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S.C. SUPREME COURT

TRANSCRIBED AUDIO FILE

The State, Appellant,
v.
Jennifer Lynn Alexander, Respondent.
Appellate Case No. 2016-002145

COMPUSCRIPTS, INC.
CLIENT FOCUSED. DEADLINE DRIVEN.

803.988.0086
888.988.0086

1 00:01

2 THE COURT: All right, we're back
3 on the record here. Are we going to have any
4 testimony?

5 MR. SCHLEIN: Yes, sir. I'm
6 going to put Officer Hadden and Officer Upchurch
7 on the stand -- at least Officer Hadden.

8 THE COURT: Who do you want
9 first?

10 MR. SCHLEIN: Officer Hadden.

11 THE COURT: Okay. Bring Officer
12 Hadden in. I don't know who he is or --

13 MS. FANT: Oh, I'm sorry. I'm
14 not sure where he -- which room he is in.

15 (INDISTINCT) Okay.

16 MR. SCHLEIN: Hopefully not. I'd
17 be concerned if you did.

18 MR. CUMMINGS: Yeah, I know
19 Frank's (PHONETIC) in the other room.

20 MR. SCHLEIN: Kidding.

21 THE COURT: Is this the guy who
22 is no longer --

23 MR. SCHLEIN: Yes, sir. Officer
24 Hadden, please go forward and be sworn.

25 THE COURT: You're Chad Hadden?

1 THE WITNESS: Yes, Your Honor.

2 THE COURT: All right. Raise
3 your right hand. Do you swear or affirm the
4 information you're about to give this court is
5 the truth, so help you?

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: All right, state your
8 full name for the Court.

9 THE WITNESS: Chad Hadden, Chad
10 Elliott Hadden.

11 THE COURT: All right, have a
12 seat there and answer any questions Mr. Schlein
13 may have for you, please. Make sure you talk
14 into that mike.

15 MALE SPEAKER: Pull it up. There
16 you go.

17 DIRECT EXAMINATION

18 BY MR. SCHLEIN:

19 Q. Officer Hadden, thank you for coming.
20 Did you come pursuant to a subpoena, or how did
21 you know to come here this morning?

22 A. I was subpoenaed by Trooper Thompson,
23 I believe, is his last name.

24 Q. Okay, thank you. Now, you were -- on
25 the date and time in question, you were with the

1 -- July the 29th, 2013, were you with the City
2 of Goose Creek Police Department?

3 A. Yes, sir.

4 Q. Were you employed as a police officer?

5 A. At the time, yes, sir.

6 Q. Okay, and I believe you mentioned that
7 you are no longer with the Goose Creek Police.

8 A. That is correct, sir.

9 Q. When did you leave?

10 A. October the 3rd, sir, of 2013.

11 Q. Okay. At the time of the incident
12 that was in the late evening hours, do you know
13 approximately what time you arrived on the scene
14 of this vehicle in the ditch?

15 A. Sir, I don't know the exact time. I
16 was under -- I'm under the understanding that
17 someone has a CAD sheet.

18 Q. Okay. Did you get a call to go there?

19 A. Yes, Your Honor, via radio.

20 Q. Okay. When you arrived, what did you
21 find?

22 A. Your Honor -- or sir, when I arrived
23 on the scene, I observed, in a large front yard,
24 a vehicle that's front end was in the ditch on
25 the side of a driveway. And when I initially

1 rolled my car up to the scene, I observed a
2 young lady, Miss Alexander, crawling from behind
3 the vehicle with her pants down around her
4 ankles and initially thought something had
5 happened to her, and she assured me she was okay
6 and that she just had to relieve herself, or
7 urinate, behind the car, and crawled back into
8 the vehicle.

9 And I noticed that the vehicle
10 appeared to be stuck, and engine was still
11 running, lights were on, and Miss Alexander
12 appeared to be under the influence of possible
13 alcohol or narcotics. I wasn't sure at the
14 time. I was more so worried about her safety
15 because, like I said, I found her with her pants
16 down around her ankles.

17 Q. Being concerned for her safety, was
18 she free to leave?

19 A. Your Honor, she -- technically, I
20 wouldn't have let her drive if she could have
21 moved the car, but the car wasn't going
22 anywhere, and I would not have let her left on
23 her own recognizance because she was --
24 definitely appeared to be -- appeared to be
25 heavily intoxicated or under the influence of

1 something, sir.

2 Q. All right. Was the -- the car was not
3 able to be driven at that time, is that right?

4 A. No, sir, it did not appear to be.

5 Q. Okay. In fact, it had to be towed out
6 of the ditch, correct?

7 A. Yes, sir.

8 Q. Okay. Approximately how long were you
9 there before you were joined by Lieutenant
10 Upchurch?

11 A. I don't know the exact time. I want
12 to say between 10 to 15, if that.

13 Q. Okay. What did -- at some point in
14 time, did you make a determination whether that
15 was in Goose Creek's jurisdiction?

