Deputy Alexander also testified that he responded to the call of a domestic disturbance. (R. 65, line 20 – R. 66, line 3).

On June 19, 2012, Judge Dennis issued an order denying the defendant's motion to suppress evidence taken from appellant's house. He found exigent circumstances because the police were responding to a 911 call about a heated domestic dispute. Judge Dennis also found that the guns, cash, digital scales, and white powder were found in plain view when the police performed a protective sweep of the house. Thus, there was no Fourth Amendment violation in this case.

On August 13, 2012, appellant, now represented by new attorneys, filed a motion to exclude the same evidence because it was obtained in violation of S.C. Code § 16-25-70(H)(1)(a). On August 28, 2012, a motion to reconsider the admissibility of the evidence was heard by the Honorable R. Markley Dennis, Jr., based on the criminal domestic violence statute. Judge Dennis denied the motion without prejudice. (R. 111, lines 11 – 17).

The August 13, 2012, motion was heard by the Honorable Stephanie McDonald on November 13, 2012. The cited code section is as follows:

- (H) Evidence discovered as a result of a warrantless search administered pursuant to a complaint filed under this article is admissible in a court of law:
 - (1) if it is found:
 - (a) in plain view of a law enforcement officer in a room in which the officer is interviewing, detaining, or pursuing a suspect; or
 - (b) pursuant to a search incident to a lawful arrest for a violation of this article or for a violation of Chapter 3, Title 16; or

(2) if it is evidence of a violation of this article.

An officer may arrest and file criminal charges against a suspect for any offense that arises from evidence discovered pursuant to this section.

Unless otherwise provided for in this section, no evidence of a crime found as a result of a warrantless search administered pursuant to a complaint filed under this article is admissible in any court of law.

S.C. Code § 16-25-70 (H)(1)(a)(emphasis added).

It is clear that the officers were responding to a criminal domestic violence call. The above statute provides for officers responding to a CDV call with an exception to the warrant requirement in certain limited, clearly defined circumstances. In the absence of those specific circumstances, no evidence of a crime the officers may have seen is admissible in a court of law. The statute clearly states that evidence discovered in a warrantless search pursuant to a CDV complaint is admissible in a court of law if it “is in plain view of a law enforcement officer in a room in which the officer is interviewing, detaining, or pursuing a suspect.” (Emphasis added). Certainly there was no “interviewing, detaining, or pursuing a suspect” because no one was in or around the residence. When a “statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the Court has no right to impose another meaning.” Gail v. Arial, 381 S.C. 341, 673 S.E.2d 418 (2009); State v. Gains, 380 S.C. 23, 667 S.E.2d 728 (2008). (R. 438, August 13, 2012, Motion to Exclude Evidence).

The trial judge violated the above rule by forcing a different interpretation than what the statute states. She cited S.C. Code § 16-25-70(c) which deals with effecting a warrantless arrest which the officers were not doing in this case. She then reasoned that the officers did not enter the residence pursuant to the authorization of the CDV statute! (R. 168, line 6 – R. 169, line 10). Earlier on, the trial judge stated that it was hard for her to believe that the legislature meant to give

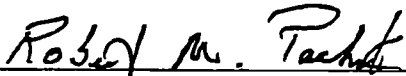
greater protections than were provided by the Fourth Amendment. (R. 157, lines 2 – 5). But, the legislature did precisely this when it enacted S.C. Code § 17-13-140(1985) and the South Carolina Supreme Court held that the legislature was free to do this in State v. McKnight, 291 S.C. 110, 352 S.E.2d 471 (1987). And as far back as 1999, the South Carolina Supreme Court in State v. Cannon, 336 S.C. 335, 520 S.E.2d 317 (1999) expressed concern over the “plain meaning” of S.C. Code § 16-25-70(H) and its applicability to situations like those presented in appellant’s case. In the almost fourteen years since then, the legislature has not seen fit to change this statute. It is obvious that they do not want the police to use the CDV statute as a ruse to rummage at will. In State v. Roberts, 340 S.C. 238, 530 S.E.2d 899 (Ct.App. 2000), just a year after State v. Cannon, the South Carolina Court of Appeals also recognized the plain meaning effect of S.C. Code § 16-25-70(H), albeit under a different factual scenario.

At the conclusion of the State’s case, defense counsel renewed its motion to exclude the evidence that was seized based on the CDV statute and the evidence the trial heard during the course of the trial concerning the officers’ CDV response to the scene. The trial judge said, “I may be wrong” but it was just her interpretation that the officers entered the house pursuant to exigent circumstances. Then she said, “It may have been pursuant to the statute as well.” She interpreted the CDV statute differently than the courts in State v. Cannon and State v. Roberts and she did not give it the “plain meaning” it deserved. She agreed that “it could be interpreted differently by another court.” (R. 403, line 13 – R. 404, line 17).

CONCLUSION

Based on the foregoing argument, the items seized by the officers should have been suppressed and appellant's convictions should be reversed.

Respectfully submitted,



Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 9th day of January, 2014.

CERTIFICATE OF COUNSEL

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

January 9, 2014



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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Stephanie P. McDonald, Circuit Court Judge

Appellate Case No. 2012-213431

THE STATE,RESPONDENT

v.

THERRON R. RICHARDSON,APPELLANT.

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RESPONDENT'S STATEMENT OF ISSUE ON APPEAL

Whether Appellant's pretrial motion to suppress all evidence discovered during the search of his house, pursuant to section 16-25-70(H)(1)(a) of the South Carolina Code, is preserved for appellate review where any objection to the admission of such evidence was waived when Appellant affirmatively indicated he had "no objection" when it was introduced during trial, and to the extent Appellant's objection was preserved, whether the trial judge properly admitted the evidence where: (1) the officers did not enter Appellant's home under the authority of section 16-25-70(C), and (2) if they did enter under the authority of section 16-25-70(C), the evidence was specifically admissible under section 16-25-70(H) and suppression of the evidence in this case would not further the purpose behind section 16-25-70(H)?

STATEMENT OF THE CASE

Appellant was indicted at the April, 2011 term of the grand jury for Charleston County for trafficking cocaine (2011-GS-10-02320), possession of a firearm during the commission of a violent crime (2011-GS-10-02321), and four counts of unlawful possession of a firearm by a person convicted of a crime of violence (2011-GS-10-02323, -02324, -02325 & -02326). He was initially represented by Alicia Penn and Mary Ford of the Ninth Circuit Public Defender's Office, including during a May 9, 2012, pretrial suppression hearing before the Honorable R. Markley Dennis; however, he was ultimately represented at trial by Donna K. Taylor and D. Lynn Bowley, Esquires, of the Charleston County Bar. (R.p.1; R.p.145). On November 13-15, 2012, Appellant proceeded to trial by jury before the Honorable Stephanie P. McDonald pursuant to which he was found guilty as indicted. He was sentenced to thirty years' imprisonment for trafficking cocaine, a consecutive term of five years' imprisonment for one count of unlawful possession of a firearm (2011-GS-10-02323), and four concurrent terms of five years' imprisonment for each of the three remaining counts of unlawful possession of a firearm and the single count of possession of a firearm during commission of a violent crime, for an aggregate sentence of thirty-five (35) years' imprisonment. (R.pp. 444-455; R.pp. 456-461; R.p.416, line 23-p.418, line 10). Appellant timely filed a notice of intent to appeal his convictions and sentences and subsequently submitted a Brief in support of his appeal. This Brief of Respondent (the State) follows.

STATEMENT OF FACTS

On October 17, 2010, at 11:15 a.m., Deputies Jason Bowen and Julius Alexander of the Charleston County Sheriff's Department were dispatched to Appellant's house in response to an emergency call. An unidentified female had called 911 at 11:09 a.m. claiming to be trapped in a bedroom at the residence after being attacked by her boyfriend. Upon arriving at the house at 11:24 a.m., the officers knocked and announced their presence but received no response. They then split up and walked around the residence, discovering a sliding glass door at the back that was partially open. The officers entered the house to try to locate the 911 caller and to conduct a protective sweep for anyone who might be a threat. They did not discover any people in the house; however, during the sweep they observed guns, a safe, a large sum of cash, a digital scale, and a white powdery residue that appeared to be cocaine. Based on these observations, the Sheriff's Department obtained a search warrant and the narcotics division conducted a search of the house. They discovered over 2,000 grams of cocaine, five loaded guns, over twenty thousand dollars in cash, digital scales, and other evidence of illegal drug activity, and charged Appellant with trafficking cocaine, possession of a firearm during the commission of a violent crime, and five counts of possession of a firearm by a person convicted of a violent crime. (R. pp.420-p.422).

On May 7, 2012, Appellant filed a motion to suppress all evidence obtained from his residence on grounds it was obtained in violation the Fourth Amendment to the United States Constitution and Article I, Section 10 of the South Carolina Constitution. A suppression hearing was held on May 9, 2012, before the Honorable R. Markley Dennis. Appellant was present and was represented by Alicia Penn and Mary Ford of the

Ninth Circuit Public Defender's Office. The State was represented by Assistant Solicitor Emmanuel Ferguson of the Ninth Circuit Solicitor's Office.

During the suppression hearing, the State first played a tape recording of the 911 call and then presented testimony from Deputy Bowen. (R.p.11, line 25-p.13, line 23). Bowen was working patrol duty on October 17, 2010, when he was dispatched to a Charleston County address for an "in-progress domestic violence call." He was told a female called 911 because her boyfriend had choked her and she had locked herself in a room inside the house for her safety. Bowen explained his primary goal in any domestic call is "person safety." Deputy Alexander was also dispatched to the address and arrived at the house simultaneously with Bowen. Bowen approached the front door where he noticed a "key-type deadbolt" instead of a doorknob, which is highly unusual and made him afraid someone was "controlling" the 911 caller and could be keeping her locked in the house. Bowen knocked on the door several times with increasing intensity and loudness but did not get a response. Bowen and Alexander then decided to "cover" the house to see if there were any open windows or other doors. Alexander discovered a sliding glass door in the rear that was partially open. The officers entered the house to secure the scene and to make sure nobody inside was harmed. They searched the house for places they thought people could be hiding because they were concerned about an injured person or a person in danger. During the search they found no people but saw a scale with white powder residue and razor blades in the bathroom, a safe and money strewn about in a closet, and several guns on the floor under a bed. They secured the scene and waited for their supervisor to arrive. (R.p.13, line 19-p.23, line 20).

On cross-examination, Bowen acknowledged he did not see anyone flee from the house and saw no broken windows or bullet holes on the house, or footprint marks on the door. He also did not hear any screaming, footsteps, or toilets flushing before they entered. (R.p.28, line 10-p.29, line 1). However, on re-direct Bowen explained that the fact they did not hear anything could mean a victim was unconscious and lying in the house, or that she was staying quiet due to fear. (R.p.35, line 12-p.38, line 25). Appellant then called several witnesses, including Deputy Alexander, to the stand. Alexander corroborated Bowen's account of the events which led to the search of Appellant's house. (R.p.65, line 13-p.76, line 15). Later that day the Sheriff's Department obtained a search warrant for the house based on the observations made by Bowen and Alexander, and the narcotics team executed a search which ultimately led to the charges against Appellant. (R.p.324, line 8-p.328, line 2).

After hearing testimony and oral arguments, and reviewing the exhibits and parties' written submissions, Judge Dennis orally announced: "I am just suppressing this evidence today." (R.p.99, line 22-p.100, line 20). However, upon further consideration, Judge Dennis issued a written order denying the motion to suppress by finding "the warrantless search & seizure to be proper, reasonable and not violative of Defendant's constitutional rights." (R.pp.419-427; R.p.100, line 1).

On June 29, 2012, Appellant filed a motion to reconsider. (R.pp.428-437). Then, on August 13, 2012, Appellant filed a motion to exclude the same evidence, but on different grounds, arguing it was obtained in violation of the criminal domestic violence (CDV) provisions of the South Carolina Code. (R.pp. 438-443). On August 28, 2012, Judge Dennis convened a hearing on Appellant's motions. Appellant was present and

was represented by Mary Ford of the Ninth Circuit Public Defender's Office and Donna Taylor, Esquire. The State was represented by Assistant Solicitors Emmanuel Ferguson and Culver Kidd of the Ninth Circuit Solicitor's Office. After hearing arguments from Appellant, Judge Dennis denied the motion to reconsider and declined to rule on the motion to suppress on statutory grounds, finding the new motion was premature and should be raised to the trial judge. (R.p.103-p.113).

On November 13, 2012, the case was called for trial before the Honorable Stephanie P. McDonald; however, with consent of the parties, Judge Dennis conducted jury qualification and selection while Judge McDonald handled a prior commitment. Appellant was present and represented by Donna K. Taylor and D. Lynn Bowley, Esquires. (R.p.145-p.174). Later that day, Judge McDonald assumed her role as presiding trial court judge and heard pre-trial motions, including Appellant's motion to exclude/suppress the evidence pursuant to the CDV statute. After hearing arguments from both parties, reviewing section 16-25-70 of the Code, and reviewing two published opinions which addressed the statute,¹ Judge McDonald found the officers did not enter Appellant's residence pursuant to the authorization of the CDV statute and denied the motion to suppress. (R.p.153, line 1-p.169, line 10). The jury was then sworn and the case proceeded to trial. (R.p.175, line 1-p.176, line 8).

During the course of trial, the State sought to introduce various items into evidence, all of which were found either during the initial protective sweep or the subsequent search of Appellant's house. These included: (1) plastic baggies, scales, boxes, spoons and other items associated with the sale and distribution of narcotics; (2)

¹ State v. Cannon, 336 S.C. 335, 520 S.E.2d 317 (1999); State v. Roberts, 340 S.C. 238, 530 S.E.2d 899 (Ct. App. 2000).

bills, receipts, and other items linking Appellant to ownership of the house, (3) several guns, clips and ammunition; and (4) more than 2,000 grams (two kilograms) of cocaine. In each instance, Appellant stated he had “no objection” to the items introduced, and the evidence was admitted “without objection.” (R.p.335, lines 1-11; p.344, lines 1-8; p.348, lines 7-15; p.353, lines 1-6; p.358, lines 3-9; p.359, lines 3-10). After the State concluded its case in chief, Appellant asked to “renew all prior arguments” including his request to exclude evidence under the CDV statute. The trial judge reiterated her earlier ruling to admit the evidence: “in light of the purpose and function of the domestic violence statute as well as the Supreme Court State v. Cannon decision.” (R.p.403, line 13-p.405, line 5).

At the end of trial, the jury found Appellant guilty on all counts and Appellant asked to renew any motions he had previously made. The trial judge said she stood by her prior rulings and denied the motions. (R.p.413, line 11-p.415, line 24). Appellant was sentenced to thirty years’ imprisonment for trafficking cocaine, a consecutive term of five years’ imprisonment for one count of unlawful possession of a firearm, and four concurrent terms of five years’ imprisonment for each of the three remaining counts of unlawful possession of a firearm and the single count of possession of a firearm during the commission of a violent crime. (R.pp.456-461; R.p.416, line 23-p.418, line 10).

ARGUMENT

I.

Appellant's pretrial motion to suppress all evidence discovered during the search of his house, pursuant to section 16-25-70(H)(1)(a) of the South Carolina Code, is not preserved for appellate review because any objection to the admission of such evidence was waived when Appellant affirmatively indicated he had "no objection" when it was introduced during trial, and to the extent Appellant's objection was preserved, the trial judge properly admitted the evidence because: (1) the officers did not enter Appellant's home under the authority of section 16-25-70(C), and (2) if they did enter under the authority of section 16-25-70(C), the evidence was specifically admissible under section 16-25-70(H) and suppression of the evidence in this case would not further the purpose behind section 16-25-70(H).

Appellant contends the trial court erred in denying his motion to suppress evidence seized from his residence following a police response to a 911 emergency call because the evidence was not found in plain view in a room in which the police were "interviewing, detaining, or pursuing a suspect" under S.C. Code section 16-25-70(H)(1)(a), which makes such evidence inadmissible in a court of law by the statute. The State disagrees and submits Appellant's argument should be dismissed for a number of reasons.

Initially, the State submits the trial court's decision to deny Appellant's pretrial suppression motion and to admit the contraband discovered during the search of his house is not preserved for appellate review because all such evidence was admitted with "no objection" during trial. In any event, even if the issue is preserved, the trial judge properly denied the pretrial suppression motion and admitted the drugs, weapons, and other items into evidence because the deputies did not enter Appellant's home under the authority of section 16-25-70(C), and therefore, the exclusionary provisions of section

16-25-70(H) do not apply. Furthermore, to the extent the officers did enter under authority of section 16-25-70(C), the evidence was properly admitted pursuant to section 16-25-70(H) because: (1) it was found in “plain view of a law enforcement officer in a room in which the officer [was] . . . pursuing a suspect,” and (2) the purpose behind the statute would not be furthered by suppression in Appellant’s case. For all of these reasons, Appellant’s convictions should be affirmed.

