

Edward Anthony

mail me my proof back please

In the Judge that erred write the  
letter to Ass. Ms Coleman on  
November 23, 2016, Judge McIntosh

RECEIVED

NOV 16 2018

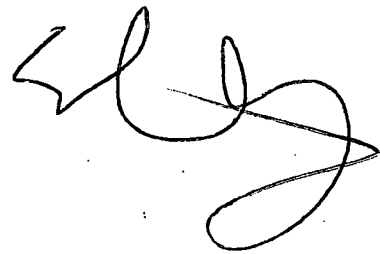
S.C. SUPREME COURT

RECEIVED

NOV 16 2018

S.C. SUPREME COURT

Please In Thank!



Edward Anthony  
2210 Bungalow Rd  
Augusta Ga 30906

November 14, 2018

To whom it may concern:

This is Edward Anthony and I'm writing your Supreme Courts Office. Now I come to the courts showing that there is an error in the law. There was no evidence to detain me for the alleged charge of shoplifting. So my constitutional rights have been violated on March 16, 2014. Now two months after the fact, on May 21, 2014. The Police officer returned to obtain evidence from the store which has a receipt with May 21, 2014 on it.

In the Cop entered the evidence on May 21, 2014 at 2100 hours, to the Police Department with the time in date on it. Now the officers knew about the tainted evidence before trial and doing, just like the prosecutor as well. The prosecutor entered tainted evidence with the May 21, 2014 date on it, which is the store receipt. Now if the officers police reports states that there was no evidence. Then why would the Cop return to the store to get this tainted evidence. By law you cannot do so, now the government agent. The cop has deprived me of my rights, life, and freedom.

My Public Defender had the proof in his possession, and showed the cop proof that he had it a year later at trial April 14, 2015. But failed, to turn it over to the jury at trial before they found me guilty. Now my public defender put on a conflict showing at trial by not giving the jury the requested information to prove my innocence. Making my public defender ineffective counsel by not doing so, now my rights have been violated.

So here is proof, with my chain of custody, Brady violation, 4<sup>th</sup> amendment violation, and more. Making it fundamentally unfair prejudicing the outcome. An action (such as an error made by the court) is prejudicial if it substantially affects a litigant's legal rights. **Malicious prosecution** is a common law intentional tort, while like the tort of abuse of process, its elements include (1) intentionally (and maliciously) instituting and pursuing (or causing to be instituted or pursued) a legal action (civil or criminal) that is (2) brought without probable cause and (3) dismissed in favor of the victim of the malicious prosecution. In some jurisdictions, the term "malicious prosecution" denotes the wrongful initiation of criminal proceedings, while the term "malicious use of process" denotes the wrongful initiation

False arrest is a common law tort, where a plaintiff alleges they were held in custody without probable cause, or without an order issued by a court of competent jurisdiction. Although it is possible to sue law enforcement officials for false arrest, the usual defendants in such cases are private security firms.

Prosecutors have a duty to disclose exculpatory evidence even if not requested to do so. While the prosecution is not required to search for exculpatory evidence and must disclose only the evidence in its possession, custody, or control, the prosecution's duty is to disclose all information known to any member of its team, e.g., police, investigators, crime labs, et cetera. A false allegation can occur as the result of intentional lying on the part of the accuser,<sup>[2][3]</sup> or unintentionally, due to a confabulation, either arising spontaneously due to mental illness<sup>[2]</sup> or resulting from deliberate or accidental suggestive questioning, or faulty interviewing techniques.<sup>[4]</sup> Researchers Poole and Lindsay suggested in 1997 applying separate labels to the two concepts, proposing the term "false allegations" be used specifically when the accuser is aware they are lying, and "false suspicions" for the wider range of false accusations in which suggestive questioning may have been involved.

The elements of shoplifting are (1) willfully taking possession of or concealing unpurchased goods that is offered for sale (2) with the intention of converting the merchandise to the taker's personal use without paying the purchase price. Possession or concealment of goods outside the premises.

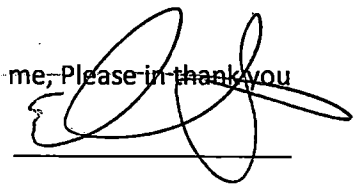
No evidence the witness wrote handwritten papers with 7 items, now on the store receipt has 3 items. She contradicted her testimony multiple times. Now if I never exited the store why lie on paper work, and at trial like at the video footage in change your story. To I didn't say that he left the store.