16 A. Yes, sir. Within the first few
17 minutes of being on the scene, I called back to
18 dispatch and let them know the address and asked
19 them to confirm the jurisdiction, and they
20 advised me that the address was not Goose Creek
21 City jurisdiction.

22 Q. Okay. Was it you or Lieutenant
23 Upchurch that made the determination to call the
24 highway patrol?

25 A. That would be Lieutenant Upchurch.

1 Q. Okay. And he joined you -- after he
2 joined you, approximately how --

3 05:00

4 (END OF 1117-1122)

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DIRECT EXAMINATION (CONTINUED)

BY MR. SCHLEIN:

Q. -- long were y'all (INDISTINCT) with the defendant not being free to leave until you were joined by the highway patrol?

A. I don't know the exact length of time. It was a few minutes of what -- it didn't seem very long. Again, there's a CAD sheet. I know there's a CAD sheet that has the exact times. I would not be able to tell you the exact times.

Q. All right. Well, (INDISTINCT) -- All right. When you arrived, you said that you saw the lady outside the car apparently relieving herself.

A. No, I saw her with her pants down around her ankle, and she was crawling from behind the vehicle.

Q. Crawling, okay. And how did she get back into the car?

A. She crawled to the car and sat down in the car on her own will.

Q. Okay, so with the car running, you allowed her to get back there, or you placed her there.

1 A. I allowed her to.

2 Q. Okay. Was the car still running?

3 A. Yes, sir.

4 Q. When did it get turned off, if ever?

5 A. After she got in the vehicle, I asked
6 her to turn it off a few times. I don't know
7 exactly how many. But I asked her to turn it
8 off because it seemed like she was still trying
9 to drive, to move the car out, but the car was
10 not moving, sir.

11 Q. Okay. Are you saying that you allowed
12 somebody who you thought could have been
13 intoxicated or under the influence to get back
14 in the car and attempt to drive the car?

15 A. No, just to sit in the car. I did not
16 want her to sit on the ground or to try to stand
17 because I did not know if she was able to stand.
18 Again, she was crawling.

19 Q. What were you doing at the time?

20 A. Can you be more specific?

21 Q. Were you standing, sitting in your
22 car, walking, talking on the radio? What were
23 you doing at the time that you saw her?

24 A. Well, initially when I saw her, I was
25 still in my car. But when I saw her, I walked

1 over to her, and I stood by her till she got in
2 her vehicle, and that's when I started asking
3 her if she was okay or where she had been, what
4 she had been doing.

5 Q. Did you have your body mike on?

6 A. It was on my person. I was under the
7 impression that it was on. (INDISTINCT) I have
8 a habit of hitting the button, but I'm not able
9 to -- I'm a bigger person; I'm not able to see
10 it. But I've learned from a past incident to
11 just constantly just hit the button.
12 Eventually, it'll definitely catch. So
13 throughout the whole time I was there, I would
14 just hit my body mike buttons to make sure that
15 it was recording.

16 Q. You didn't make an arrest, though.

17 A. No, sir.

18 Q. But she wasn't free to leave. That's
19 what you testified to, right?

20 A. Yes, sir, I was just detaining to
21 (INDISTINCT) -- I was having to wait for the
22 trooper to get there.

23 Q. Okay. You were detaining her to wait
24 for the trooper to get there.

25 A. Yes, sir. It was determined, again,

1 it wasn't my jurisdiction and definitely didn't
2 seem like -- at the time, I did not think she
3 was able to drive, and even if the car was able
4 to move, I did not feel comfortable letting her
5 drive.

6 MR. CUMMINGS: Judge,
7 (INDISTINCT) question I'd like to --

8 THE COURT: I can't an -- I can't
9 ask him a question.

10 MR. CUMMINGS: No, (INDISTINCT)

11 --

12 MR. SCHLEIN: Okay. (INDISTINCT)
13 All right.

14 BY MR. SCHLEIN:

15 Q. And was it your intention that the
16 trooper, when he arrived, would take some sort
17 of action regarding whether or not she could be
18 arrested?

19 A. The trooper was responding for the
20 accident, sir, or for the collision.

21 Q. Okay, and you were holding her for the
22 trooper. Was that your testimony?

23 A. Yes, sir.

24 Q. You were detaining her for the
25 trooper.

1 A. Yes, sir.

2 Q. Okay, and did you understand that the
3 trooper would arrest her or take some action?

4 A. If he needed to, sir.

5 Q. Okay. Thank you. No further
6 questions at this time.

7 CROSS EXAMINATION

8 BY MS. FANT:

9 Q. Trooper Hadden, you --

10 MALE SPEAKER: Not trooper.

11 MS. FANT: Oh, I'm sorry. I
12 apologize. I keep getting those confused.

13 BY MS. FANT:

14 Q. You indicated that you had detained
15 Ms. Alexander, but you had indicated earlier to
16 the other troopers that you were not really
17 detaining her, that you actually were just
18 waiting for the trooper to arrive. Which is the
19 correct version?