Issue Preservation

In order for an issue to be preserved for appellate review, the issue must have been: (1) raised to and ruled upon by the trial court; (2) raised by the appellant; (3) raised in a timely manner; and (4) raised to the trial court with sufficient specificity. State v. Rogers, 361 S.C. 178, 183, 603 S.E.2d 910, 912-13 (Ct. App. 2004). “If a party fails to properly object, the party is procedurally barred from raising the issue on appeal.” State v. Johnson, 363 S.C. 53, 58-59, 609 S.E.2d 520, 523 (2005).

Generally, a motion in limine seeks a pretrial evidentiary ruling to prevent the disclosure of potentially prejudicial evidence to the jury, and a ruling on such a motion is preliminary and subject to change based on developments during trial. State v. Smith, 337 S.C. 27, 32, 522 S.E.2d 598, 600 (1999). A ruling on a motion in limine does not constitute a final ruling on the admissibility of evidence. State v. Simpson, 325 S.C. 37, 42, 479 S.E.2d 57, 60 (1996). Therefore, an objection must be made at the time the evidence is introduced during trial in order to preserve the issue for appellate review. State v. Schumpert, 312 S.C. 502, 507, 435 S.E.2d 859, 862 (1993). “However, where a judge makes a ruling on the admission of evidence on the record immediately prior to the introduction of the evidence in question, the aggrieved party does not need to renew the

objection.” State v. Forrester, 343 S.C. 637, 642, 541 S.E.2d 837, 840 (2001); see State v. Wiles, 383 S.C. 151, 156-57, 679 S.E.2d 172, 175 (2009) (“This exception is based on the fact that when the trial court’s ruling is not preliminary, but instead is clearly a final ruling, there is no need to renew the objection.”).

In the instant case, any issue with the admission into evidence of the narcotics, firearms, and other items discovered during the search of Appellant’s house was not properly preserved for appellate review. At the outset of trial, Appellant made a motion in limine seeking the suppression of the evidence discovered through the search, and the trial judge issued a preliminary ruling denying the suppression motion after conducting a pretrial hearing on the matter. Thereafter, each time the solicitor moved to introduce the item from Appellant’s house into evidence during trial, Appellant did not renew his pretrial objection and instead affirmatively stated he had “no objection.” See State v. Dicapua, 373 S.C. 452, 455, 646 S.E.2d 150, 152 (Ct. App. 2007) (“Dicapua’s sole objection to the videotape came in the form of a motion in limine to suppress the videotape because of its lack of audio. Once the State moved to enter the videotape into evidence and publish it to the jury, however, Dicapua’s counsel specifically stated he had ‘no objection.’ We find this amounted to a waiver of any issue Dicapua had with the videotape.”). By indicating he had “no objection” to the narcotics, firearms, or other items when the evidence was introduced during trial, Appellant expressly waived his pretrial objection to the introduction of that evidence. See Burke v. AnMed Health, 393 S.C. 48, 55, 710 S.E.2d 84, 88 (Ct. App. 2011) (“When a party states to the trial court that it has no objection to the introduction of evidence, even though the party previously made a motion to exclude the evidence, the issue raised in the previous motion is not

preserved for appellate review.”); State v. Burton, 326 S.C. 605, 613, 486 S.E.2d 762, 766 (Ct. App. 1997) (“This testimony was admitted without objection. Because Burton failed to object, he is barred from raising this issue on appeal.”). Accordingly, any issue related to the introduction of the evidence discovered during the search of Appellant’s house cannot properly be raised or reviewed on appeal. Dicapua, 373 S.C. at 455-456, 646 S.E.2d at 152.

Authority for Entry of Appellant’s House

In criminal cases, appellate courts sit to review errors of law only. State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). Chapter 25 of Title 16 of the South Carolina Code sets forth general provisions regarding CDV. It permits a warrantless arrest of a person: “if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony pursuant to the provisions of Section 16-25-20(A) or (D), 16-25-65, or 16-25-125, even if the act did not take place in the presence of the officer.” S.C. Code Ann. § 16-25-70(A) (Supp. 2010). It goes on to provide that:

In effecting a warrantless arrest under this section, a law enforcement officer may enter the residence of the person to be arrested in order to effect the arrest where the officer has probable cause to believe that the action is reasonably necessary to prevent physical harm or danger to a family or household member.

S.C. Code Ann. § 16-25-70(C) (Supp. 2010) (emphasis added). Thus, the statute contemplates warrantless entry of a residence to effect a warrantless arrest. The entry may naturally result in a “plain view” warrantless search of the room where the arrest is made, and the arrest itself may naturally result in a warrantless search of the person

“incident to arrest.” The statute goes on to address the admissibility of evidence discovered during these likely warrantless searches as follows:

Evidence discovered as a result of a warrantless search administered pursuant to a complaint filed under this article is admissible in a court of law:

(1) if it is found:

(a) in plain view of a law enforcement officer in a room in which the officer is interviewing, detaining, or pursuing a suspect; or

(b) pursuant to a search incident to a lawful arrest for a violation of this article or for a violation of Chapter 3, Title 16; or

(2) if it is evidence of a violation of this article.

An officer may arrest and file criminal charges against a suspect for any offense that arises from evidence discovered pursuant to this section.

Unless otherwise provided for in this section, no evidence of a crime found as a result of a warrantless search administered pursuant to a complaint filed under this article is admissible in any court of law.

S.C. Code Ann. § 16-25-70(H) (Supp. 2010).

As recognized by our Supreme Court, the warrantless search admissibility provisions in subsection (H) are only triggered if the warrantless search was actually conducted pursuant to subsection (C). State v. Cannon, 336 S.C. 335, 339, 520 S.E.2d 317, 319 (1999). Subsection (C) allows the officers to enter the residence in order to effect an arrest. Here, the officers entered Appellant’s residence under exigent circumstances to protect the life and safety of a potential victim. Because they did not enter Appellant’s home in order to effect an arrest, they did not enter the home under the authority of subsection 16-25-70(C), and subsection 16-25-70(H) does not apply. Id.

Admissibility of Evidence Under Section 16-25-70(H)

To the extent Appellant contends the officers did enter his home under authority of section 16-25-70(C), in an effort to effect a warrantless arrest, then the evidence found in “plain view” was admissible under section 16-25-70(H) because it was discovered in a room where the officers were pursuing a suspect. It is intellectually dishonest for Appellant to invoke section 16-25-70(C) to contend Bowen and Alexander were attempting to effect an arrest (of a person), and then turn around and gloss over section 16-25-70(H) to contend the officers were not pursuing a suspect (also a person) simply because they did not find that suspect or make an arrest. The two positions are logically inconsistent and Appellant’s argument should be discounted. If the officers entered Appellant’s house under the authority of section 16-25-70(C), then the evidence discovered in the house was admissible under the clear and unambiguous language of section 16-25-70(H). If they did not enter Appellant’s house under the authority of section 16-25-70(C), then, as explained above, section 16-25-70(H) does not apply. Cannon, 336 S.C. at 339, 520 S.E.2d at 319.

In his brief, Appellant relies on Cannon and notes the Supreme Court’s expressed concern about the effect of section 16-25-70(H) under the plain meaning of the statute.² He alleges that: “In the almost fourteen years since then, the legislature has not seen fit to change this statute.” (Brief of Appellant, p.8). This allegation is not accurate. In 1998, when Cannon committed his crime, the statute’s broad exclusionary provision simply stated: “No evidence other than evidence of violations of this article found as a result of a warrantless search is admissible in a court of law.” S.C. Code Ann. § 16-25-70(H) (Supp. 1998). In 2002 Act No. 329, which became effective on June 18, 2002, the

² Cannon, 336 S.C. at 340 n.4, 520 S.E.2d at 319 n.4.

Legislature substantially amended section 16-25-70(H) to specifically allow admission of evidence found during a warrantless search conducted under the authority of section 16-25-70(C), if it is discovered in plain view or incident to arrest. This amendment occurred well after Cannon was decided by the Supreme Court and appears to be a direct reaction to the concerns raised in footnote four.

Purpose Behind Section 16-25-70(H)

This Court has found that: “the ostensible purpose behind section 16-25-70(H) is to promote victims’ access to protection from domestic violence unimpeded by the fear that unrelated criminal charges may result from summoning police assistance.” State v. Roberts, 340 S.C. 238, 241, 530 S.E.2d 899, 901 (Ct. App. 2000). Although Bowen and Alexander were responding to a domestic violence call and would presumably have relied upon the authority of section 16-25-70(A) to arrest a CDV perpetrator, they did not, as was the case in Roberts, “rely upon authority of section 16-25-70(A) to arrest” Appellant or conduct the search. Id. Instead, they entered Appellant’s home under exigent circumstances and ultimately arrested Appellant for drug and weapons charges, not CDV. Because the goal of 16-25-70(H) would not be furthered by suppression in Appellant’s case, the trial court properly denied his motion to suppress.

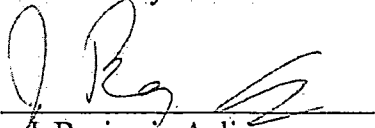
CONCLUSION

For all of the foregoing reasons, the State respectfully requests that the judgment, conviction, and sentence of the lower court be affirmed.

Respectfully submitted,

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Assistant Attorney General

BY: 

J. Benjamin Aplin
S.C. Bar No. 8729

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3727

ATTORNEYS FOR RESPONDENT

Columbia, South Carolina
January 10, 2014

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Stephanie P. McDonald, Circuit Court Judge

Appellate Case No. 2012-213431

THE STATE,RESPONDENT

v.

THERRON R. RICHARDSON,APPELLANT:

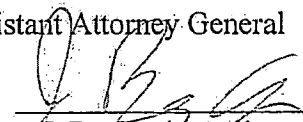
CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule
211(b), SCACR.

ALAN WILSON
Attorney General

J. BENJAMIN APLIN
Assistant Attorney General

BY:



J. Benjamin Aplin
S.C. Bar No. 8729

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
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ATTORNEYS FOR RESPONDENT

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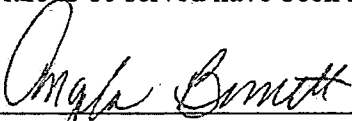
THERRON R. RICHARDSON,APPELLANT.

PROOF OF SERVICE

I, Angela Bennett, Legal Assistant, hereby certify that I have served the within *Final Brief of Respondent*, dated January 10, 2014, on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record:

Robert M. Pachak, Appellate Defender
S.C. Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, SC 29211-1589

I further certified that all parties required by Rule to be served have been served.
This 10th, day of January, 2014.



Angela Bennett
Administrative Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211-1549
(803) 734-3727

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

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Therron R. Richardson, Appellant.

Appellate Case No. 2012-213431

Appeal From Charleston County
Stephanie P. McDonald, Circuit Court Judge

Unpublished Opinion No. 2014-UP-471
Submitted December 8, 2014 – Filed December 17, 2014

AFFIRMED

Appellate Defender Robert M. Pachak, of Columbia, for
Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General John Benjamin Aplin, both of
Columbia, for Respondent.

PER CURIAM: The State indicted Therron R. Richardson for trafficking cocaine, possession of a firearm during the commission of a violent crime, and four counts of unlawful possession of a firearm by a person convicted of a crime of violence. Richardson moved to suppress the drug and gun evidence under S.C.

Code Ann. § 16-25-70(H) (Supp. 2013), arguing the evidence was not found "in plain view . . . in a room in which [police were] interviewing, detaining, or pursuing a suspect." The trial court denied Richardson's motion after a pretrial hearing because deputies located the evidence in plain view after entering Richardson's home under exigent circumstances. The jury found Richardson guilty as indicted. We affirm.

Richardson did not object to a single piece of evidence offered by the State during trial. Every time the State offered any evidence seized from Richardson's home, he responded "No objection" or "No, your Honor" when asked if he had any objection. On one occasion Richardson said nothing, and the trial court stated, "Without objection, [the evidence] is admitted." In order to preserve an issue for review, a contemporaneous objection is typically required when the evidence is introduced. *See State v. Forrester*, 343 S.C. 637, 642, 541 S.E.2d 837, 840 (2001). A party stating it has no objection to the introduction of evidence, even though the party made a pretrial motion to exclude the evidence, leaves the issue unpreserved for review. *See State v. Dicapua*, 373 S.C. 452, 455-56, 646 S.E.2d 150, 152 (Ct. App. 2007), *aff'd*, 383 S.C. 394, 680 S.E.2d 292 (2009).

AFFIRMED.¹

FEW, C.J., and THOMAS and LOCKEMY, JJ., concur.

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

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ATTORNEY GENERALS
OFFICE

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 06, 2015

The Honorable Julie J. Armstrong
100 Broad St Ste 106
Charleston SC 29401-2210

REMITTITUR

Re: The State v. Therron R. Richardson
Lower Court Case No. 2011GS1002320, 2011GS1002321,
2011GS1002323, 2011GS1002324, 2011GS1002325, 2011GS1002326
Appellate Case No. 2012-213431

Dear Clerk of Court:

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

Very truly yours,

Handwritten signature of Jenny Abbott Kitchings in cursive script.
CLERK

Enclosure

cc: Robert M. Pachak, Esquire
John Benjamin Aplin, Esquire
Alan McCrory Wilson, Esquire

FORM 5

2015 CP-10-0354

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Therron Richardson-191713)
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

FILED
2015 JAN 15 PM 4:20
CLERK OF COURT
BY

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention South Carolina Dept. of Correction - Broad River
2. Name and location of Court which imposed sentence Char. County Court of General Session
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) ~~2011GS1002320~~ 2011GS1002320 - Trafficking Cocaine
 - (b) 2011GS1002326 - Unlawful Possession of a Firearm by convicted felon
 - (c) 2011GS1002325 - Unlawful Possession of Firearm by a Person Convicted of Crime
5. The date upon which sentence was imposed and the terms of the sentence: (SEE ATTACHMENT)
 - (a) 11/13/12 - 35 yrs
 - (b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty yes _____

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

yes _____

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. S.C. Court of Appeals _____

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. affirmed _____

ii. _____

iii. _____

(c) the date of each such result:

i. submitted 12/8/14 - filed 12/17/14 _____

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. Unpublished Opinion No. 2014-UP-471 _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
- (b) _____
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) TRIAL COUNSEL HAD FAILED TO OBJECT TO EVIDENCE BEING
- (b) (SEE ATTACHMENT)
- (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (c) the disposition thereof:
 - i. _____
 - ii. _____
 - iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) ~~_____~~ N/A

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? _____
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. MICHAEL V. TERRY, CHESAPEAKE COUNTY PUBLIC DEFENDER 101 MEADOW ST. CHESAPEAKE, S.C. 29401
 - ii. DONNA K. TAYLOR + D. LUNN BOWLEN 39 BRIDGE ST. CHESAPEAKE, S.C. 29401
 - iii. ROBERT M. PACHAK 1330 LINDEN ST. COLUMBIA, S.C. 29211
- (b) the proceedings at which each such attorney represented you:
 - i. MICHAEL TERRY - PRETRIAL HEARING
 - ii. DONNA K. TAYLOR + D. LUNN BOWLEN - PRETRIAL HEARING, TRIAL AND SENTENCING
 - iii. ROBERT PACHAK - APPEAL

19. State clearly the relief you seek in filing this application:

New trial

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)
)
County of CHARLESTON)

VERIFICATION

I, , being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Theresa Richardson

SWORN to and subscribed before me this 13th
day of January, 2015.

Richard P. Lucas (L.S.)
Notary Public

My Commission Expires: NOV. 24, 2024

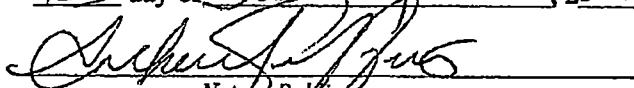
APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.


Applicant

SWORN or affirmed to and subscribed before me this
13th day of January, 2015.


Notary Public

My Commission Expires: Nov. 24, 2024

QUESTION 4

(C) of violence.

(D) 2011 GS 100 2323, UNLAWFUL POSSESSION OF A FIREARM BY A PERSON CONVICTED OF A CRIME OF VIOLENCE.

(E) 2011 GS 100 2321, POSSESSION OF A FIREARM DURING THE COMMISSION OF A VIOLENCE CRIME.

(F) 2011 GS 100 2324, UNLAWFUL POSSESSION OF A FIREARM BY A PERSON CONVICTED OF A CRIME OF VIOLENCE.

QUESTION 11

OFFERED BY THE STATE DURING TRIAL THAT HAD LEFT THE ISSUE UNPRESERVED FOR REVIEW ON DIRECT APPEAL.