20 A. Well, I -- ma'am, I would say waiting
21 for the trooper to arrive. I never actually
22 told her she couldn't leave. I never --

23 05:00

24 (END OF 1122-1127)

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CROSS EXAMINATION (CONTINUED)

BY MS. FANT:

A. -- put hands on her to stop her from leaving, but I did advise her that highway patrol was on the way.

Q. You did -- but you did not tell her she had to wait for highway patrol, did you?

A. No, ma'am.

Q. And, in fact, isn't it true that, when you were talking about you would have not allowed her to leave, you meant you would not allow her to drive?

MR. SCHLEIN: Objection.

THE WITNESS: Yes, ma'am.

MR. SCHLEIN: She's putting words in his mouth.

THE COURT: Just rephrase the question.

BY MS. FANT:

Q. Would you have allowed her to drive the vehicle that she was in, in the condition she was in?

A. No, ma'am.

Q. What would have happened if she had

1 called a friend of hers to come pick her up?

2 A. I --

3 MR. SCHLEIN: That's speculative,
4 Your Honor.

5 THE COURT: It draws for
6 speculation. Sustained. Rephrase it.

7 BY MS. FANT:

8 Q. Did she call anybody to come get her?

9 A. No, ma'am.

10 Q. And, in fact, isn't it true that you
11 arrived on scene -- and let me show you the, for
12 your recollection, the Goose Creek call sheet
13 report. Do you recognize that document?

14 A. Yes, ma'am.

15 Q. Is it, in fact, a call sheet for the
16 Goose Creek Police Department for the date in
17 question?

18 A. Yes, ma'am.

19 Q. And that would be July 29th of 2013.

20 A. Yes, ma'am.

21 Q. And I would ask you to look at the
22 bottom of that sheet where it indicates a
23 dispatch time and on-route time and an arrival
24 time. Does that refresh your recollection as to
25 what time the call was actually made from 911,

1 when you were on route, and what time you
2 arrived there?

3 A. Yes, ma'am. It states that I was
4 assigned at 23 --

5 MR. SCHLEIN: Objection, Your
6 Honor. Are you reading, or do you actually
7 remember?

8 THE WITNESS: I remember the
9 approximate time. I remember it being close to
10 midnight. But as far as the exact time, I do
11 not know the exact time.

12 MR. SCHLEIN: So that doesn't
13 really refresh your recollection as far as the
14 exact time.

15 THE WITNESS: It helps me narrow
16 it down, but I won't be able to give an exact
17 time. I do not wish to lie.

18 MR. SCHLEIN: Okay. Thank you.
19 I object to him reading.

20 MS. FANT: All right.

21 MR. CUMMINGS: (INDISTINCT)

22 BY MS. FANT:

23 Q. Would you disagree that the 911 call
24 came in at 11:36 approximately?

25 MR. SCHLEIN: Objection. That's

1 asked and answered. He doesn't know when the
2 time (INDISTINCT) --

3 THE COURT: Well, I'm going to
4 tell you, there's no way that any officer or any
5 trooper or anybody else would actually know
6 exactly all the times for every single accident
7 that they're involved in. I don't think it's
8 unnecessary that they not know from a sheet that
9 actually is what happened, and I think he's
10 entitled to look at the sheet and tell me what
11 time it was.

12 MS. FANT: May I give it back to
13 him?

14 THE COURT: I think that's
15 reasonable. Yes.

16 BY MS. FANT:

17 Q. Could you just tell us what time the
18 911 call was received?

19 A. At 23:36.

20 Q. And that was --

21 A. Or 11:36 p.m.

22 Q. Thank you. And then does it show you
23 on route to the scene?

24 A. Yes, ma'am.

25 Q. And then what time does it show you

1 arriving at the scene?

2 A. At 23:45, or 11:45 p.m.

3 Q. Thank you. Now, when -- and, in fact,
4 the reason that you were called out to the scene
5 was because there had been a 911 call and the
6 caller had indicated that there was a vehicle on
7 the side of the road with the doors open, the
8 internal and external lights on, is that
9 correct?

10 A. All I remember is a vehicle on the
11 side of the road, ma'am.

12 Q. Okay. (CLEARS THROAT) Excuse me. But
13 you did respond in response to a 911 call that
14 came in from a concerned citizen.

15 A. Yes, ma'am.

16 Q. And, in fact, when you got there, you
17 saw that Ms. Alexander's vehicle was, in fact,
18 in a front yard of the residence there, stuck in
19 the mud in a ditch.

20 A. Yes, ma'am.

21 Q. And when you first observed her,
22 although it is not on the video, you saw her
23 outside behind her car with her pants down.

24 A. Yes, ma'am.

25 Q. And that you then saw her crawl back

1 to the car and get into the driver's seat.

2 A. Yes, ma'am.

3 Q. And you did not tell her to do that.

4 A. No, ma'am.

5 Q. You did not direct her to do that.

6 A. No, ma'am.

7 Q. She got back into her own car of her
8 own volition.

9 A. Yes, ma'am.

10 Q. And, in fact, when you approached her
11 and began asking her questions, it was initially
12 to determine if she was, in fact, all right, if
13 she was safe.

14 A. Yes, ma'am.

15 Q. And -- (CLEARS THROAT) excuse me -- it
16 was with -- is it correct to say that it was
17 then that you understood that she might have had
18 an alcohol problem?

19 A. Yes, ma'am.

20 Q. And why was that?

21 A. Ma'am, she stuttered a lot, took a
22 long time to answer questions, wouldn't answer
23 questions directly, and she also would never
24 make any type of eye contact with me, and those
25 were the initial factors for me, ma'am.

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CROSS EXAMINATION (CONTINUED)

BY MS. FANT:

Q. Earlier, again, that you said that Ms. Alexander was detained, did you restrain her in any way?

A. No, ma'am.

Q. How did you detain her?

A. Ma'am, I just asked her to -- or I told her that the highway patrol was on the way to handle the matter, that that address was not Goose Creek's jurisdiction.

Q. And that is, in fact, all you said about the matter, isn't it?

A. Yes, ma'am.

Q. You never told her she couldn't leave the scene.

A. No, ma'am.

Q. You never told her that she couldn't get out of the vehicle.

A. No, ma'am.

Q. You never told her that she couldn't call somebody to come get her.

A. No, ma'am.

Q. You never told her that somebody, if

1 they did arrive, could come and get her and take
2 her away.

3 A. No, ma'am.

4 Q. And, in fact, if someone had arrived
5 that day, you would have let them take her.

6 A. Honestly, I --

7 MR. SCHLEIN: That's speculation
8 again, Your Honor. We've already had that
9 question.

10 MS. FANT: He's -- oh, all right.

11 THE COURT: He don't know that.

12 That's --

13 BY MS. FANT:

14 Q. Is it fair to say that the reason --
15 you did not want her driving the vehicle.

16 A. Yes, ma'am.

17 Q. Is it fair to say that that was your
18 concern?

19 A. Yes, ma'am.

20 Q. Your concern was not to hold her there
21 for arrest.

22 A. No, ma'am.

23 Q. Your concern was not to do any type of
24 test, a field sobriety test or anything that
25 would indicate that there was probable cause to

1 arrest her.

2 A. No, ma'am.

3 Q. And you did not do any of those
4 things.

5 A. No, ma'am.

6 Q. And, in fact, you were simply waiting
7 for the highway patrol officer to arrive.

8 A. Yes, ma'am.

9 Q. (CLEARs THROAT) Excuse me. So was
10 she, in fact, free to get up and walk away at
11 that point?

12 MR. SCHLEIN: Your Honor, asked
13 and answered.

14 THE COURT: That's --

15 MS. FANT: He's --

16 THE COURT: Yes, he doesn't -- he
17 can't answer that question.

18 MS. FANT: Well --

19 THE COURT: Either --

20 BY MS. FANT:

21 Q. would you have stopped her if she
22 walked off, not in the car but walked?

23 A. Actually, ma'am, if she walked off,
24 technically it would have been public
25 intoxication. That's why --

1 Q. Okay.

2 A. Of course, I did not --

3 Q. But it would not have been for a DUI
4 arrest.

5 A. No, ma'am.

6 Q. Okay. (COUGHS) Excuse me.

7 THE COURT: Even though we've
8 already established no jurisdiction.

9 THE WITNESS: The roadway is the
10 jurisdiction for Goose Creek, Your Honor.

11 MR. CUMMINGS: You know the old
12 joke that, Come outside so I can talk to you?

13 MS. FANT: (INDISTINCT)

14 MR. CUMMINGS: (INDISTINCT)

15 BY MS. FANT:

16 Q. If Goose Creek did not have
17 jurisdiction, why, when the 911 caller passed at
18 that exact location and phoned it in --

19 MR. CUMMINGS: He can't answer
20 that. That's speculation of public policy.

21 THE COURT: Agreed. Rephrase it,
22 or just --

23 MR. CUMMINGS: That's messed up.

24 THE COURT: You've beaten this --

25 BY MS. FANT:

1 Q. Would you agree that the 911 call came
2 into the Goose Creek operation center -- police
3 department?

4 A. Yeah, I believe it did, ma'am.

5 Q. I would show you again the call report
6 sheet that you just looked at.

7 MR. SCHLEIN: I think we're going
8 over this same ground again, Your Honor.

9 THE COURT: And I'm going to let
10 her bring it up.

11 MR. SCHLEIN: Okay.

12 BY MS. FANT:

13 Q. And that, in fact, does indicate that
14 that call came in to Goose Creek.

15 A. Yes, ma'am.

16 Q. And isn't it standard for a call to go
17 routed to the police office where the
18 jurisdiction is when someone calls 911?