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)	NINTH JUDICIAL CIRCUIT
)	
)	
Therron Richardson, #191713,)	2015-CP-10-0354
)	
Applicant,)	
)	
v.)	RETURN
)	
State of South Carolina,)	
)	
Respondent.)	
_____)		

The Respondent, making its Return to the application for Post-Conviction Relief (PCR) filed January 15, 2015, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the April 2011 term of the Charleston County Grand Jury for Trafficking Cocaine (2011-GS-10-2320), Possession of a Firearm During the Commission of a Violent Crime (2011-GS-10-2321), and four counts of Unlawful Possession of a Firearm by a Person Convicted of a Crime of Violence (2011-GS-10-2323; -2324; -2325; -2326). Donna Taylor and D. Lynn Bowley, Esquires, represented the Applicant at trial and sentencing. On November 15, 2012, the Applicant proceeded to trial before the Honorable Stephanie P. McDonald and a jury, which found him guilty as indicted. Judge McDonald sentenced the Applicant to concurrent terms of five (5) years for Possession of a Firearm during the Commission of a Violent Crime, five (5) years imprisonment for each count of Possession of a Firearm by a Person Convicted of a Crime of Violence and thirty (30) years imprisonment for Trafficking Cocaine. All charges were to be

served concurrently except indictment number 2011-GS-10-2320, which was to be served consecutively.

The Applicant served a timely notice of appeal, and one was perfected on his behalf. Robert Pachek, Esquire, represented the Applicant. Following briefs from both sides, the South Carolina Court of Appeals affirmed the Applicant's convictions and sentences. State v. Richardson, Op. No. 2014-UP-471 (S.C. Ct. App. filed December 17, 2014). The Remittitur was issued on January 6, 2015.

Attached herewith and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject conviction(s), the application, the trial transcript, and appellate records. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "Trial Counsel had failed to object to evidence being offered by the State during trial that had left the issue unpreserved for review on direct appeal."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at evidentiary hearing. All amendments should be made well in advance of hearing and should be filed as required by Rule 11, SCRC(a).

III.

The Respondent submits trial counsel rendered effective assistance of counsel. In a Post-Conviction Relief action, the Applicant bears the burden of proving the allegations in their

application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of trial counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

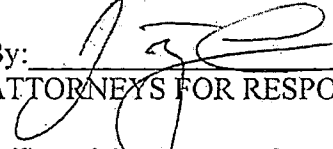
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
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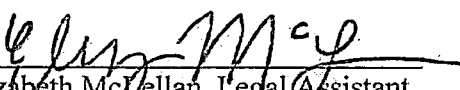
July 29, 2015.

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)	
)	
)	2015-CP-10-0354
)	
THERRON RICHARDSON, #191713)	
)	
Applicant,)	
)	
vs)	AFFIDAVIT OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	
_____)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Rodney D. Davis, Esq.
Lowcountry Law Office
4000 Faber Place Dr. Ste 300
Charleston, SC 29405

DATED this 29th day of July, 2015.


 Elizabeth McMellan, Legal Assistant
 For Respondent

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STATE OF SOUTH CAROLINA)	
)	Court of Common Pleas
COUNTY OF CHARLESTON)	Case No. 2015-CP-10-0354
_____)	
THERRON RICHARDSON,)	
)	
Plaintiff,)	
)	
vs.)	Transcript of Record
)	
STATE OF SOUTH CAROLINA,)	
)	
Defendant.)	
_____)	DATE: August 3, 2016

B E F O R E:

THE HONORABLE JOHN C. HAYES

A P P E A R A N C E:

Rodney Duane Davis
Attorneys for the Plaintiffs

James Rutledge Johnson
Attorney for the Defendant

Karen V. Andersen, RMR, CRR
Circuit Court Reporter

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1 MR. JOHNSON: May it please the Court, Your Honor.
2 This is Therron Richardson vs. the State of South Carolina,
3 Case No. 2015-CP-10-0354. Mr. Richardson was indicted at the
4 April 2011 term of the Charleston County Grand Jury for
5 trafficking cocaine, possession of a firearm during the
6 commission of a violent crime and four counts of unlawful
7 possession of a firearm by a person convicted of a crime of
8 violence. Donna Taylor and Lynn Bowley represented the
9 applicant at trial and sentencing.

10 On November 15th, 2012, he proceeded to trial before
11 the Honorable Stephanie P. McDonald, which he was found
12 guilty of all charges as indicted. Judge McDonald sentenced
13 him to concurrent terms of five years for possession of a
14 weapon during the commission of a violent crime; five years
15 for each count of the possession of a firearm by a convicted
16 felon; and 30 years in prison for the trafficking cocaine.

17 He filed notice of appeal -- excuse me. All
18 sentences were to be served concurrently, except
19 2011-GS-10-2320, which was to be served consecutively.
20 Notice of appeal was filed on his behalf and appeal was
21 perfected.

22 The South Carolina Court of Appeals affirmed that
23 conviction, all of the convictions and sentences. And the
24 remittitur was issued on January 6th, 2016. He filed this
25 immediate action January 15, 2015. And the State filed its

1 return July 29th, 2015. He is represented here today by
2 Rodney Davis.

3 THE COURT: All right. Mr. Davis, can you just kind
4 of encapsulate what Mr. Richardson's claims are? I haven't
5 had a chance to completely review the application.

6 MR. DAVIS: I will, Your Honor. And, Your Honor, I
7 would ask, we certainly talked about it in private, but if
8 you would on the record go over with him the risks and
9 benefits of a PCR, just for the record. I have discussed it
10 with him, but I would appreciate that, Your Honor.

11 THE COURT: Mr. Richardson, you are here today
12 seeking relief under what's called a Post-Conviction Relief
13 Act, which is a statutory act enacted by the legislature here
14 in South Carolina, which allows an inmate to bring certain
15 violations of their rights before the court, that is alleged
16 violation of their rights when they were being prosecuted for
17 crimes.

18 Now, you have to bring that within one year. And
19 you have to -- you are only entitled to one. Apparently,
20 that's the situation here. You brought it timely and this is
21 your first application.

22 The relief you seek in your application is stated to
23 be a new trial. And I want you to be aware that if you
24 prevail, that is, if I grant your motion, that's what you
25 will get. You will not get these charges dismissed. You

1 would not get any -- I would not be making a finding that you
2 are either guilty or not guilty of these offenses. What you
3 would get would be a new trial. You would be brought back to
4 Charleston County and tried again for these same offenses.
5 And you would be exposed to whatever penalties all of these
6 charges combined meet to.

7 I don't know that. I don't know what the total --
8 do you know that, Mr. Davis?

9 MR. DAVIS: Your Honor, I can get it for you in just
10 a moment. On each of the weapons charges, it was five. They
11 were run concurrently, obviously, not consecutively. So
12 that's a possibility.

13 On the weight that he was convicted of on
14 trafficking, it's 25 to 30.

15 THE COURT: All right. So you are looking at
16 possibly coming -- if you prevail, looking at a 50-year
17 sentence. I can't do math in public. Four or five years and
18 20. End up to the 30 on the other. I believe would come up
19 to 50 possibly. Do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Knowing that, do you still want to go
22 forward and seek a new trial?

23 THE DEFENDANT: Yes, I do.

24 THE COURT: All right. Thank you.

25 MR. DAVIS: Judge, the complaint is this, that

1 pretrial -- and, of course, I'm previewing the testimony. We
2 will get the testimony in the record in a moment. But
3 Mr. Richardson originally had a public defender that did a
4 pretrial hearing quite a bit before any actual trial date,
5 raising some issues about search and seizures.

6 Judge Dennis heard that. We have a transcript of
7 that record. Judge Dennis denied suppressing any of the
8 evidence. Subsequently, Mr. Richardson then had Ms. Taylor
9 representing him at the actual trial. The first day of the
10 actual trial, she made another new -- on different grounds --
11 pretrial motion to suppress. That was also denied by Judge
12 McDonald.

13 So then the case proceeded to trial with the State's
14 evidence of what was seized at her residence. During the
15 trial, the items that were seized -- there had been two
16 attempts at trying to suppress them -- were introduced at
17 trial. Mr. Richardson was convicted.

18 Our complaint is this. When the items were
19 introduced at trial, contemporaneous objections were not
20 made. So that when his appeal was taken to the Court of
21 Appeals, even though appellate counsel, who we have ready on
22 standby for telephone testimony, while he raised issues
23 dealing with motion to suppress, the Court of Appeals did not
24 even entertain the argument because the issues were not
25 preserved for appeal.

1 So we will be arguing that the underlying trial
2 counsel's failure to make contemporaneous objections was
3 ineffective and that, had the court entertained the appellate
4 argument, that he would have been successful.

5 THE COURT: Okay. So issue reservation?

6 MR. DAVIS: Yes, sir.

7 THE COURT: Call your first witness.

8 MR. DAVIS: We call Donna Taylor.

9 DONNA TAYLOR,
10 having been duly sworn, testifies as follows:

11 THE CLERK: For the record, if you will state your
12 first and last name and spell your last name, please.

13 THE WITNESS: Donna Taylor, T-a-y-l-o-r.

14 DIRECT EXAMINATION

15 BY MR. DAVIS:

16 Q. Good morning, Ms. Taylor.

17 A. Good morning.

18 Q. Let's get some procedural things out of the way.

19 You were not Mr. Richardson's original attorney, were you?

20 A. No.

21 Q. In fact, I believe originally when he turned himself
22 in, were you aware that Michael Dupree, local attorney, was
23 representing him?

24 A. I was.

25 Q. Subsequent to that, were you aware that Alicia Penn,

1 who at the time was with the Charleston County Public
2 Defender's Office, represented him for a period of time?

3 A. Yes.

4 Q. And you are aware that during her representation,
5 she filed a motion to suppress and had a hearing on that
6 issue?

7 A. Yes.

8 Q. You are aware that Judge Dennis denied her motion to
9 suppress evidence?

10 A. I'm aware that he granted it at the hearing. And
11 then based on other evidence received after the hearing, he
12 denied it.

13 Q. Verbally, in the courtroom, he sided on
14 Mr. Richardson's behalf, but later filed a written order
15 denying it; is that accurate?

16 A. Yes.

17 Q. And you would have researched all that and obtained
18 all that while you were representing Mr. Richardson?

19 A. Yes.

20 Q. In fact, you filed a motion to reconsider Judge
21 Dennis's decision on that hearing, correct?

22 A. We did. And let me just -- actually, I was not
23 appointed to represent Mr. Richardson. My partner, Lynn
24 Bowley, was appointed. This is back when they were doing
25 random appointments. And she's primarily a civil attorney.

1 I had criminal experience. So the two of us tried it
2 together.

3 Technically, I would say, yes, I did these things.
4 She filed these motions, but I participated and I think I was
5 mostly involved in the trial.

6 Q. Let's jump into that. I believe transcript
7 indicates Ms. Bowley handled closing argument, but you
8 handled the rest of the matters.

9 A. I think that's right.

10 Q. So there was a motion to reconsider Judge Dennis's
11 ruling?

12 A. Denial.

13 Q. Denial of a suppression. You filed a motion to
14 reconsider that, correct?

15 A. Yes.

16 Q. And that was denied, correct?

17 A. Yes. He granted us a hearing on that limited, and
18 said he would not hear -- because I think at that time we
19 also developed a second subsequent ground to move to exclude.
20 He didn't want to hear that, but he did make a decision about
21 his -- he decided to stick by his denial, and said, try your
22 other one in front of the trial judge.

23 Q. So, ultimately, this was set for trial on November
24 13th, 2012, in front of Judge McDonald, correct?

25 A. Ultimately, it was.

1 Q. And there was this second motion that was filed on
2 behalf Mr. Richardson, again attempting to suppress evidence
3 that was obtained?

4 A. Yes, under a different argument.

5 Q. And that argument dealt with protections under the
6 CDV statute?

7 A. Exclusions, yes.

8 Q. That motion was heard by Judge McDonald when the
9 case was called for trial in November of 2012, correct?

10 A. Yes, immediately prior to the beginning of the case.

11 Q. Factually, for Judge Hayes, for the Court, at the
12 time of seizure, the residence was uninhabited? No one was
13 in the residence at the time of the seizure; is that correct?

14 A. The residence was a house that was owned by someone
15 else. Mr. Richardson was a tenant. He was not home at the
16 time of the search. Well, at the time of most of the search,
17 he was not present. He actually arrived during the search
18 and then left again.

19 Q. So the substantive evidence found at that house
20 dealt not only with -- or the evidence at the house dealt not
21 only with substantive evidence, but identification as well
22 as; do you recall?

23 A. If you mean, did they seize items which identified
24 Mr. Richardson as a resident? Yes. His personal property,
25 date of birth, Social Security card, business records, stuff

1 like that were seized, in addition to other stuff.

2 MR. DAVIS: I believe, Judge, I know you have a
3 transcript of the trial record. And I know the attorney
4 general obtained transcripts of the first hearing with the
5 public defender. Does the Court have a copy of that first
6 hearing?

7 THE COURT: I think I do. It looks like I've got
8 one transcript.

9 MR. DAVIS: Judge, we can take that matter up at a
10 later time. I just wanted to see if you had it.

11 BY MR. DAVIS:

12 Q. Ms. Taylor, did you have a copy of the transcript
13 from the first hearing?

14 A. From Judge Dennis?

15 Q. Yes.

16 A. I have most of it.

17 Q. So it's fair to say that both -- is it fair to say
18 that you were concerned about the collection of the evidence
19 in this case?

20 A. Yes.

21 Q. Is it fair to say that the evidence collected was
22 the major component of the State's case against
23 Mr. Richardson?

24 A. Yes.

25 Q. Ms. Taylor, do you have a copy of the transcript of

1 the trial with you?

2 A. Yes.

3 Q. So in addition to the pretrial hearing, at the
4 beginning of the trial with Judge McDonald, you renewed your
5 objection at the end of the State's case? And at the end of
6 the entire case, you renewed all objections; right?

7 A. Yes.

8 MR. DAVIS: So now, the State lists in the
9 transcript 78 exhibits. I would like to go through those,
10 Judge, if I may. So with the exhibit page, which is the
11 second page, the first item -- may I approach the witness,
12 Your Honor?

13 THE COURT: Yes.

14 BY MR. DAVIS:

15 Q. First item deals with number one, which is drugs.
16 And it shows it was page 227. If we can turn to page 227.
17 In fact, I'm going to back up a second to page 226, line 17.
18 Does that identify that they are talking about that first
19 exhibit?

20 A. Yes.

21 Q. And on down line 19, this is a bag containing a
22 large amount of white powder substance; is that accurate?

23 A. Yes.

24 Q. And then over to 227, line 3, the State moved to
25 introduce the bag of drugs, bag of cocaine; is that correct?

1 A. Yes.

2 Q. And you indicated no objection to that?

3 A. Yes. And if you are going to go through all of
4 these, I can save you some time and tell you that you will
5 not find any objections to any of those 60-plus drug money,
6 whatever, the objects that were the crux of the case against
7 him.

8 Q. Okay. And the Court has a record. If I could
9 simply do this. There's one, I want to confirm one, I think,
10 typographical error. The State's No. 39, on the exhibits
11 page, does not show it was admitted. But if you could turn
12 to page 81 -- again, forgive me. Go back up to page 80, line
13 18 and 19. Are they discussing Exhibit 39 there?

14 A. Yes, appears to be a lab report.

15 Q. And then over on page 81 at line 9, does Solicitor
16 Kidd introduce -- attempt to introduce State's Exhibit 39?

17 A. Yes.

18 Q. And, again, no objection by you?

19 A. Right.

20 MR. DAVIS: If I could direct the Court, I
21 appreciate counsel's testimony on that. I can summarize it
22 later. But, obviously, we are talking about State's 46
23 through and including 78, were all introduced and admitted
24 without objection.

25 BY MR. DAVIS:

1 Q. Is that your testimony, Ms. Taylor?

2 A. Those -- that much is true, but there's more as
3 well, yes.

4 MR. DAVIS: Your Honor, if I can have just a moment.

5 Thank you, Your Honor. Thank you, Ms. Taylor. No
6 further questions.

7 CROSS-EXAMINATION

8 BY MR. JOHNSON:

9 Q. Let's clarify a few things Mr. Davis asked you.
10 First of all, how long have you been practicing law?

11 A. I graduated from law school in 1983.

12 Q. And how many cases have you tried in front of a
13 jury?

14 A. It would be hard to say. My first eight years were
15 as a state public defender. I tried a lot of cases those
16 eight years. And probably since then, I've been in private
17 practice, probably somewhere between two and three each year.

18 Q. And so have you tried drug cases before?

19 A. Yes.

20 Q. Including trafficking cases?

21 A. Yes.

22 Q. Cases involving handguns?

23 A. Yes.

24 Q. How about possession of handgun or possession of a
25 weapon by a convicted felon?

1 A. I don't know that I tried a possession of weapon by
2 a convicted felon. I've handled them.

3 Q. So you inherited this case from prior counsel?

4 A. We were -- Glen was appointed in July after Alicia,
5 I believe, was relieved. Mr. Richardson was -- had asked her
6 to be fired. And then we went to trial that November,
7 yeah.