19 A. I do not know, but I think so.

20 Q. Okay.

21 A. I do not know.

22 Q. You know that it's not the person who
23 calls 911 that makes that decision, is it?

24 A. That's correct.

25 Q. It's the 911 center, or someone else.

1 A. I -- it depends. Every situation is
2 different: cell phones, towers.

3 Q. Okay.

4 A. I'm not sure.

5 Q. But the person who calls 911 does not
6 direct where the call goes.

7 A. That's correct.

8 Q. The -- you've already indicated that
9 you arrived there, that the car lights and
10 driver's door were open. When you got there,
11 she was right beside the car. You asked her,
12 actually, why she was outside, didn't you?

13 A. Yes, ma'am.

14 Q. And she told you that she got out to
15 pee.

16 A. Yes, ma'am.

17 Q. And, in fact, she got herself back in
18 the car.

19 A. Yes, ma'am.

20 MR. SCHLEIN: This is the same
21 questions that's already been asked and
22 answered, Judge.

23 MS. FANT: You --

24 THE COURT: I know. Let's move
25 to something --

1 MS. FANT: Okay.

2 THE COURT: -- that's -- there --
3 we've already kind of said what we need to say.
4 Now, you -- if there's something new, let's do
5 it.

6 MS. FANT: Okay.

7 BY MS. FANT:

8 Q. You did ask her if she was driving the
9 vehicle.

10 A. Yes, ma'am.

11 Q. And she, in fact, said she was.

12 A. Yes, ma'am.

13 Q. And you determined that the car was,
14 in fact, registered to her.

15 A. Yes, ma'am.

16 Q. And that no one else was at the scene.

17 A. Yes, ma'am.

18 Q. Did you ever see anyone else that
19 could have possibly been with her around that
20 area?

21 A. No, ma'am.

22 Q. And did you observe fresh tire tracks
23 that indicated where the car had come off the
24 road?

25 A. Yes, ma'am.

1 Q. And did they appear to come from the
2 car that she was riding in -- or driving?

3 A. Yes, ma'am.

4 Q. And you indicated that she had trouble
5 following your instructions and she appeared to
6 you to be clearly intoxicated.

7 A. Yes, ma'am.

8 Q. Did -- and at no point did you tell
9 her that she could not leave, is that correct?

10 A. That's correct.

11 MR. SCHLEIN: Asked and answered,
12 Your Honor.

13 BY MS. FANT:

14 Q. Did -- how did y'all determine the
15 jurisdiction issue?

16 A. I radioed dispatch and asked them to
17 confirm the jurisdiction for the --

18 05:00

19 (END OF 1132-1137)

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CROSS EXAMINATION (CONTINUED)

BY MS. FANT:

A. -- current address, and we have a map in Goose Creek that lets us know the addresses, and they radioed back to me to advise me that it was Berkeley County's jurisdiction, not Goose Creek's.

MR. SCHLEIN: For the second time, Your Honor.

BY MS. FANT:

Q. Well, in fact, isn't it true that what she actually said on the dispatch tape was just county?

MR. CUMMINGS: Judge, that's hearsay, clearly, now.

THE COURT: Yeah, well --

MS. FANT: It's impeachment.

THE COURT: It is --

MR. CUMMINGS: Well, you're impeaching your own --

THE COURT: It is hearsay, but go ahead, and let's --

MR. CUMMINGS: Okay.

(INDISTINCT) I'm sorry.

1 THE COURT: You know, I have --

2 MR. SCHLEIN: It's not getting
3 any better.

4 THE COURT: -- difficulty with
5 some things too, but anyway.

6 BY MS. FANT:

7 Q. And isn't it true that, in fact, the
8 car was located on private property when you
9 found it?

10 A. Yes, ma'am.

11 Q. And in all circumstances --

12 MR. SCHLEIN: We already said
13 that, Your Honor.

14 BY MS. FANT:

15 Q. -- that property would be in the
16 county.

17 A. Yes, ma'am.

18 Q. Because county records -- county
19 jurisdiction keeps property records.

20 A. Yes, ma'am.

21 Q. But Highway 176, which is the point of
22 the road where she left -- you could see the
23 tracks going off from the roadway.

24 A. Yes, ma'am.

25 Q. That highway is, in fact, Goose Creek

1 Police Department jurisdiction, isn't it?

2 A. Yes, ma'am.

3 Q. And when Trooper Yacobozzi got to the
4 scene, he, in fact, told you that he thought
5 that you did have jurisdiction.

6 MR. SCHLEIN: Objection, hearsay.

7 THE COURT: Agreed, and you'll
8 have to ask that question later.

9 BY MS. FANT:

10 Q. Were you ever made aware, at any
11 point, that there was a possible question about
12 jurisdiction?

13 MR. SCHLEIN: I -- what --
14 hearsay.

15 THE WITNESS: Yeah.

16 THE COURT: I think it's a valid
17 question because jurisdiction has a lot to do
18 with this, and even with Upchurch, you know, I
19 think the cart got before the horse a little bit
20 here, and in some of the testimony that -- I
21 didn't know the highway patrol was even called
22 until after Upchurch got there.

23 BY MS. FANT:

24 Q. I'm sorry. Go ahead.

25 A. The question was?

1 Q. Were you aware that there was a
2 question about who had jurisdiction?

3 A. Yes, ma'am.

4 Q. Okay. And, in fact, when Trooper
5 Yacobozzi got there, he worked the scene.

6 A. Yes, ma'am.

7 Q. He, in fact, worked the accident. He
8 did the field sobriety test. He arrested Ms.
9 Alexander.

10 A. Yes, ma'am.

11 Q. Do you recognize this CD disc?

12 A. Yes, ma'am.

13 Q. Is it, in fact, a disc that came from
14 your in-car video on that night?

15 A. Yes, ma'am.

16 MR. SCHLEIN: Did it have your
17 initials on it?

18 THE WITNESS: My initials? It
19 has my name on it.

20 MR. SCHLEIN: Who put -- did you
21 put your name on there?

22 THE WITNESS: No, sir.

23 MR. SCHLEIN: How do you know
24 that that came from your car?

25 THE COURT: Okay, you're going to

1 ask the question or object to the way she's
2 presenting the disc. Now let's --

3 MR. SCHLEIN: Okay.

4 BY MS. FANT:

5 Q. Did you, in fact, have an in-car
6 camera on that night?

7 A. Yes, ma'am.

8 Q. Did it, in fact, take video of the
9 incident?

10 A. Yes, ma'am.

11 Q. Was that video, in fact, provided to
12 both the State and the defense?

13 A. I believe so. I know you have a copy.

14 MS. FANT: (COUGHS) Excuse me.
15 Your Honor, at this point, I would ask that we
16 be allowed to play the video.

17 THE COURT: Any objection?

18 MR. SCHLEIN: No problem with
19 that.

20 THE COURT: Okay.

21 MR. SCHLEIN: We don't have any
22 problem with that.

23 THE COURT: All right.

24 MS. FANT: I have no idea how to
25 (INDISTINCT) --

1 MR. SCHLEIN: Well, that's why I
2 didn't play the video.

3 MR. CUMMINGS: Don't let lawyers
4 and doctors around machinery.

5 THE COURT: Are -- now -- we're
6 in a motion hearing, and if we put that in as
7 Exhibit One --

8 MS. FANT: I'll get another copy.

9 THE COURT: I was going to say, I
10 need --

11 MS. FANT: Or actually what I
12 would like to do is get another copy today and
13 provide you with it today, if I could.

14 MR. SCHLEIN: You know, we're not
15 going to stand in ceremony on the -- you know,
16 she could borrow it back if she needs it later.
17 If it's in the Court file, we're not going to
18 have a problem with something that --

19 MR. CUMMINGS: But the judge
20 wants one for him to do the review.

21 MR. SCHLEIN: Yeah, but I mean,
22 it would go back to the judge.

23 MS. FANT: We'll just leave that
24 one, and I'll get another one, Your Honor.

25 THE COURT: Okay. All right.

1 MR. SCHLEIN: Okay.

2 THE COURT: So we're going to
3 mark that as One.

4 MR. SCHLEIN: I mean, we don't
5 care if she makes a copy later too. We're not
6 going to get that technical.

7 (INDISTINCT)

8 MALE SPEAKER: I'll fix it.

9 MR. CUMMINGS: Oh, that's all
10 right. Well, he's got to see it.

11 MALE SPEAKER: Give me a second.

12 MR. SCHLEIN: No, I, I -- I'll
13 stand over here.

14 MR. CUMMINGS: I think Mr. Hadden
15 -- yeah, Hadden's got to see it.

16 THE WITNESS: Yeah, the recorder
17 just fell out.

18 MS. FANT: But the judge probably
19 needs to see it more than anybody. We've
20 already seen it.

21 THE COURT: I think you have to
22 use both of them. I'm not -- I'm going to go
23 off the record just a minute till we get this --

24 04:43

25 (END OF 1137-1142)

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THE COURT: Let's go ahead and proceed. Trooper Yacobozzi. All right, raise your right hand. Do you swear or affirm the information you're about to give this court is the truth, so help you?

THE WITNESS: Yes, Your Honor.

THE COURT: All right, state your full name for the court.

THE WITNESS: Paul Vincent Yacobozzi.

THE COURT: All right, answer any question Ms. Fant may have for us, please.

THE WITNESS: Yes, Your Honor.