8 Q. And you met with Mr. Richardson?

9 A. We did.

10 Q. And discussed your trial strategy?

11 A. We did.

12 Q. Were there any plea offers in this case?

13 A. There were.

14 Q. Will you explain to the Court those offers.

15 MR. DAVIS: Objection, Your Honor. Relevancy.

16 THE COURT: It's cross. I will allow it.

17 THE WITNESS: Prior to our involvement -- and this
18 is in the transcript. It was put on the record with Judge
19 McDonald prior to the beginning of the trial. I think it was
20 five to eight he was offered, which I assume was Ms. Penn.
21 And that was rejected.

22 When we were representing him, we had tried to get
23 him to accept time served, because by the time we went to
24 trial, he had served almost two years. And that was
25 rejected. And he rejected that on the record with Judge

1 McDonald as well.

2 Q. So then you prepared for trial?

3 A. Yes.

4 Q. And you filed a pretrial suppression motion?

5 A. We did.

6 Q. And what was your argument? What was the basis of
7 that argument?

8 A. It was basically that there was part of the criminal
9 domestic violence statute, which contains exclusionary --
10 basically says, if the police are called to a CDV and they
11 come in, they can't see something in that room where the
12 people are having their disagreement and then seize that and
13 then prosecute one of those people for the objects that they
14 found in the room.

15 Q. And let's take a step back. What was the basis of
16 law enforcement entering the premises?

17 A. A 911 call was received. It was a female. She was
18 hysterical, saying, my boyfriend is trying to kill me. I'm
19 in the bathroom. I can't come out. Oh, my God. Oh, my God.
20 He's coming. And then, click.

21 And, subsequently, it was determine that that call
22 was not made from that house. And so from that, the police
23 arrived. There was a sliding glass door, that depending on
24 which officer, it was either one to two inches open or six to
25 eight inches open. They then obtained access through that

1 sliding glass door, made a protective sweep looking to see if
2 they could find the caller or someone else.

3 There was some argument about the doors. The house
4 didn't have doorknobs. It just had deadbolts. So they
5 thought that was an indication potentially of patrolling
6 individual on a CDV that was trying to keep someone locked
7 up. So they went in under exigent circumstances and searched
8 for either a person who was in trouble or had been hurt or a
9 possible offender.

10 Q. And you argued fully against that? The call was
11 false?

12 A. We did.

13 Q. And you renewed that objection with that motion at
14 the end of the State's case, and then at the end of the case?

15 A. I know that we did at the very end. I recall that
16 part. I assumed -- and y'all have the transcript. I don't
17 remember reading that, but I know I did at the end.

18 Q. But that suppression motion was ultimately denied?

19 A. Yes.

20 Q. And then it was brought up at the end of trial and
21 Judge McDonald, once again, denied it, correct?

22 A. Yes. At that time, there was some exchange between
23 us. And she had -- said she had some reservations about some
24 aspect of the call, but she had none about -- really against
25 us, determining that what we argued was not applicable.

1 Q. And then the State's case was that, by detective
2 sweep under the circumstances, the drugs, the guns, the money
3 were in plain view?

4 A. Yes. Well, some of it was in plain view. And then
5 the officers stepped back and got an actual search warrant.
6 And then a couple hours later, they executed the search
7 warrant and they found more. But some was in plain view,
8 sufficient to get the search warrant.

9 Q. And could you, please, explain to the Court what all
10 evidence was presented, all those exhibits? What was the
11 evidence against Mr. Richardson?

12 A. Do you want me to specifically tell or just
13 generally?

14 Q. Just in general.

15 A. It was, I want to say, five weapons. Some were
16 under a bed. I don't remember if all of them were, but that
17 were laid out. Because the testimony in the exclusion
18 hearing was the officers checked under the bed because they
19 were looking to see if somebody was hiding, and lifted it up
20 and the guns were right there.

21 There was, in the bathroom, drugs, scales, maybe
22 marijuana. There was a jar of inositol to cut for cocaine.
23 There was, in a closet which they opened looking for someone
24 hiding, a safe which had money fanned out in front of it. I
25 think the 2,000 grams of cocaine were found subsequently on

1 the search warrant, but I'm not positive about that, on the
2 actual, legitimate search warrant that was obtained.

3 Q. And was any documentation found linking
4 Mr. Richardson to that residence?

5 A. Yes. It seems like there was a Social Security
6 card. He had a lawn business, Lazy Man's Lawn Business, or
7 something, that there was -- I think it was a bag that had
8 cash in it that was also there. There was the rental
9 agreement on the house and assorted other mail.

10 And the ADT system was registered to him. There was
11 security system that went off. And so there's also ADT
12 people calling the house and ADT people calling
13 Mr. Richardson, talking to him.

14 Q. And was there testimony that Mr. Richardson, the
15 first alarm that goes off, they call him and he says, turn
16 the alarm off?

17 A. Yes.

18 Q. And then subsequently, is there also testimony that
19 Mr. Richardson is not there when the police first arrives,
20 but then he arrives on the scene, walks to the front door,
21 walks to the back door, and somehow leaves the scene without
22 the police ever noticing him?

23 A. Yes.

24 Q. That's from a neighbor?

25 A. Yes.

1 Q. And he gets in his truck and drives off?

2 A. Yes.

3 Q. And once -- shifting ahead, once that suppression
4 motion was denied, what was your trial strategy going
5 forward?

6 A. Our trial strategy was always, even prior to the
7 exclusion based on conversations with our client, was that he
8 had been set up, that none of the stuff in the house was his.
9 And, obviously, the phone call was pretty strong proof that
10 he was set up to the degree that somebody called the police
11 to report that 911 call, so that the police would go into the
12 house. That part was fairly easy to prove.

13 The second part of whether that person who set him
14 up took all that stuff in the house and laid it out so he
15 would be blamed for it, you know, we had that hurdle to get
16 over, or whether that person was a disgruntled girlfriend or
17 whatever and knew it was there and just set it up, but that
18 it was a setup. That was the only defense that we had, to
19 say, it wasn't my stuff, I was set up.

20 Q. And you were -- you argued that in closing, correct?

21 A. I argued it in opening, but again argued it in
22 closing.

23 Q. Correct. Sorry. So with the protective sweep and
24 then the plain view, and the way the State presented its
25 case, was there a legal basis to object to the evidence?

1 A. Other than, as I understand now, South Carolina
2 state law is that the contemporaneous objection apparently
3 should have been made each time every one of those -- and of
4 all of the stuff that came in, I think we counted up 61 -- of
5 those objects would have required me to stand up and object
6 in front of the jury too.

7 Now, it was my belief at the time that when I had
8 that motion that was argued, we briefed it, everything was
9 attached. Our reasoning is clear, both on the transcript and
10 in briefs and accepted to Judge McDonald's ruling, that we
11 had preserved that issue. And all that I needed to do to
12 preserve it was -- which is how it works in the federal
13 system. We are not allowed to make contemporaneous
14 objections. After a judge has made a determination, we can
15 ask at the conclusion of the trial for the judge to revisit
16 it, which I did with Judge McDonald. But that I would not,
17 under federal law, would not have had the right to even
18 object.

19 But in this matter, aside from that, strategically,
20 objecting to evidence that I am telling the jury that's not
21 even ours, would, I think, not have been particularly
22 beneficial to do what we were trying to do at the trial,
23 which was to convince at least some members in that jury that
24 this wasn't right, there was something wrong about this, and
25 it was all a setup and none of that stuff was

1 Mr. Richardson's. Because if there was any admission that
2 any of it was his, you know, that took us where we didn't
3 want to go.

4 Q. And that would be admitting that those objects were
5 his?

6 A. Well, it would still be a criminal offense to
7 possess it, even if you were set up by somebody being sent to
8 your house to find it.

9 Q. So you made a strategic decision not to object to
10 those items based on your overall strategy of the case?

11 A. I did. Now, having said that, had I realized at the
12 time that I had to do that in order to preserve his appellate
13 action, I would have figured out a way to do that, or I would
14 have tried to. I would have asked the judge -- explained how
15 that's inconsistent with our defense to require me to do, so
16 could we have some sort of thing where I could do a
17 contemporaneous objection without having to taint the jury
18 with doing that.

19 But, honestly, I thought I had preserved the record.
20 So if I didn't, then I didn't. But I did what I thought that
21 was sufficient to do. I definitely wanted him to have that
22 appellate argument.

23 Q. You base that on your experience as a litigator?

24 A. And at that period of time, I was mostly in federal
25 court. And, frankly, the rule doesn't make sense to me, but

1 that's not my call.

2 MR. JOHNSON: Court's indulgence, Your Honor.

3 Q. One last question, Ms. Taylor. Would you
4 characterize the evidence presented by the State at the trial
5 as overwhelming of Mr. Richardson's guilt?

6 A. I don't see any other way to describe it. The
7 evidence itself in the house was overwhelming. Now, that
8 issue which we tried to argue -- and was the only thing that
9 we could argue. Mr. Richardson did not testify at his trial
10 and take the stand and say, hey, that is not my stuff. I
11 would have liked that; would have been something to do. But
12 aside from having someone convincingly tell the jury, all of
13 this stuff in my house with other stuff that is clearly mine
14 is not actually my stuff, it was a pretty substantial bit of
15 information that they got, the scales, baggies. I mean,
16 everything that you could possibly have as a drug dealer,
17 they took out of that house.

18 Q. And the rental agreement and ADT?

19 A. Oh, yeah, proof of -- yeah. Frankly, we didn't
20 argue he didn't live there. He did live there; showed up
21 that day.

22 Q. Just that he was set up and it wasn't his stuff?

23 A. Right.

24 MR. JOHNSON: No further questions at this time.

25 Thank you.

1 REDIRECT EXAMINATION

2 BY MR. DAVIS:

3 Q. Contrastly, if you had been successful on the motion
4 to suppress, the State would not have a case?

5 A. Correct.

6 MR. DAVIS: No other questions, Your Honor. Thank
7 you?

8 THE COURT: You may step down.

9 MR. DAVIS: Judge, we would call Ms. Bowley briefly
10 to the stand.

11 MR. JOHNSON: The State would reserve Ms. Taylor in
12 case we need rebuttal testimony.

13 THE COURT: Okay.

14 LYNN BOWLEY,

15 having been duly sworn, testifies as follows:

16 THE CLERK: For the record, if you could state your
17 first and last name and spell your last name, please.

18 THE WITNESS: My name is Debra, I go by Lynn, my
19 middle name, L-y-n-n, B-o-w-l-e-y, Bowley.

20 DIRECT EXAMINATION

21 BY MR. DAVIS:

22 Q. There's already been testimony about how you got
23 involved in this case. But you were appointed by the court
24 to replace a public defender that was originally on the
25 Richardson case; is that accurate?

1 A. Yes.

2 Q. At the time that you were appointed, is it also
3 accurate that your practice was mostly in areas outside the
4 criminal realm?

5 A. Yes, I would say 99.9 percent outside of the
6 criminal realm.

7 Q. Subsequent to appointment, did you contact or did
8 you work with -- were you all partners at the time?

9 A. Yes.

10 Q. So Ms. Taylor, who just testified, was your partner
11 back at that point as well?

12 A. Yes.

13 Q. Is it fair to say that in the leadup to entering the
14 trial, she took the lead in defending Mr. Richardson?

15 A. In the leadup to the trial, we participated
16 together. I met with Mr. Richardson, along with Donna. We
17 both participated in drafting the motion to suppress. We
18 both participated in preparing for the witness testimony in
19 the trial itself. Donna handled the opening and the arguing
20 of the motion and everything except for the closing.

21 Q. Final question, at any time during the admission of
22 any items of evidence, you never made an objection on the
23 record?

24 A. No.

25 MR. DAVIS: Thank you, Your Honor. No other

1 questions.

2 THE COURT: Cross.

3 MR. JOHNSON: No questions from the State.

4 Ms. Bowley, I apologize for butchering your name in the
5 beginning.

6 MS. BOWLEY: It's all right.

7 THE COURT: Can she be excused? Do you need her to
8 stay?

9 MR. JOHNSON: No, Your Honor, that will be it.

10 THE COURT: You can be excused, Ms. Bowley.

11 MR. DAVIS: Your Honor, now we have -- we will call
12 Mr. Pachak of Appellate Defense who should be available on
13 the phone.

14 ROBERT M. PACHAK,
15 having been duly sworn, testifies as follows via telephone:

16 THE CLERK For our record, if you can state your
17 full name and spell your last name, please.

18 THE WITNESS: Yes, Robert M. Pachak, P-a-c-h-a-k.

19 DIRECT EXAMINATION

20 BY MR. DAVIS:

21 Q. Thank you, sir. At any time, if you can't hear me,
22 just let me know. Okay?

23 A. Okay.

24 Q. You were appointed to represent Mr. Therron
25 Richardson on his appeal from his conviction from Charleston

1 County; is that accurate?

2 A. That's correct.

3 Q. And you would have reviewed all prior transcripts of
4 the trial and any pretrial hearings?

5 A. Yes.

6 Q. And search for any winnable, appealable issues?

7 A. Correct.

8 Q. And after you had done that, in your brief of the
9 appellate, it came down to a single issue; is that accurate?

10 A. That's true.

11 Q. And that had to deal with interpretation of some
12 protections or exclusions of search and seizure based on the
13 CDV statute?

14 A. Correct.

15 Q. And you fully briefed that argument for the court?

16 A. Yes, I did.

17 Q. And, again, I'm not sure -- check with the attorney
18 general at the beginning -- I'm not sure that this is a part
19 of your record as well. But, of course, it's part of the
20 record on appeal. I would just simply ask, Mr. Pachak, you
21 sent me a copy of your brief. It was nine pages that you had
22 filed; is that accurate?

23 A. Yes.

24 Q. Okay. And I believe that was file January 9th,
25 2014, based on the letter attached with the brief.

1 MR. JOHNSON: Your Honor, that's part of the
2 appellate record. I have no objection to that coming in.

3 THE COURT: Thank you.

4 THE WITNESS: I did not hear that.

5 MR. DAVIS: The State has consented to the
6 introduction of your brief.

7 THE WITNESS: Okay.

8 Q. You ultimately got an order back from the Court of
9 Appeals, correct?

10 A. Yes.

11 Q. Denying the appeal?

12 A. Correct.

13 Q. Do you recall what the grounds for the denial was?

14 A. They said the issue was not properly preserved for
15 appeal. What happened was, the trial attorneys went through
16 the suppression hearing making the argument, as I made in my
17 brief, against the admissibility of the evidence that was
18 found in the house. But when it came time to admit that
19 evidence, it was let in without objection. So the Court of
20 Appeals held that that issue was not preserved for appeal
21 since it was let in without objection.

22 Q. Can you briefly state for the Court the argument
23 that you made on appeal based on the CDV statute?

24 A. Well, basically, I argued that the evidence found
25 was not admissible under the statute because the police made

1 a criminal domestic violence call and the evidence was not
2 found in plain view in a room in which the police were
3 interviewing, obtaining, or pursuing a suspect, under Section
4 (H) (1) (a) of the statute.

5 Q. But despite that argument, the State didn't rule on
6 that, they simply denied to consider it since it was not
7 preserved for appeal?

8 A. That's correct, yes.

9 Q. And were you able to cite cases in favor of your
10 argument that could have led to a reversal of the conviction?

11 A. Well, I cited several cases, yes, in favor of my
12 argument.

13 Q. Mr. Pachak, if I can have just a moment.

14 MR. DAVIS: Your Honor, if I can have just a moment.

15 BY MR. DAVIS:

16 Q. Just couple more questions, Mr. Pachak. When you
17 filed the brief on appeal and researched case law, I think
18 the most recent case you had was a 2000 case, Roberts?

19 A. That could have been, yeah.

20 Q. And then I think you cite the fact that the statute
21 had been on the books for 14 years; is that accurate?

22 A. I believe so. Well, I think what I was arguing was
23 under *State v. Cannon*, there is a footnote in that case in
24 which they questioned whether the legislature meant Section 8
25 of that statute to be interpreted the way any common sense

1 interpretation of it would be since *State v. Cannon*, the
2 legislature had chosen not to change the statute. To me, my
3 argument was then that's what the legislature meant. And,
4 therefore, it should be interpreted in Mr. Richardson's favor
5 in this case.

6 MR. DAVIS: Thank you, Mr. Pachak. That's all the
7 questions I have at this time.

8 MR. JOHNSON: No questions from the State.

9 THE COURT: Thank you, Mr. Pachak. This is Judge
10 Hayes. Thank you so much. We will let you go.

11 THE WITNESS: Thank you, goodbye.

12 MR. DAVIS: Judge, that would be all the witnesses
13 we have.

14 The last thing I would -- out of abundance of
15 caution, came up earlier, certainly, we have the trial
16 transcript. The State has no objection. If it's not in the
17 record, I will make sure the Court gets a copy of the
18 appellate brief.

19 THE COURT: I do not have that.

20 MR. DAVIS: I will give you this one -- or,
21 actually, can I have it marked as a court's exhibit?

22 THE COURT: That would be fine.

23 MR. DAVIS: And along with it is actually also the
24 letter that was -- where it was sent to Court of Appeals.

25 (Plaintiff's Exhibit 1, Appellate Brief, is moved

1 into evidence.)