DIRECT EXAMINATION

BY MS. FANT:

Q. Trooper Yacobozzi, you work with the highway patrol?

A. Yes, ma'am.

Q. And how long have you worked there?

A. Three years, ma'am.

Q. Were you involved in an incident involving Jennifer Alexander on July 29th of 2013?

A. Yes, ma'am.

1 Q. How did you become involved?

2 A. Ma'am, I was dispatched to a traffic
3 collision on 176 near Myers Road. I was
4 dispatched through our dispatch center.

5 Q. Okay. What time was the highway
6 patrol called?

7 A. About 50 minutes after mid -- or about
8 50 minutes after 11.

9 Q. So 11:50 p.m.

10 A. I'm sorry. Yes, ma'am, 11:50 p.m.

11 Q. And what time did you arrive?

12 A. Four minutes after midnight.

13 Q. Okay. What did you determine about
14 the jurisdiction of the scene when you arrived?

15 A. The jurisdiction of the scene is --
16 it's not where the car's final rest is. It's
17 where the vehicle left the road. The vehicle
18 left the road, per the 310 manual, on U.S. 176,
19 which is in the city of Goose Creek for a mile
20 in each direction.

21 MR. SCHLEIN: Your Honor, I think
22 I'm going to object 'cause he's --

23 THE COURT: (INDISTINCT) excuse
24 me.

25 MR. SCHLEIN: -- drawing a .

1 conclusion.

2 THE COURT: Objection?

3 MR. SCHLEIN: I think -- I'm
4 objecting because it seems to be calling for a
5 conclusion of the witness. He's making a
6 determination of jurisdiction based on some
7 manual and not on his personal knowledge, so
8 that's a conclusion.

9 MR. CUMMINGS: Not a statute or
10 the law.

11 MR. SCHLEIN: Not on the law or
12 case law or a statute. He's referring to a
13 manual.

14 THE COURT: Rephrase the
15 question, and let's see if we can work through
16 -- I don't know whether he was trying to do
17 that. I think he was, more or less, describing
18 what he saw at the time and what the policy is
19 --

20 MS. FANT: Right, how, how --

21 THE COURT: -- more so -- more
22 than a manual.

23 MS. FANT: -- what he thought
24 about jurisdiction.

25 THE COURT: So let's stick it

1 on U.S. 176.

2 Q. And is there any question factually
3 about whether U.S. 176 is in Goose Creek?

4 A. No, ma'am.

5 Q. And --

6 A. Clearly in the city of Goose Creek.

7 Q. I'm sorry. What did you say?

8 A. It was clearly in the city of Goose
9 Creek.

10 Q. Okay. (COUGHS) Excuse me. The -- did
11 you decide to work the scene anyway?

12 A. Yes, ma'am.

13 Q. And why is that?

14 A. I work for the Highway Patrol. I'm
15 paid to work collisions. I was already there.
16 No reason in trying to argue jurisdiction. I
17 was just going to handle the collision and do
18 what I get paid to do.

19 Q. Would you have had what is known as
20 concurrent jurisdiction with Goose Creek over
21 the scene?

22 A. We're State Highway Patrol. We have
23 jurisdiction over anywhere in the state of South
24 Carolina, in any county in South Carolina or any
25 city.

1 Q. And so when you began working the
2 scene, what did you do?

3 A. I first walked up to the ve -- I first
4 met Officer Hadden. He gave me the information
5 that he had gotten from Ms. Alexander. He'd
6 described to me what had happened. I observed
7 tire tracks. I then proceeded to walk up to Ms.
8 Alexander, who was sitting in the driver's seat
9 of the car with the door shut, at which point I
10 then stepped in a very large bed of fire ants
11 and got bit between 50 and 75 times, and I
12 retreated back to my patrol car to dust my leg
13 off of the fire ants and try and help myself
14 out.

15 Q. Did you eventually get Ms. Alexander
16 out of the car?

17 A. Yes, ma'am. I had actually summoned
18 Trooper Thompson to the scene 'cause I was kind
19 of unsure -- I'd never been bit by that many
20 fire ants before. I had summoned Trooper
21 Thompson to the scene to come assist me because,
22 at that time, my leg really started to burn and
23 itch, and so, at that point, I summoned Trooper
24 Thompson. Once I got all the fire ants off, it
25 didn't look as bad as it was at the time.

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(END OF 1233-1238)

1 00:01

2 MR. SCHLEIN: Under those cases,
3 we move that the case be dismissed. Thank you.

4 MS. FANT: Your Honor, just in
5 closing, I would say that, first of all, the
6 question of jurisdiction, I think, is shown in
7 this case through the evidence that we presented
8 that Officer Hadden did, in fact, have
9 jurisdiction over that. The Goose Creek Police
10 Department got the 911 call, and that was for
11 where that wreck was located. It was routed
12 through the call center to Goose Creek PD. They
13 responded.

14 On the video, you can hear, at
15 approximately zero minutes -- so after 12
16 o'clock -- 12 minutes and 45 seconds, Officer
17 Hadden having a discussion with what appears to
18 be Lieutenant Upchurch about the case being
19 ours. You can't make out the entire
20 conversation, but if you listen to it, you can
21 tell that they're clearly talking about whose
22 case it is, and he says something to the effect
23 of, Under the circumstances or considering the
24 -- what was it -- the chain of events where she
25 ran off the road, this case is ours.

1 So I think that they actually did
2 determine the next time -- and I think if you
3 listen to the video carefully, you will hear
4 them tell him, Next time, this case is yours to
5 work. And that is on the video, which is in
6 evidence.

7 The third thing is, Trooper
8 Yacobozzi's testimony about jurisdiction, I
9 think, is what is key here. Obviously, the
10 jurisdiction of a scene is where the wreck
11 occurred. It is not where the evidence ended up
12 or the car ended up. Here, the wreck or
13 accident, as you will, occurred when she left
14 the roadway, which was in the city of Goose
15 Creek.

16 So our position would be that he
17 did have jurisdiction. Secondly, even if he
18 didn't, he didn't arrest her. The McAteer case
19 is inapposite. In that case, it was whether or
20 not the officers had authority to arrest outside
21 of their jurisdiction. In this case, it was
22 very clear from Officer Hadden's testimony, as
23 well as Trooper Yacobozzi, that Officer Hadden
24 did not arrest her. In fact, it was Trooper
25 Yacobozzi that did, and there's no question that

1 he had the authority to do that.

2 The Tindall case, which they
3 refer to, totally does not apply to the facts of
4 this case. That is a traffic stop, a drug
5 suppression case during a traffic stop, where
6 the officer who initially stopped the person was
7 letting them go with a warning, handed them the
8 ticket, the stop was essentially over, and then
9 he detained him further for six or seven minutes
10 to ask for consent to search the vehicle. The
11 Court has held in those circumstances, where the
12 initial reason for the stop is finished, you
13 have to have reasonable suspicion, new
14 reasonable suspicion, to further detain them.

15 That is not the case in this
16 situation. The whole reason for Trooper Hadden
17 being there -- detaining her, whatever it was
18 that he did, sitting with her, waiting for the
19 trooper to arrive -- was investigatory. It was
20 part of the initial reason for him responding.
21 It was not a case where that was over with and
22 he then said, Oh, by the way, let me ask you
23 about this. It was the sole reason he was
24 there. And the fact is, he waited for the
25 trooper, either mistakenly or not mistakenly,

1 and Trooper Yacobozzi arrived, did what he was
2 required to do, and made an appropriate arrest.

3 So I think the case law that
4 would govern that, as far as timing, is it
5 varies from case to case, and I have never read
6 a case that said there is an absolute amount of
7 time in which you have -- from incident to
8 arrest time. And here, we have Officer Hadden
9 arriving at approximately 11:45 p.m., 11:46. We
10 have Trooper Yacobozzi being dispatched at 11:50
11 and arriving at 12:04. I don't think, under the
12 circumstances, that that is, anyway, a lengthy
13 period of time to wait for an arresting officer
14 to come to the scene.

15 Finally, Your Honor, I would just
16 say that their whole basis of their motion
17 appears to be based on the Martin case and the
18 fact that you can't make a warrantless arrest --
19 (CLEARS THROAT) excuse me -- and they just have
20 it wrong about that. The bottom line is, the
21 officers can make a warrantless arrest, and the
22 cases I hand up show that not only sheriffs'
23 deputies, but highway patrol troopers and
24 municipal officers all have the authority to
25 arrest without a warrant if a crime has been

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CERTIFICATE OF TRANSCRIPTIONIST

I, Stacey L. Wilson, do hereby certify:

That the foregoing audio file entitled
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I further certify that I am neither related
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Stacey L. Wilson
September 20, 2017

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THE STATE OF SOUTH CAROLINA
In the Supreme Court

CERTIORARI TO THE COURT OF APPEALS
Appeal from Berkeley County
Court of Common Pleas

S.C. SUPREME COURT

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

The State.....Petitioner,


v.

Jennifer Lynn Alexander.....Respondent.

Appellate Case No. 2016-002145
Unpublished Opinion No. 2016-UP-377
Heard March 9, 2016 – Filed July 27, 2016; rehearing denied September 20, 2016

PROOF OF SERVICE

I hereby certify that I have served a copy of the Petitioner’s Transcribed Audio, addressed to her attorneys of record, Norbert E. Cummings, Jr., Esq. and Henry Schlein, Esq. at Post office Box 1318, Summerville, South Carolina, 29484-1318, via United States Mail, postage prepaid, on this 29th day of September, 2017.



Monishia L. Davis, Paralegal
S. C. Department of Public Safety
Office of General Counsel

Dated: September 29, 2017