2 MR. DAVIS: Finally, Your Honor, it was briefly
3 referenced -- I'm not relying on it much, but out of
4 abundance of caution, I did obtain from the Attorney
5 General's office, I think both of you have it electronically,
6 so we don't have a hard copy here with us here today -- but
7 the transcript from the first pretrial motions hearing that
8 Judge Dennis had. It's about 130 pages. That's why I didn't
9 print it out. I have it electronically. I received it from
10 the State without objection, would ask to be able to
11 supplement the record with that following the hearing.

12 MR. JOHNSON: That's fine.

13 THE COURT: Okay.

14 MR. DAVIS: With that, Judge, with those two matters
15 being taken care of, the applicant has no additional
16 witnesses. That will be our case.

17 THE COURT: The State have any witnesses?

18 MR. JOHNSON: No, Your Honor. We ask Ms. Taylor be
19 released from our subpoena.

20 THE COURT: Okay. She's released.

21 Do either of you have any case law other than that
22 that's cited by the Court of Appeals regarding preservation
23 of *State vs. Forester*, *State vs. Dicapua*, as far as the issue
24 of preservation requirement?

25 MR. DAVIS: I do not, Judge. Of course, our

1 argument is, the court ruled, as they had to, based on the
2 trial counsel's performance. And then, obviously -- in fact,
3 may I approach now, Your Honor? I will give you the
4 appeal.

5 THE COURT: I've got it.

6 MR. DAVIS: The brief?

7 THE COURT: The brief, okay.

8 MR. DAVIS: Yes, sir.

9 MR. JOHNSON: I do not, Your Honor, and doesn't
10 affect my argument.

11 THE COURT: Okay. Anybody want to make an argument?

12 MR. DAVIS: Yes, Your Honor, if I may.

13 Judge, you have the transcript. It's part of the
14 record. It was referenced. And I certainly appreciate trial
15 counsel saving time for the Court and moving things along.

16 The items that were introduced that we are
17 specifically complaining of that were not properly
18 contemporaneously objected to would be State's No. 1, which
19 were a bag of drugs, State's No. 39, which is the drug
20 analysis report, State No. 46, baggies that the State
21 indicated were used for drug distribution, box of -- three
22 boxes of bags, a scale box, spoons, two different scales,
23 bags, bottles.

24 And then towards identification, as to whom the
25 State could charge, we have a water bill, Rooms To Go bill,

1 rental agreement, Social Security card, five different
2 weapons, guns, revolvers, as are listed in the exhibit list,
3 magazine clips, bullets, bullets, ammunition.

4 That's the crux of the State's case. And,
5 certainly, original trial counsel, his public defender --
6 which we will supplement the record -- had a hearing before
7 Judge Dennis. And, actually, the record reflects at the end
8 of that hearing, Judge Dennis verbally, in court, was siding
9 with the defense on suppression.

10 About a month later, the judge does a formal written
11 order denying the motion to suppress based on plain-view
12 exigent circumstances. Mr. Richardson relieves counsel.

13 The ladies who testified today came in as his
14 attorneys at trial. They briefed the matter on a different
15 issue and attempted to have a reconsideration of Judge
16 Dennis's decision on that issue.

17 At trial court, pretrials -- as we do in South
18 Carolina, usually it's right the day of trial -- they renewed
19 the prior and made their new argument under the CDV statute.
20 It was brief. It was argued. There's no doubt that they
21 recognized that this was the defense of the case. Certainly,
22 at trial: Not my stuff; I was set up.

23 But the problem of it being, the contraband was
24 found nearby identification of whose place that was. So
25 identification and substantive evidence found close together,

1 if that's not blocked, as Ms. Taylor testified, the evidence
2 was overwhelming for the State if it was admitted. So they
3 recognized this issue early on, briefed it, argued it.

4 The deficiency here is that, as Ms. Taylor testified
5 today, she realizes now that South Carolina state court
6 requires contemporaneous objections. And, certainly, she
7 indicates that she was concerned about how the jury would
8 view that. There's ways around that. Your Honor, I
9 renew the objections from defense, not other than my pretrial
10 objection, Your Honor. There's ways of contemporaneously
11 objecting without tainting the jury.

12 If the defense was, "it wasn't his", then that
13 shouldn't come in anyway before ladies and gentlemen of the
14 jury. There's ways to object to that without tainting the
15 jury.

16 More importantly, as she testified today, even if
17 that would have caused concern about the jury, she realizes
18 that had to have been known to preserve the issue for appeal.
19 And it wasn't as to each one of those items of evidence.

20 They were noted on the page number where they were
21 admitted. And each page number where they were admitted,
22 there was no objection. The only error in the transcript is
23 State's No. 39 was admitted on page 81, as opposed to State's
24 29, which was a photo; was not. So that's an error in the
25 transcript. But at each of those stages, no objection was

1 made to preserve that for appeal.

2 Jury did come back with a guilty verdict on these
3 charges. To their credit, they filed a timely appeal. And,
4 yet, Mr. Pachak's hands were tied because the issue was not
5 preserved for appeal. He talked to you about what his
6 argument was. Talked to you about a plea renewing the
7 statute.

8 Again, to summarize it, and Your Honor has the
9 brief, but it's simply this. The statute, the exception to a
10 search and seizure and evidence can be used. The exception
11 does not apply if law enforcement is interviewing,
12 arresting -- and there's a third one, Your Honor, in the
13 brief -- a suspect. Well, that was not him. No one was
14 home. It was in the trial transcript. No one was at the
15 residence when they first entered it. Fearing that it was a
16 CDV, that there were exigent reasons to get in there, when
17 they entered, no one was home.

18 So the protections, CDV statute, plain reading of
19 the statute, up to and including the *Cannon* case and footnote
20 that Mr. Pachak cited, are still good law. As he indicated,
21 the legislature, even with the 1999 case of *Cannon*, up until
22 the filing of the appeal, had not altered the statute.
23 Clearly, the legislature meant what they said in the statute.

24 The plain reading of it on appeal would have
25 resulted in a reversal. Court of Appeals did not consider,

1 could not consider, because it was not preserved.

2 Their objections have problems being met, Your
3 Honor. Number One, ineffective assistance issues were not
4 preserved for appeal.

5 Number two, had the Court of Appeals been able to
6 hear Mr. Pachak's argument, plain reading of the statute, and
7 without any change in the statute despite the court taking up
8 the issue in 1999, leads the court and should lead Your Honor
9 to believe that the plain reading of the statute meant the
10 evidence should have been suppressed. Without that evidence,
11 the testimony is that Ms. Taylor -- without that, they had no
12 case.

13 So we believe we met our -- the two prongs of our
14 burden. We would ask you to grant our Post-Conviction Relief
15 Act on behalf of Mr. Richardson, vacate his conviction on
16 each charge, remand him to the Charleston County Detention
17 Center, allow him to begin this process again. Thank you,
18 Your Honor.

19 THE COURT: Mr. Johnson.

20 MR. JOHNSON: May it please the Court, Your Honor.
21 I'm going to start off by reading *Strickland vs. Washington*,
22 466 U.S. 668 and 689, which states that: Judicial scrutiny
23 of counsel's performance must be highly deferential. It is
24 all too tempting for a defendant to second-guess counsel's
25 assistance after conviction or adverse sentence, and it is

1 all too easy for a court, examining counsel's defense after
2 it has proved unsuccessful, to conclude that a particular act
3 or omission of counsel was unreasonable. A fair assessment
4 of attorney performance requires that every effort be made to
5 eliminate the distorting effects of hindsight, to reconstruct
6 the circumstances of counsel's challenged conduct, and to
7 evaluate the conduct from counsel's perspective at the time.

8 Your Honor, first, Ms. Penn was the first attorney.
9 She made the motion in front of Judge Dennis. Then you have
10 Ms. Taylor and Ms. Bowley come on as counsel. They file
11 motion to reconsider. Judge Dennis denies that. That
12 becomes the law of the case. They can't raise that issue
13 again to Judge McDonald.

14 As Your Honor is very much aware, another judge is
15 not going to overturn another judge's ruling. So she makes a
16 different argument to Judge McDonald. That gets denied. At
17 that point, Ms. Taylor's strategy changes because she knows
18 after the protective sweep on a CDV call, that evidence is
19 probably going to come in because it's in plain view. So her
20 argument again starts to be, it's not mine, you know, I was
21 set up, or, Mr. Richardson was set up.

22 So there's no rational basis to object to that. All
23 you are going to do is draw attention to the jury that
24 Mr. Richardson, those are his drugs, that is his money,
25 that's all of his property. That then would be ineffective

1 to draw that attention. However, she states that's her trial
2 strategy. And, Your Honor --

3 THE COURT: Trial strategy based on her
4 misunderstanding of the law.

5 MR. JOHNSON: I understand, Your Honor. And that's
6 one thing. We will get to that in just a second, but: Where
7 counsel articulates a valid reason for employing certain
8 strategy, such conduct will not be deemed ineffective
9 assistance of counsel.

10 That is *Carpood vs. State* 338 SC 103. That's a 2000
11 case. So the State's position is, there's no ineffective
12 assistance of counsel. However, if this Court does deem her
13 ineffective in that regard, there's overwhelming evidence in
14 this case. *Ford vs. State* states that where there is
15 overwhelming evidence of guilt, there is no prejudice.

16 Once you read the transcript, Your Honor, the drugs,
17 the amount of weight of the drugs, the guns, the rental
18 agreement, all of his personal identifiers, Social Security
19 card, driver's license, all that is in there, the ADT calls,
20 you will read that and you will realize that Mr. Richardson
21 was occupying, he had constructive possession of all of that
22 evidence. There is overwhelming evidence of guilt.

23 And I will direct Your Honor's attention to page
24 350. Look at his record. He has done this over and over and
25 over again. This is not his first foray in the criminal

1 justice system.

2 Your Honor, and then the last argument we have is
3 that Mr. Davis makes this argument that Court of Appeals, if
4 they would have had this issue reserved, would have, by plane
5 reading of the statute, would have overturned that case.

6 THE COURT: I can't make a finding there.

7 MR. JOHNSON: Exactly. That's speculation.

8 THE COURT: I will put on the record, I'm not going
9 to try to outguess the court that reversed the case. I don't
10 think it's my job to determine on the merits of the appeal.
11 That's up to an appellate court.

12 MR. JOHNSON: Yes, sir. And that will be my
13 argument. That would be complete speculation. And in that
14 regard, even if there is an ineffective assistance, if there
15 is some type of ineffective counsel, there is no prejudice
16 because there's overwhelming evidence in this case, Your
17 Honor. We ask you to deny and dismiss this application.

18 THE COURT: Let me ask you help me with some law,
19 since you are now an adjunct professor at the law school.
20 You hit on "harmless error". Is there not a case -- and
21 maybe I'm thinking about something else -- where you talk
22 about it being overwhelming evidence? Is there not a case
23 that says harmless error is an issue for appellate courts and
24 not trial courts?

25 MR. JOHNSON: The harmless error is. That's on

1 appeal. This is overwhelming evidence saying that where
2 there is overwhelming evidence --

3 THE COURT: Isn't that sort of the same thing?

4 MR. JOHNSON: Almost the same analysis, but it's two
5 different forums, Your Honor.

6 THE COURT: Got you. Good job.

7 MR. JOHNSON: Thank you.

8 MR. DAVIS: Just briefly, Your Honor, as to that
9 issue, overwhelming evidence, if seized properly and admitted
10 properly, and that's the crux of this. So, certainly, it was
11 seized properly and admitted properly. I think both sides
12 would consent that the evidence on behalf of the State is
13 substantial, but that's exactly our argument.

14 Judge, to one issue you raised, you know, the second
15 prong is, if we had been -- I will try a separate argument as
16 well. If it had been objected to contemporaneously, then
17 Judge McDonald would have the opportunity, after hearing more
18 of the case, to rule on it again. It was not objected to
19 contemporaneously. So not only -- respectfully, Your Honor,
20 I think you must consider what a jury does and what appellate
21 court does. Because the second prong of *Strickland* is the
22 obligation to suggest to you and convince you by the evidence
23 that the outcome would have been different.

24 If it was a jury verdict, it's a court's requirement
25 to say that the outcome would have been different, the

1 verdict would not have been guilt. Similarly, on appeal, if
2 the issue was not even considered, our argument is, they
3 should have been able to consider it. And if they had, we
4 would have been successful.

5 That's the second prong. I respectfully think the
6 Court has to make a judgment call, either in place of jury or
7 appellate court.

8 Finally, Your Honor, just briefly, I appreciate
9 handling these cases here in Berkeley with the attorney
10 general, but --

11 THE COURT: This is actually Charleston.

12 MR. DAVIS: Charleston and Berkeley, we handle them
13 together throughout the year. But I would ask you,
14 obviously, to exclude any reference to his prior record.
15 That's not an issue here. The issue here is the performance
16 of counsel. So whether he had been convicted before or been
17 in court before, he, in fact, didn't even testify because
18 it's a procedural matter. The trial counsel did not preserve
19 issues for appeal, which they should have. It's ineffective
20 not to. And the outcome would have been different either
21 trial stage or appellate stage, had they raised objections.

22 Thank you, Your Honor.

23 THE COURT: I will take this one under advisement
24 also.

25 MR. JOHNSON: Thank you, Your Honor.

1 MR. DAVIS: And, Your Honor, as to the transcript
2 from the first hearing, it will become relevant, how do you
3 prefer we provide that?

4 MR. JOHNSON: I have an e-mail now.

5 THE COURT: Just get it to us. Appreciate
6 everybody's help this week.

7 (Whereupon, proceedings are adjourned.)

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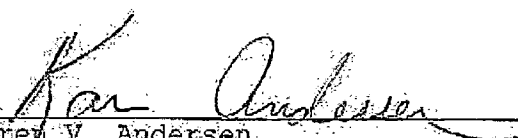
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CERTIFICATE OF REPORTER

I, Karen V. Andersen, Registered Merit Reporter,
Certified Realtime Reporter for the State of South Carolina
at Large, do hereby certify that the foregoing transcript is
a true, accurate and complete Transcript of Record of the
proceedings.

I further certify that I am neither related to nor
counsel for any party to the cause pending or interested in
the events thereof.



Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Stephanie P. McDonald, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

THERRON R. RICHARDSON,

APPELLANT

APPELLATE CASE NO. 2012-213431

FINAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Whether the trial court erred in denying defense counsel's motion to suppress evidence seized from appellant's residence in response to a criminal domestic violence call by the police, when the evidence was not found in plain view in a room in which the police were "interviewing, detaining, or pursuing a suspect" under S.C. Code § 16-25-70(H)(1)(a) and where the evidence found was inadmissible in a court of law as the statute mandates?

STATEMENT OF THE CASE

Appellant was convicted of trafficking in cocaine, four (4) counts of possession of a firearm by a person convicted of a crime of violence, and one (1) count of possession of a firearm during commission of a violent crime after a jury trial held before the Honorable Stephanie McDonald on November 13 – 15, 2012, in Charleston County. Appellant was sentenced to thirty (30) years on the cocaine charge and to five (5) years on the weapons charges. One of the weapon charges was ordered to be served consecutively to the cocaine sentence. Donna K. Taylor, Esquire, and D. Lynn Bowley, Esquire, were the trial attorneys. Emmanuel Ferguson, Esquire, and Culver Kidd, Esquire, were the assistant solicitors.

This appeal follows.

ARGUMENT

The trial court erred in denying defense counsel's motion to suppress evidence seized from appellant's residence in response to a criminal domestic violence call by the police when the evidence was not found in plain view in a room in which the police were "interviewing, detaining, or pursuing a suspect" under S.C. Code § 16-25-70(H)(1)(a), and the evidence was not admissible in a court of law as provided by the statute.

Pursuant to a prior motion to suppress evidence seized from appellant's residence under the Fourth Amendment to the United States Constitution and Article I, § 10 of the South Carolina Constitution, a hearing was held before the Honorable R. Markley Dennis, Jr., on May 9, 2012.¹

Deputy Bowers with the Charleston County Sheriff's Department testified at the hearing that on October 17, 2010, he was dispatched to 1956 Old Fort Avenue on an "in-progress domestic violence call." He learned "a female had called in and said that her boyfriend had choked her and that she had locked herself in a room inside the house for her safety." (R. 14, line 1 – R. 15, line 12). Deputy Alexander also arrived at the scene. Deputy Bowen approached the front door and noticed that there was no doorknob, just a deadbolt lock which he thought was unusual. He knocked on the door and got no response. He went to the side of the house and a door there also had no doorknob, just a deadbolt lock. They went to the back of the house and found a sliding glass door that was partially open. They entered the house and began to look for people. (R. 15, line 23 – R. 19, line 18). They did not find anyone in the house. During the search of the house, they found a scale with white powder residue on it on a counter in the bathroom off the master bedroom. There was a razor blade next to the scale. They looked inside the closet and found a safe on the floor. It was closed, but money was strewn in front of it. They noticed money in an open bank bag lying on

¹ The discussion concerning the statutory issue commences at R. 6, *infra*.

the floor. Under the bed in the master bedroom they saw several guns. They secured the scene and waited for Sergeant York to get there. She was briefed when she arrived and she called the drug investigation unit. (R. 20, line 16 – R. 22, line 24). Deputy Bowen said he asked dispatch to triangulate where the call had come from and it showed from Romney Street, some twenty minutes away. (R. 33, line 23 – R. 34, line 9). Deputy Alexander also testified that he responded to the call of a domestic disturbance. (R. 65, line 20 – R. 66, line 3).

On June 19, 2012, Judge Dennis issued an order denying the defendant's motion to suppress evidence taken from appellant's house. He found exigent circumstances because the police were responding to a 911 call about a heated domestic dispute. Judge Dennis also found that the guns, cash, digital scales, and white powder were found in plain view when the police performed a protective sweep of the house. Thus, there was no Fourth Amendment violation in this case.

On August 13, 2012, appellant, now represented by new attorneys, filed a motion to exclude the same evidence because it was obtained in violation of S.C. Code § 16-25-70(H)(1)(a). On August 28, 2012, a motion to reconsider the admissibility of the evidence was heard by the Honorable R. Markley Dennis, Jr., based on the criminal domestic violence statute. Judge Dennis denied the motion without prejudice. (R. 111, lines 11 – 17).

The August 13, 2012, motion was heard by the Honorable Stephanie McDonald on November 13, 2012. The cited code section is as follows:

- (H) Evidence discovered as a result of a warrantless search administered pursuant to a complaint filed under this article is admissible in a court of law:
 - (1) if it is found:
 - (a) in plain view of a law enforcement officer in a room in which the officer is interviewing, detaining, or pursuing a suspect; or
 - (b) pursuant to a search incident to a lawful arrest for a violation of this article or for a violation of Chapter 3, Title 16; or

(2) if it is evidence of a violation of this article.

An officer may arrest and file criminal charges against a suspect for any offense that arises from evidence discovered pursuant to this section.

Unless otherwise provided for in this section, no evidence of a crime found as a result of a warrantless search administered pursuant to a complaint filed under this article is admissible in any court of law.

S.C. Code § 16-25-70 (H)(1)(a)(emphasis added).

It is clear that the officers were responding to a criminal domestic violence call. The above statute provides for officers responding to a CDV call with an exception to the warrant requirement in certain limited, clearly defined circumstances. In the absence of those specific circumstances, no evidence of a crime the officers may have seen is admissible in a court of law. The statute clearly states that evidence discovered in a warrantless search pursuant to a CDV complaint is admissible in a court of law if it “is in plain view of a law enforcement officer in a room in which the officer is interviewing, detaining, or pursuing a suspect.” (Emphasis added). Certainly there was no “interviewing, detaining, or pursuing a suspect” because no one was in or around the residence. When a “statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the Court has no right to impose another meaning.” Gail v. Arial, 381 S.C. 341, 673 S.E.2d 418 (2009); State v. Gains, 380 S.C. 23, 667 S.E.2d 728 (2008). (R. 438, August 13, 2012, Motion to Exclude Evidence).

The trial judge violated the above rule by forcing a different interpretation than what the statute states. She cited S.C. Code § 16-25-70(c) which deals with effecting a warrantless arrest which the officers were not doing in this case. She then reasoned that the officers did not enter the residence pursuant to the authorization of the CDV statute! (R. 168, line 6 – R. 169, line 10). Earlier on, the trial judge stated that it was hard for her to believe that the legislature meant to give

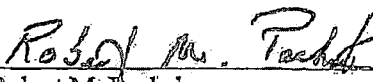
greater protections than were provided by the Fourth Amendment. (R. 157, lines 2 – 5). But, the legislature did precisely this when it enacted S.C. Code § 17-13-140(1985) and the South Carolina Supreme Court held that the legislature was free to do this in State v. McKnight, 291 S.C. 110, 352 S.E.2d 471 (1987). And as far back as 1999, the South Carolina Supreme Court in State v. Cannon, 336 S.C. 335, 520 S.E.2d 317 (1999) expressed concern over the “plain meaning” of S.C. Code § 16-25-70(H) and its applicability to situations like those presented in appellant’s case. In the almost fourteen years since then, the legislature has not seen fit to change this statute. It is obvious that they do not want the police to use the CDV statute as a ruse to rummage at will. In State v. Roberts, 340 S.C. 238, 530 S.E.2d 899 (Ct.App. 2000), just a year after State v. Cannon, the South Carolina Court of Appeals also recognized the plain meaning effect of S.C. Code § 16-25-70(H), albeit under a different factual scenario.

At the conclusion of the State’s case, defense counsel renewed its motion to exclude the evidence that was seized based on the CDV statute and the evidence the trial heard during the course of the trial concerning the officers’ CDV response to the scene. The trial judge said, “I may be wrong” but it was just her interpretation that the officers entered the house pursuant to exigent circumstances. Then she said, “It may have been pursuant to the statute as well.” She interpreted the CDV statute differently than the courts in State v. Cannon and State v. Roberts and she did not give it the “plain meaning” it deserved. She agreed that “it could be interpreted differently by another court.” (R. 403, line 13 – R. 404, line 17).

CONCLUSION

Based on the foregoing argument, the items seized by the officers should have been suppressed and appellant's convictions should be reversed.

Respectfully submitted,


Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

This 9th day of January, 2014.

CERTIFICATE OF COUNSEL

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

January 9, 2014



Robert M. Pachak
Appellate Defender

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

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Stephanie P. McDonald, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

THERRON R. RICHARDSON,

APPELLANT

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 9th day of January, 2014.

Robert M. Pachak
Robert M. Pachak
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 9th day of January, 2014

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



SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-4330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender

January 9, 2014

J. Benjamin Aplin, Esquire
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Re: The State v. Therron R. Richardson

Dear Ben:

Enclosed are two copies of the Final Brief of Appellant in the above-entitled case, which I have filed today with the South Carolina Court of Appeals.

Please call me if you have any questions.

Sincerely,

Robert M. Pachak
Appellate Defender

RMP/pem

Enclosure

cc.
AG
AT

606

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Therron Richardson, #191713,)
)
Applicant,)
)
vs.)
)
State of South Carolina,)
)
Respondent,)
_____)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

C.A. No.: 2015-CP-10-0354

ORDER

FILED
2015 AUG 15 PM 2:45
JULIE J. ARMSTRONG
CLERK OF COURT

Applicant filed this Post-Conviction Relief application on March 27, 2015. The Court heard this matter on January 15, 2015. Applicant was represented by Rodney Davis, Esquire; the State was represented by J. Rutledge Johnson, Esquire.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. The Applicant was indicted at the April 2011 term of the Charleston County Grand Jury for Trafficking Cocaine (2011-GS-10-2320), Possession of a Firearm During the Commission of a Violent Crime (2011-GS-10-2321), and four counts of Unlawful Possession of a Firearm by a Person Convicted of a Crime of Violence (2011-GS-10-2323; -2324; -2325; -2326). Donna Taylor and D. Lynn Bowley, Esquires, represented the Applicant at trial and sentencing. On November 15, 2012, the Applicant proceeded to trial before the Honorable Stephanie P. McDonald and a jury, which found him guilty as indicted. Judge McDonald sentenced the Applicant to concurrent terms of five (5) years for Possession of a Firearm During the Commission of a Violent Crime, five (5) years imprisonment for each count of Possession of a Firearm by a Person Convicted of a Crime of Violence, and thirty (30) years imprisonment for Trafficking Cocaine. All charges were to be

J. Rutledge Johnson

served concurrently except indictment number 2011-GS-10-2320, which was to be served consecutively.

The Applicant served a timely notice of appeal, and one was perfected on his behalf. Robert Pachek, Esquire, represented the Applicant. Following briefs from both sides, the South Carolina Court of Appeals affirmed the Applicant's convictions and sentences. State v. Richardson, Op. No. 2014-UP-471 (S.C. Ct.App. filed December 17, 2014). The Remittitur was issued on January 6, 2015.

In his application for post-conviction relief, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Ineffective Assistance of Counsel"
 - a. "Trial Counsel had failed to object to evidence being offered by the State during trial that had left the issue unpreserved for review on direct appeal."

Applicant's claim in an allegation of ineffective assistance of plea counsel. In a Post-Conviction Relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Applicant testified at his PCR hearing that his trial counsel allowed evidence seized at his residence to be presented at trial without objection. Trial counsel testified she made unsuccessful pre-trial motions to suppress the subject evidence, and further renewed all previous objections at the end of the State's case. However, trial counsel did admit she did not make contemporaneous objections as each exhibit was admitted into evidence. It was on this basis that the South Carolina Court of Appeals found there was no preservation of the issues and denied Applicant's direct appeal.

Based on a review of the record and testimony at Applicant's hearing, the sole incriminating evidence against Applicant was the seized evidence.

During the PCR hearing, trial counsel testified part of the reason she did not contemporaneously object was because the vocalized objections conflicted with her trial strategy, as she felt it would place unwanted jury attention on the evidence in question. The Court recognizes this is a valid trial strategy, and thus exercise of this trial strategy cannot alone be enough to deem trial counsel to have been ineffective. See Caprod v. State, 338 S.C. 103, 525 S.E.2d 514 (2000). However, counsel's trial strategy was based on her erroneous belief that she

did not, and in fact could not, make contemporaneous objections to evidence which had been ruled admissible by the court prior to trial.

At the time of Applicant's trial, counsel was primarily practicing in the federal courts, which do not allow for contemporaneous objections. Trial counsel admitted it was based on this practice that she did not make the appropriate objections during Applicant's trial. Due to this flawed belief, the issue was not properly preserved. Trial counsel should have protected the record for appeal and was ineffective in not doing so.

There is no question trial counsel's failure to protect the record for appeal prejudiced Applicant. The failure to preserve the issue of the seizure extinguished Applicant's opportunity to have a very viable constitutional claim reviewed by an appellate court. The result in the proceeding, i.e. trial and appeal, would have been different if the record had been protected. The undersigned does not find that Applicant would have prevailed on appeal, but must, and does find the proceedings would have been different. Simply put, Applicant would have had the search and seizure issue addressed by an appellate court.

The State suggests the undersigned apply an "overwhelming evidence" review, and that such would reveal that Applicant was not prejudiced by counsel's failure to preserve the record. This suggestion is wrong for two reasons. The undersigned does not believe this Court can utilize what is in essence a harmless error analysis in reviewing a Post-Conviction Relief application. Also in this case, as earlier observed, the sole evidence against Applicant was the evidence trial counsel believed was subject to suppression.

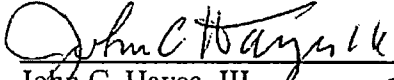
Wherefore, I find Applicant carried his burden of proof as to elements of his stated grounds for relief, and has proven trial counsel was ineffective.

DA
HA

Were it in the Court's province, the most expedient way to address this would be to allow Applicant to go forward on his appeal. However, that is not an avenue which is available to this Court.

Therefore, Applicant's application for Post-Conviction Relief is granted and Applicant shall be entitled to a new trial.

IT IS SO ORDERED.



John C. Hayes, III
Presiding Judge #5

August 9, 2016
Charleston, South Carolina

2010-011277

ARREST WARRANT

K-684144

STATE OF SOUTH CAROLINA

County Municipality of CHARLESTON

THE STATE against

THERRON RENARD RICHARDSON

Address: CHARLESTON, SC 29403

Phone: SSN: [REDACTED]

Sex: Race: Height: Weight: 130

State: SC

DOB: Agency ORI#:

Prosecuting Agency: CCSO

Prosecuting Officer: DET. T. PLYLER

Offense: UNL POSS OF HANDGUN BY CONV. FELON

Offense Code:

Code/Ordinance Sec: 16-23-500

This Warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

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

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Therron Renard Richardson on 10-24-2010

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

County Municipality of CHARLESTON

AFFIDAVIT

Personally appeared before me the affiant DET. T. PLYLER who being duly sworn deposes and says that defendant THERRON RENARD RICHARDSON did within this county and state on 10-17-2010 violate the criminal laws of the

State of South Carolina (or ordinance of County Municipality of CHARLESTON) in the following particulars:

DESCRIPTION OF OFFENSE:

UNL POSS OF HANDGUN BY CONVICTED FELON 16-23-500

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

SEE ATTACHED AFFIDAVIT

Signature of Affiant

[Signature]

STATE OF SOUTH CAROLINA

County Municipality of CHARLESTON

Affiant's Address 3505 PINEHAVEN DRIVE

NORTH CHARLESTON, SC 29405

Affiant's Telephone 843-202-1700

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that on 10-17-2010 defendant THERRON RENARD RICHARDSON did violate the criminal laws of the State of South Carolina (or ordinance of

County Municipality of CHARLESTON) as set forth below: DESCRIPTION OF OFFENSE:

UNL POSS OF HANDGUN BY CONVICTED FELON

16-23-500 Having found probable cause and the above sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on October 19, 2010

Signature of Issuing Judge (L.S.) Judge's Address 3870 LEEDS AVENUE, SUITE 106

N. CHARLESTON, SC 29405

Signature of Issuing Judge (L.S.) Judge's Telephone 843-746-9822

Judge Code: 7004/CKS Issuing Court: Magistrate Municipal Circuit

7004/CKS ORIGINAL

611 Form Approved by S.C. Attorney General April 21, 2003 SCCA 618

Judge **BAIL set by Linda Lombard**

on **1-25-11**

Type and Amount: **25,000**

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____
(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

CHECKLIST

CASE # **551 CT 5**
351
371
7966

WITNESSES

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
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Name: _____
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Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

CODEFENDANTS

COUNTY OF CHARLESTON
SHERIFF'S OFFICE

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

AFFIDAVIT

Personally appeared before me, a magistrate of this County, one Detective, T. Plyler who first being duly sworn, deposes and says that

Therron Renard Richardson

did within this County and State on the 17th day of October, 2010 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

VIOLATION SECTION 16-23-500 OF THE SOUTH CAROLINA CODE OF LAWS, AS AMENDED (Unlawful Possession of a Handgun by a Convicted Felon)

The affiant states that there is probable cause to believe that the defendant named above did commit the crime set forth, and that such probable cause is based on the following facts:

That on October 17, 2010 while at [redacted] in the West Ashley section of the County and State aforesaid, the above named defendant did violate section 16-23-500, "Unlawful Possession of a Handgun by a Convicted Felon." The defendant did willfully, unlawfully, and feloniously possess a firearm after being convicted of a violent crime that is classified as a felony offense.

On the aforementioned date Detectives of the CCSO Metro Major Case Unit executed a lawful search warrant on a residence located at [redacted] Detectives located an Intratec Model AB-10 9MM handgun (SN: A022967) lying on the floor under the defendant's bed. The defendant was convicted, in 1998 in the State of South Carolina, of trafficking cocaine, a crime of violence, making such possession unlawful.

The above is true and believable, based on the personal observations and investigations of Detectives T. Plyler & F. Ferguson who are witnesses to prove the same in such case made and provided against the peace and dignity of the State of South Carolina.

Sworn to and subscribed before me on this day _____

OCT 20 2010

T. Plyler
Affiant

Signature of Judge

[Handwritten Signature]
(L>S>)

Address: 3505 Pinehaven Drive
N. Charleston, SC 29405
Phone: (843) 202-1700

COUNTY OF CHARLESTON
SHERIFF'S OFFICE

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

AFFIDAVIT

Personally appeared before me, a magistrate of this County, one Detective, T. Plyler who first being duly sworn, deposes and says that

Therron Renard Richardson

did within this County and State on the 17th day of October, 2010 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

VIOLATION SECTION 16-23-500 OF THE SOUTH CAROLINA CODE OF LAWS, AS
AMENDED (Unlawful Possession of a Handgun by a Convicted Felon)

The affiant states that there is probable cause to believe that the defendant named above did commit the crime set forth, and that such probable cause is based on the following facts:

That on October 17, 2010 while at [REDACTED], in the West Ashley section of the County and State aforesaid, the above named defendant did violate section 16-23-500, "Unlawful Possession of a Handgun by a Convicted Felon." The defendant did willfully, unlawfully, and feloniously possess a firearm after being convicted of a violent crime that is classified as a felony offense.

On the aforementioned date Detectives of the CCSO Metro Major Case Unit executed a lawful search warrant on a residence located at [REDACTED]. Detectives located an Intratec Model AB-10 9MM handgun (SN: A022967) lying on the floor under the defendant's bed. The defendant was convicted, in 1998 in the State of South Carolina, of trafficking cocaine, a crime of violence, making such possession unlawful.

The above is true and believable, based on the personal observations and investigations of Detectives T. Plyler & F. Ferguson who are witnesses to prove the same in such case made and provided against the peace and dignity of the State of South Carolina.

Sworn to and subscribed before me
on this day _____

OCT 20 2010

Signature of Judge (L>S>)

T. Plyler

Affiant

Address: 3505 Pinehaven Drive
N. Charleston, SC 29405
Phone: (843) 202-1700

2010-011244
ARREST WARRANT

K-684132

STATE OF SOUTH CAROLINA

County Municipality of
CHARLESTON

THE STATE
against

THERRON RENARD RICHARDSON

Address: **CHARLESTON, SC 29403**

Phone: **SSN:** **509**
Sex: **M** Race: **B** Height: **130** Weight: **130**

DL State: **SC** **DL#**

DOB: **Agency ORI#:**

Prosecuting Agency: **CCSO**

Prosecuting Officer:

Offense: **TRAFFICKING COCAINE**

Offense Code: **44-53-370**
Code/Ordinance Sec:

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

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant **Therron Richardson**

on **10-17-2010**

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA)
 County Municipality of
CHARLESTON

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2009
SCCA 618

Personally appeared before me the affiant **DET T PLYER** who
being duly sworn deposes and says that defendant **THERRON RENARD RICHARDSON**
did within this county and state on **10-17-2010** violate the criminal laws of the
State of South Carolina (or ordinance of County Municipality of **CHARLESTON**)
in the following particulars:
TRAFFICKONG COCAINE
44-53-370

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

SEE ATTACHED AFFIDAVIT

Signature of Affiant

T Plyer

STATE OF SOUTH CAROLINA)
 County Municipality of
CHARLESTON

Affiant's Address **3505 PINEHAVEN DRIVE**
NORTH CHARLESTON, SC 29405
Affiant's Telephone **843-202-1700**

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on **10-27-2010** defendant **THERRON RENARD RICHARDSON**
did violate the criminal laws of the State of South Carolina (or ordinance of
 County Municipality of **CHARLESTON**) as set forth below:
TRAFFICKING COCAINE
44-53-370

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

Sworn to and subscribed before me)
on **October 18, 2010**

Signature of Issuing Judge (L.S.))
Judge's Address **3870 LEEDS AVENUE, SUITE 106**
N. CHARLESTON, SC 29405
Judge Code: **7004/GXR**)
Judge's Telephone **843-746-9822**
Issuing Court: Magistrate Municipal Circuit

ORIGINAL

Linda Tomhard

Judge _____

on _____

Type and Amount: NO Bond

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(Indicate jury trial, bench trial, plea, not pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

FILED JAN 28 AM 11:42
CLERK OF COURT

554

351

0218

790

**COUNTY OF CHARLESTON
SHERIFF'S OFFICE**

**STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON**

AFFIDAVIT

Personally appeared before me, a magistrate of this County, one Detective, T. Plyler who first being duly sworn, deposes and says that

Therron Renard Richardson

did within this County and State on the 17th day of October, 2010 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

**VIOLATION SECTION 44-53-370 OF THE SOUTH CAROLINA CODE OF LAWS, AS
AMENDED (Trafficking Cocaine)**

The affiant states that there is probable cause to believe that the defendant named above did commit the crime set forth, and that such probable cause is based on the following facts:

That on October 17, 2010 while [REDACTED], in the West Ashley section of the County and State aforesaid, the above named defendant did violate section 44-53-370, "Trafficking Cocaine." The defendant did willfully, unlawfully, and feloniously possess a quantity of a white powder substance with a total approximate weight of more than 10 grams.

On the aforementioned date Detectives of the CCSO Metro Major Case Unit executed a lawful search warrant on a residence located at [REDACTED]. Detectives located two plastic bags containing a white powder substance in the defendant's bathroom. Detectives also located four plastic bags containing a white powder substance under the defendant's bed. The total weight of the six plastic bags and the white powder substance was approximately 2,061 grams. The white powder substance field tested presumptive for Cocaine. In that the white powdery substance was sent to the lab for further testing.

The above is true and believable, based on the personal observations and investigations of Detectives T. Plyler & F. Ferguson who are witnesses to prove the same in such case made and provided against the peace and dignity of the State of South Carolina.

Sworn to and subscribed before me
on this day _____

OCT 18 2010

Signature of Judge

(L>S>)

T. Plyler
Affiant

Address: 3505 Pinehaven Drive
N. Charleston, SC 29405
Phone: (843) 202-1700

COUNTY OF CHARLESTON
SHERIFF'S OFFICE

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

AFFIDAVIT

Personally appeared before me, a magistrate of this County, one Detective, T. Plyler who first being duly sworn, deposes and says that

Therron Renard Richardson

did within this County and State on the 17th day of October, 2010 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

VIOLATION SECTION 44-53-370 OF THE SOUTH CAROLINA CODE OF LAWS, AS
AMENDED (Trafficking Cocaine)

The affiant states that there is probable cause to believe that the defendant named above did commit the crime set forth, and that such probable cause is based on the following facts:

That on October 17, 2010 while at [REDACTED], in the West Ashley section of the County and State aforesaid, the above named defendant did violate section 44-53-370, "Trafficking Cocaine." The defendant did willfully, unlawfully, and feloniously possess a quantity of a white powder substance with a total approximate weight of more than 10 grams.

On the aforementioned date Detectives of the CCSO Metro Major Case Unit executed a lawful search warrant on a residence located at [REDACTED]. Detectives located two plastic bags containing a white powder substance in the defendant's bathroom. Detectives also located four plastic bags containing a white powder substance under the defendant's bed. The total weight of the six plastic bags and the white powder substance was approximately 2,061 grams. The white powder substance field tested presumptive for Cocaine. In that the white powdery substance was sent to the lab for further testing.

The above is true and believable, based on the personal observations and investigations of Detectives T. Plyler & F. Ferguson who are witnesses to prove the same in such case made and provided against the peace and dignity of the State of South Carolina.

Sworn to and subscribed before me
on this day _____

OCT 18 2010

Signature of Judge (L>S>)

T. Plyler
Affiant

Address: 3505 Pinehaven Drive
N. Charleston, SC 29405
Phone: (843) 202-1700

2010-011244
ARREST WARRANT

K-684143

STATE OF SOUTH CAROLINA

County Municipality of
CHARLESTON

THE STATE
against

THERRON RENARD RICHARDSON

Address: **CHARLESTON, SC 29403**

Phone: _____ SSN: _____
Sex: M Race: B Height: 509 Weight: 130

DL State: SC

DOB: _____ Agency ORI#: _____

Prosecuting Agency: **CCSO**

Prosecuting Officer: **DET. T. PLYLER**

Offense: **UNL POSS OF HANDGUN BY CONV. FELON**

Offense Code: _____
Code/Ordinance Sec: **16-23-500**

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

Signature of Judge (L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant Therron Richardson
on 1-24-2011

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA)
 County Municipality of)
CHARLESTON

AFFIDAVIT

Personally appeared before me the affiant DET. T. PLYLER who
being duly sworn deposes and says that defendant THERRON RENARD RICHARDSON
did within this county and state on 10-17-2010 violate the criminal laws of the
State of South Carolina (or ordinance of County Municipality of CHARLESTON)
in the following particulars:
DESCRIPTION OF OFFENSE: UNL POSS OF HANDGUN BY CONVICTED FELON 16-23-500

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

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA)
 County Municipality of)
CHARLESTON

Affiant's Address: 3505 PINEHAVEN DRIVE
NORTH CHARLESTON, SC 29405
Affiant's Telephone: 843-202-1700

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that
on 10-17-2010 defendant THERRON RENARD RICHARDSON
did violate the criminal laws of the State of South Carolina (or ordinance of
 County Municipality of CHARLESTON) as set forth below:
DESCRIPTION OF OFFENSE: UNL POSS OF HANDGUN BY CONVICTED FELON

UNL POSS OF HANDGUN BY CONVICTED FELON

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

Sworn to and subscribed before me)
on October 19, 2010

Judge's Address: 3870 LEEDS AVENUE, SUITE 106
N. CHARLESTON, SC 29405

Judge's Telephone: 843-746-9822

Signature of Issuing Judge

Judge Code: _____

7004/CKS
ORIGINAL

Issuing Court: Magistrate Municipal Circuit

Linda L. Chibard

Judge _____

on 25,000

Type and Amount: _____

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

Judge _____

on _____

by _____

(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

CHECKLIST

IN CRT CASE # 554 CR4

W/ CASE # 351

3434

790

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

FILED
2011 JAN 8 AM 11:45
CLERK OF COURT

DISPOSITION before

FILED

COUNTY OF CHARLESTON
SHERIFF'S OFFICE

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

AFFIDAVIT

Personally appeared before me, a magistrate of this County, one Detective, T. Plyler who first being duly sworn, deposes and says that

Therron Renard Richardson

did within this County and State on the 17th day of October, 2010 violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE

VIOLATION SECTION 16-23-500 OF THE SOUTH CAROLINA CODE OF LAWS, AS AMENDED (Unlawful Possession of a Handgun by a Convicted Felon)

The affiant states that there is probable cause to believe that the defendant named above did commit the crime set forth, and that such probable cause is based on the following facts:

That on October 17, 2010 while at [REDACTED], in the West Ashley section of the County and State aforesaid, the above named defendant did violate section 16-23-500, "Unlawful Possession of a Handgun by a Convicted Felon." The defendant did willfully, unlawfully, and feloniously possess a firearm after being convicted of a violent crime that is classified as a felony offense.

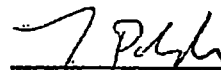
On the aforementioned date Detectives of the CCSO Metro Major Case Unit executed a lawful search warrant on a residence located at [REDACTED]. Detectives located an H&R Inc. Model 733 .32 caliber handgun (SN: AF98440) lying on the floor under the defendant's bed. The defendant was convicted, in 1998 in the State of South Carolina, of trafficking cocaine, a crime of violence, making such possession unlawful.

The above is true and believable, based on the personal observations and investigations of Detectives T. Plyler & F. Ferguson who are witnesses to prove the same in such case made and provided against the peace and dignity of the State of South Carolina.

Sworn to and subscribed before me
on this day _____

Signature of Judge

(L>S>)


Affiant

Address: 3505 Pinehaven Drive
N. Charleston, SC 29405
Phone: (843) 202-1700

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.
Theron Renard Richardson

AKA:
Race: BLACK Sex: M Age: 43

DOB: SS#
Address: REET

City, State, Zip: CHARLESTON, SC 294030000

DL#: SID#: SC00697199

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: POSS OF FIREARM OR AMMUN BY PE

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS1002326

A/W#: K684144

Date of Offense: 1/24/2011

S.C. Code §: 16-23-0500(A)

CDR Code #: 3434

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Ferguson, Emmanuel Defendant SC Bar#
Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied from 1/24/2011
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP days/hours Public Service Employment

Obtain GED
Attend Voc. Rehab. or Job Corp.

May serve W/E beginning
Substance Abuse Counseling

Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund
Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Table with columns for Fine, Description, and Amount. Includes items like § 14-1-206, § 14-1-211(A)(1), § 14-1-211(A)(2), § 56-5-2995, § 56-1-286, Proviso 47.9, § 14-1-212, § 14-1-213, § 50-21-114, § 56-5-2942(I), Proviso 90.5, 3% to County, and TOTAL \$133.90.

Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (03/2011)

Handwritten signatures and names: Collet, SHARON VIZEL-HARTS

Presiding Judge: Aghani P. McGovern
Judge Code: 2163
Sentence Date: 11-15-2012

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT


At a Court of General Sessions, convened on April 4, 2011 the Grand Jurors of Charleston County present upon their oath:

Unlawful Possession of a Firearm by a Person Convicted of a Crime of Violence

That in Charleston County, South Carolina, on or about October 17, 2010, the Defendant, THERRON RENARD RICHARDSON, did unlawfully have in his possession, a firearm, to wit: Intratec Model AB-10 9MM, after having been convicted of a crime of violence, to wit: Trafficking Cocaine, all in violation of Section 16-23-30⁵⁰⁰(A)(1) of the South Carolina Code of Laws (1976) as amended.

*Amended
11/13/12 - SPN*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JAMES P. STACK
ASSISTANT SOLICITOR

624

STK20110100427

WITNESSES

PLYER

Charleston County Sheriff

AGENCY CASE NUMBER

2010017299B

ARREST WARRANT NUMBER

K684144

DATE OF ARREST

January 24, 2011

ACTION OF GRAND JURY

TRUE BILL

[Handwritten Signature]

Foreperson of Grand Jury

Date: APR 04 2011

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2011GS1002326

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

April Term 2011

THE STATE

vs.

THERRON RENARD RICHARDSON

DOB: [REDACTED]

B/M

Indictment for

Unlawful Possession of a Firearm by a
Person Convicted of a Crime of Violence

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.

INDICTMENT/CASE#: 2011GS1002325

AKA: Therron Renard Richardson

A/W#: K684143

Race: BLACK Sex: M Age: 43

Date of Offense: 1/24/2011

DOB: SS#: [REDACTED]

S.C. Code §: 16-23-0500(A)

Address: [REDACTED]

CDR Code #: 3434

City, State, Zip: CHARLESTON, SC 294030000

DL#: SID#: SC00697199

SENTENCE SHEET

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

[X] CONVICTED OF or [] PLEADS

In disposition of the said indictment comes now the Defendant who was TO: POSS OF FIREARM OR AMMUN BY PE

in violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434
[] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-45

The charge is: [] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentation to Grand Jury. (defendant's initials)
The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ATTEST: [Signature] Defendant [Signature] Attorney for Defendant SC Bar# [] Ferguson, Emmanuel SC Bar# []

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [] County Detention Center,
for a determinate term of 5 days/months/years or [] under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

[X] CONCURRENT or [] CONSECUTIVE to sentence on:
[X] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. from 1/24/2011
[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
[] Set by SCDPPPS

PTUP days/hours Public Service Employment

Recipient:

Obtain GED []
Attend Voc. Rehab. or Job Corp. []

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$133.90

May serve W/E beginning []
Substance Abuse Counseling []
Random Drug/Alcohol testing []

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund

Other: []

[] Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Presiding Judge [Signature] Judge Code: 2163

Court Reporter: SHARON VIZER-HUNT

Sentence Date: 11-15-2012

STK20110100427

DOCKET NO. 2011GS1002325

WITNESSES

PLYER

Charleston County Sheriff

AGENCY CASE NUMBER

2010017299B

ARREST WARRANT NUMBER

K684143

DATE OF ARREST

January 24, 2011

ACTION OF GRAND JURY

TRUE BILL

[Handwritten Signature]

Foreperson of Grand Jury

Date: APR 04 2011

VERDICT

GUILTY

[Handwritten Signature]

11/15/12

Foreperson of Petit Jury

Date:

INDICT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

April Term 2011

THE STATE

vs.

THERRON RENARD RICHARDSON

DOB: [REDACTED]

B/M

Indictment for

Unlawful Possession of a Firearm by a Person Convicted of a Crime of Violence

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston)
STATE VS.)

INDICTMENT/CASE#: 2011GS1002320

Therron Renard Richardson)

A/W#: K684132

AKA:)

Date of Offense: 1/24/2011

Race: BLACK Sex: M Age: 43)

S.C. Code § : 44-53-0370(e)(2)(a)1

DOB: [REDACTED] SS# [REDACTED])

CDR Code #: 0278

Address: [REDACTED])

City, State, Zip: CHARLESTON, SC 294030000)

DL#: [REDACTED] SID#: SC00697199)

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: TRAFFICKING COCAINE

in violation of § 44-53-0370(e)(2)(a)1 of the S.C. Code of Laws, bearing CDR Code # 0278

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 21431

Ferguson, Emmanuel

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 2011 GS 1002323

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. from 1/24/2011

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) \$ _____ Random Drug/Alcohol testing

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 8.40

TOTAL \$ 288.40

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Presiding Judge [Signature]

Court Reporter: SHARON VIGOR-HANKS

Judge Code: 2143

Sentence Date: 11-15-2012

630

STK20110100427

WITNESSES

PLYER

Charleston County Sheriff

AGENCY CASE NUMBER

2010017299B

ARREST WARRANT NUMBER

K684132

DATE OF ARREST

January 24, 2011

ACTION OF GRAND JURY

TRUE BILL

[Signature]

Foreperson of Grand Jury
Date:

APR 04 2011

VERDICT

Guilty

[Signature]

11/15/12

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2011GS1002320

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

April Term 2011

THE STATE

vs.

THERRON RENARD RICHARDSON

DOB: [REDACTED]

B/M

Indictment for

Trafficking Cocaine

CMTI330D SCDC OFFENDER MANAGEMENT SYSTEM 02/02/15
OMCOMITA RELEASE DATE SCREEN C056368

SCDC# > 191713 LOC: BROAD RIVER

RICHARDSON, THERRON - SCDC CLASSIFICATION...: VIOLENT

OFFENDER TYPE...: ADULT-STRAIGHT SENTENCE SEXUAL REGISTRY...: N

SEXUAL PREDATOR...: NOT APP

DNA STATUS...: COMPLETED

GPS REQUIREMENT...: N

PREA DECISION...:

CURRENT SENTENCE: 035-00-000 CONSECUTIVE SENTENCE ...: Y
035-00-000 CURRENT SENT START DATE: 01/24/2011

PROJECTED COMPLETION DATES

MAXOUT DATE: 10/04/2029 CURRENT EWC ..: 3 F 5

YOA SIX YEAR DATE: / / CURRENT EEC ..: NOT CURRENTLY EARNING EEC

INITIAL PAROLE DATE: 04/17/2019 NEXT PAROLE HEARING DATE: 04/17/2019

TOTAL GT DAYS EARNED: 000880 LABOR CREW/WORK PROG DATE: 99/99/9999

TOTAL EARNED WORK CREDITS ..: 000268 LABOR CREW DISQ REASON:

TOTAL EDUCATION CREDITS: 000000 CATEGORY 4 OR 5 OFFENSE

TOTAL EXTRA EARNED CREDITS ..: 000 SUPERVISED REENTRY DATE...: 00/00/00

TOTAL SERVICE TIME EARNED ..: 001463 ISS.....:

PRESS PF5 FOR DATE HISTORY ...

PFKEYS: 5:HISTORY OF DATE CHANGES

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
RECORD SUMMARY REPORT DATED 02/02/15

C0239

RICHARDSON, THERRON - FBI # 747364NA9 SID# SC00697199 SCDC # 191713

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION ..: BROAD RIVER CORR. INST.

SECURITY/CUST.: 3 MINIMUM IN

CURR INCARC SENT...: 35 YRS 0 MOS 0 DYS

CENTRAL MONITORING.: NO

SOCIAL SECURITY #...: ██████████

DORM.....: MU0208B

RACE....:B SEX...:M

PROJ MAXOUT DATE: 10/04/2029

PROJ PAROLE DATE: 04/17/2019

EWC JOB...: WARDKEEPER ASSISTANT

EDUC PGM.: NO CURR EDUC PROGRAM

EWC LEVEL: 3F5 EEC LEVEL:

ASSIGNMENT...: ASST WARD KEEPER

CURRENT PROGRAM...: NO CURRENT PROGRAM

AGE...: 45 DATE OF BIRTH...: ████████/69

PREVIOUS NUMBERS:

Y00002667

Y00191713

CURRENT OFFENSES	SENTENCE			COUNTY	SENTENCE		
	YRS	MOS	DYS		START	V/NV	CATEGORY
TRAF COCAINE (10-28G, 1ST)	30	0	0	CHARLESTON	1/24/2011	V	4
POSS FIREARM/AMMO BY FEL	5	0	0	CHARLESTON	1/24/2011	N	3
POSS FIREARM/AMMO BY FEL	5	0	0	CHARLESTON	1/24/2011	N	3
FIREARMS PROVISION	5	0	0	CHARLESTON	1/24/2011	N	3

PREVIOUS SCDC OFFENSES (COMPLETE)	SENTENCE			COUNTY	SENTENCE		
	YRS	MOS	DYS		START	V/NV	CATEGORY
CRACK DISTR PROX SCHOOL	7	0	0	CHARLESTON	11/12/1998	N	2
TRAFFICKING IN CRACK COC	7	0	0	CHARLESTON	11/12/1998	V	4

PRIOR COMMITMENTS OVER 90 DAYS:

12/16/92	*AGGRAVATED ASSAULT	6 YRS	0 MOS	0 DYS
6/18/92	CRACK POSSESS	6 YRS	0 MOS	0 DYS
2/13/92	CRACK POSSESS	6 YRS	0 MOS	0 DYS

DETAINEES (HOLD, WANTED, NOTIFY):

FIREARMS PROVISION	WANTED	PRESIDING JUDGE	CATEG: 3
MARIJUANA POSSESS	WANTED	PRESIDING JUDGE	CATEG: 2

NO DETAINEES

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

4/25/14	STRIKE I/M W/NO WEAPON	CONVICTED	MAJOR INMATE
4/25/14	STRIKING AN EMPLOYEE WIT	DROPPED	MAJOR INMATE
6/14/ 4	FIGHTING WITHOUT A WEAP	DROPPED	CHARG
1/19/ 1	STRIKE I/M W/NO WEAPON	CONVICTED	MAJOR INMATE

NON-ASSAULTIVE DISCIPLINARIES:

6/11/ 2	USE OBSCENE, VULGAR, PROFA	CONVICTED	MINOR
5/ 7/ 2	REFUSING TO ATTEND COMPU	CONVICTED	MAJOR
11/15/ 0	USE OBSCENE, VULGAR, PROFA	CONVICTED	MAJOR
7/21/ 0	REFUSING OR FAILING OBEY	CONVICTED	MAJOR

HISTORY OF MOVEMENTS:

10/ 1/14	BROAD RIVER	INCARCERATED	RETURN FROM COURT
10/ 1/14	CHARLESTON CO	AUTH ABSENCE (AWL)	TO COURT
9/10/14	BROAD RIVER	INCARCERATED	ADMINISTRATIVE
6/18/14	LEE	INCARCERATED	ADMINISTRATIVE
5/14/13	KIRKLAND	INCARCERATED	RETURN FROM COURT
5/14/13	CHARLESTON CO	AUTH ABSENCE (AWL)	TO COURT
11/16/12	KIRKLAND	INCARCERATED	NEW ADMISSION
10/31/ 6	UNK	RELEASE	PROB/CS/EPA COMPLETE
11/ 1/ 4	CHARLESTON CO	COMMUNITY SUPERVISIO	RELEASED TO PROBATION
9/ 2/ 4	WATKINS	PRE-RELEASE	PRE-RELEASE

1/ 7/ 4

RIDGELAND

INCARCERATED

ADMINISTRATIVE

RICHARDSON, THERRON - FBI # 747364NA9 SID# SC00697199 SCDC # 191713 (CONTINUE)

7/23/ 1	LEE	INCARCERATED	ADMINISTRATIVE
5/21/ 1	RIDGELAND	INCARCERATED	ADMINISTRATIVE
5/18/ 1	KIRKLAND	INCARCERATED	RETURN FROM COURT
5/17/ 1	CHARLESTON CO	AUTH ABSENCE (AWL)	TO COURT
2/ 3/99	RIDGELAND	INCARCERATED	ADMINISTRATIVE
11/16/98	KIRKLAND	INCARCERATED	R&E PROCESSING
11/16/98	LIEBER	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
WARDKEEPER ASSISTANT	09/18/14	0/ 0/ 0		3F5
GENERAL WORKER	07/22/14	9/10/14	INSTIT TRANSFER	3F5
FOOD SERVICE AIDE	01/24/13	4/25/14	PLACED IN ST/SP CUSTODY	2F7
WARDKEEPER	08/03/04	11/ 1/ 4	RELEASED/PAROLED	2F5
CANTEEN OPERATOR	07/08/04	8/ 2/ 4	INMATE REQUEST	2F5
CANTEEN OPERATOR	03/23/04	6/15/ 4	PLACED IN ST/SP CUSTODY	2F5
WARDKEEPER	02/26/04	3/22/ 4	INMATE REQUEST	2F5
WARDKEEPER	01/23/04	2/25/ 4	INMATE REQUEST	2F5
WARDKEEPER	01/22/04	1/22/ 4	MI ELIGIBLE FOR LEVEL 2	3F5
WARDKEEPER	01/13/04	1/21/ 4	INMATE REQUEST	3F5
GENERAL WORKER	05/23/03	1/ 7/ 4	INSTIT TRANSFER	3F5
GENERAL WORKER	12/19/02	5/22/ 3	ASLT/DRUG/MAJOR DISC	2F5
GENERAL WORKER	06/28/02	12/18/ 2	CUSTODY REVIEW	5F5
GENERAL WORKER	05/25/02	6/27/ 2	CUSTODY REVIEW	3F5
GENERAL WORKER	05/23/02	5/24/ 2	INMATE REQUEST	3F5
GENERAL WORKER	05/22/02	5/22/ 2	INMATE REQUEST	3F5
GENERAL WORKER	01/22/02	5/21/ 2	CUSTODY REVIEW	5F5
GENERAL WORKER	07/27/01	1/21/ 2	CUSTODY REVIEW	7F5
LANDSCAPE GARDENER	12/07/00	1/19/ 1	PLACED IN ST/SP CUSTODY	3F5
WARDKEEPER	07/11/00	11/15/ 0	PLACED IN ST/SP CUSTODY	2F5
SR DINING ROOM OPERA	03/12/99	4/26/99	UNSAT JOB PERFORM	2F5
SR DINING ROOM OPERA	03/04/99	3/11/99	MI ELIGIBLE FOR LEVEL 2	3F5
LABOR CREW/WORK PROG	08/22/96	11/26/96	LATERAL TRANSFER	2F5
UNEMPLOYED COMM PROG	08/19/96	8/21/96	LATERAL TRANSFER	2F5
LABOR CREW/WORK PROG	06/25/96	8/18/96	INSTIT TRANSFER	2F5
LABOR CREW/WORK PROG	06/19/96	6/24/96	LATERAL TRANSFER	2F5
CONSTRUCTION TRAINEE	03/11/96	6/18/96	INSTIT TRANSFER	7P5
GENERAL WORKER	03/08/96	3/10/96	INMATE REQUEST	7F5
CONSTRUCTION TRAINEE	02/01/96	2/14/96	INSTIT TRANSFER	7F5
GENERAL WORKER	10/26/95	10/30/95	LOCKUP-PROTECTIVE CUST	7F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
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NO SCHOOL ASSIGNMENTS

***** END OF REPORT *****

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.

INDICTMENT/CASE#: 2011GS1002320

AKA: Therron Renard Richardson

A/W#: K684132

Race: BLACK Sex: M Age: 43

Date of Offense: 1/24/2011

DOB: 1969 SS#: [REDACTED]

S.C. Code §: 44-53-0370(e)(2)(a)1

Address: [REDACTED]

CDR Code #: 0278

City, State, Zip: CHARLESTON, SC 294030000

DL#: [REDACTED] SID#: SC00697199

SENTENCE SHEET

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

[X] CONVICTED OF or [] PLEADS

In disposition of the said indictment comes now the Defendant who was TO: TRAFFICKING COCAINE

in violation of § 44-53-0370(e)(2)(a)1 of the S.C. Code of Laws, bearing CDR Code # 0278

[] NON-VIOLENT [X] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-45

The charge is: [] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury, (defendant's initials)

The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ATTEST: Ferguson, Emmanuel Defendant; [Signature] 2143 SC Bar# Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [] County Detention Center,

for a determinate term of 30 days/months/years or [] under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

[] CONCURRENT or [X] CONSECUTIVE to sentence on: 2011 GS 1002323

[X] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied

by the State Department of Corrections. from 1/24/2011

[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED []

[] Set by SCDPPPS Attend Voc. Rehab. or Job Corp.

Recipient: May serve W/E beginning

*Fine: Substance Abuse Counseling []

§ 14-1-206 (Assessments 107.5 %) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ \$ 8.40

TOTAL \$ 288.40

Random Drug/Alcohol testing []

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

[] Appointed PD or appointed other counsel,

§ 47.12 requires \$500 be paid to Clerk

during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: SHARON VIZOR-HANKS

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2143

Sentence Date: 11-15-2012

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.

INDICTMENT/CASE#: 2011GS1002323

Thenion Renard Richardson

A/W#: K684141

AKA:

Date of Offense: 1/24/2011

Race: BLACK Sex: M Age: 43

S.C. Code §: 16-23-0500(A)

DOB: 1969 SS#: [REDACTED]

CDR Code #: 3434

Address: [REDACTED]

City, State, Zip: CHARLESTON, SC 294030000

SENTENCE SHEET

DL#: [REDACTED] SID#: SC00697199

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

[X] CONVICTED OF or [] PLEADS

In disposition of the said indictment comes now the Defendant who was

TO: POSS OF FIREARM OR AMMUN BY PE

in violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434
[] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-45

The charge is: [] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentation to Grand Jury. (defendant's initials)
The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ATTEST: [Signature] Ferguson, Emmanuel Defendant
[Signature] 91431 SC Bar# Attorney for Defendant
[Signature] SC Bar#

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [] County Detention Center,

for a determinate term of 5 days/months/years or [] under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

[] CONCURRENT or [X] CONSECUTIVE to sentence on: 2011 GS 1002320
[] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. from 1/24/2011
[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
[] Set by SCDPPPS

PTUP _____ days/hours Public Service Employment

Recipient: _____

Obtain GED []
Attend Voc. Rehab. or Job Corp. _____

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$300, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$133.90

May serve W/E beginning _____

Substance Abuse Counseling []
Random Drug/Alcohol testing []

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund

Other: _____

[] Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk [Signature]
Court Reporter: [Signature]
SCCA/217 (03/2011)

Presiding Judge [Signature]
Judge Code: 2163
Sentence Date: 11-15-2012

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.

INDICTMENT/CASE#: 2011GS1002324

Therron Renard Richardson

A/W#: K684142

Race: BLACK Sex: M Age: 43

Date of Offense: 1/24/2011

DOB: 1969 SS#: [redacted]

S.C. Code §: 16-23-0500(A)

Address: [redacted]

CDR Code #: 3434

City, State, Zip: CHARLESTON, SC 294030000

DL#: [redacted] SID#: SC00697199

SENTENCE SHEET

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

[X] CONVICTED OF or [] PLEADS

In disposition of the said indictment comes now the Defendant who was TO: POSS OF FIREARM OR AMMUN BY PE

in violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434
[] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-45

The charge is: [] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury, [] Negotiated Sentence, [] Recommendation by the State.
The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ATTEST: Ferguson, Emmanuel (Signature) SC Bar# 9143 Defendant
Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [] County Detention Center,
for a determinate term of 5 days/months/years or [] under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
[] CONCURRENT or [] CONSECUTIVE to sentence on:
[] The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. from 1/24/2011
[] The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
[] Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED []
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling []
Random Drug/Alcohol testing []
Fine may be pd. in equal, consecutive weekly/monthly prnts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public De/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$133.90

[] Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (03/2011)

Callal
SHARDN VIZOL-HARRIS

Presiding Judge: [Signature]
Judge Code: 2163
Sentence Date: 11-15-2012

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston)
STATE VS.)

INDICTMENT/CASE#: 2011GS1002325

Therron Renard Richardson)

A/W#: K684143

AKA:)

Date of Offense: 1/24/2011

Race: BLACK Sex: M Age: 43)

S.C. Code §: 16-23-0500(A)

DOB: [REDACTED] 1969 SS#: [REDACTED])

CDR Code #: 3434

Address: [REDACTED])

City, State, Zip: CHARLESTON, SC 294030000)

SENTENCE SHEET

DL#: [REDACTED] SID#: SC00697199)

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was

TO: POSS OF FIREARM OR AMMUN BY PE

in violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 91431
Ferguson, Emmanuel Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. from 1/24/2011

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5 %) \$ _____ Random Drug/Alcohol testing

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Presiding Judge

Court Reporter: Sharon Vize-Hunt

Judge Code: 2163

SCCA/217 (03/2011)

Sentence Date: 11-15-2012

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston)
STATE VS.)

INDICTMENT/CASE#: 2011GS1002326

Theron Renard Richardson)

A/W#: K684144

AKA:)

Date of Offense: 1/24/2011

Race: BLACK Sex: M Age: 43)

S.C. Code § : 16-23-0500(A)

DOB: [REDACTED] 1969 SS# [REDACTED])

CDR Code #: 3434

Address: [REDACTED])

City, State, Zip: CHARLESTON, SC 294030000)

SENTENCE SHEET

DL#: [REDACTED] SID#: SC00697199)

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was
TO: POSS OF FIREARM OR AMMUN BY PE

in violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act)

As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury.

Without Negotiations or Recommendation, [REDACTED]

[Signature] 81431
Ferguson, Emmanuel SC Bar# Defendant [REDACTED] SC Bar#

[REDACTED] of Corrections, County Detention Center,

[REDACTED] 5 ^{years} / months / years or under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. *from 1/24/2011*

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ Substance Abuse Counseling

§ 14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol testing

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 3.90

TOTAL \$ 133.90

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (03/2011)

Collet
Sharon Vizer-Hart

Presiding Judge *Stephanie P. McDaniel*
Judge Code: 2163
Sentence Date: 11-15-2012

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.

Theron Renard Richardson

AKA:

Race: BLACK Sex: M Age: 43

DOB: -1969 SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: CHARLESTON, SC 294030000

DL#: [REDACTED] SID#: SC00697199

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: POSS OF WEAPON DURING CRIME

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS1002121

A/W#: K684138

Date of Offense: 1/24/2011

S.C. Code §: 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, (defendant's initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 81431
Ferguson, Emmanuel SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____ plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. from 1/24/2011
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 Set by SCDPPPS _____

PTUP _____ days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/Deputy Clerk [Signature]
Court Reporter: Shaaron [Signature]
SCCA217 (03/2011)

Presiding Judge [Signature]
Judge Code: 2163
Sentence Date: 11-15-2012