### Conclusion

All I'm asking that with your jurisdiction exonerate me of the alleged charge of shoplifting. I have been jumped on in handcuffs by police officers meaning more than one, on video and that's why the video evidence was entered as evidence to months later. So that the cops could cover up what they had done to me on March 16, 2014, when the police report stated no evidence. In how can I be outside of the camera, when I never left the store? By me taking it to trial I get the truth, that the cops, judge, prosecutor, and my public defender have been playing a game with my life.

I'm innocent of the charge, locked up with no evidence to arrest me, but there was planted evidence to establish cause. But looking at video once again no evidence you see to put the handcuffs on me. I have been beating up and hit with the Taser gun. By me being black I have rights that the United States constitution amendment awarded me the same rights as white people. So why deprive me of that right equal please, and the equal rights, the bill of rights, are in place. But I have been locked up because the cops knew they were wrong for doing. So with your great debates and scores I give you the true fact that I'm innocent as you can see. Now with your hand once again correct the wrong doings of the courts and police officers.

exonerated me, Please in thank you

A handwritten signature in black ink, appearing to read 'Edward Anthony', written over a horizontal line.

Edward Anthony

NOV 28 2016



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

R. Lawton McIntosh  
Judge

November 23, 2016

Post Office Box 8002  
100 South Main Street  
Anderson, SC 29622-8002  
Phone: (864) 260-4059  
Fax: (864) 224-6320  
lmcintoshj@sccourts.org

Ms. Julie Amanda Coleman  
S.C. Attorney General's Office  
P.O. Box 11549  
Columbia, SC 29211

Re: State of South Carolina v. Edward Anthony  
CA # 2014-GS-02-01000

Ms. Coleman,

Please find the enclosed letters received from Mr. Edward Anthony, inmate number 363714 located at Trenton Correctional Institute, 84 Greenhouse Road, Trenton, SC 29847. The case was tried in 2015. The enclosed was received by my office after November 15, 2016.

To the extent the enclosed would constitute post-trial motions, they would be untimely and I would have no jurisdiction to hear them. Out of an abundance of caution the filing may constitute an application for post-conviction relief, I am forwarding the same to the Attorney General's Office to take such steps as they see necessary and/or prudent. By copy of this letter, I am notifying Mr. Anthony of this communication as well as his former trial attorney and the assistant solicitor at the time.

With kindest regards, I remain yours truly,

A handwritten signature in black ink, appearing to be "R. Lawton McIntosh", written over a circular stamp or mark.

R. Lawton McIntosh, Judge  
Tenth (10<sup>th</sup>) Judicial Circuit

Cc: Aiken County Clerk of Court  
Cc: Mr. Edward Anthony  
Cc: Mr. Jeffrey Alan Slocum, Jr.  
Cc: Mr. M. Bradley McMillian

Broken Chain of  
Custody

Tampering with  
evidence

Violation

Agency: North Augusta Department of Public Safety  
Officer ID/Name:  
Date:

Incident  
Incident Number: 14-000676  
Case Number: 14-000676

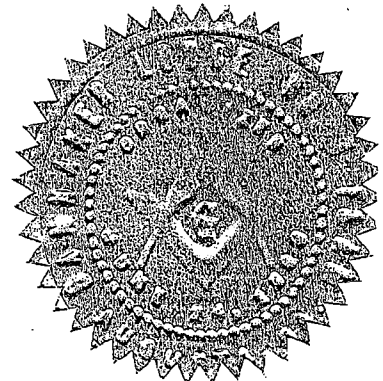
Narrative Title: SUP

14-000676  
SHOPLIFTING 3RD OR SUBSEQUENT OFFENSE  
DISORDERLY CONDUCT  
SUBJECT: EDWARD ANTHONY  
SUPPLEMENT

ON 05/21/2014 AT 1900 HOURS, PSO D. SMITH OBTAINED VIDEO AND A COPY OF THE RECEIPT OF THE STOLEN ITEMS FROM BELK. PSO D. SMITH WILL DROP THE VIDEO INTO EVIDENCE AND TURN THE RECEIPT IN TO THE RECORDS DIVISION. PSO D. SMITH ALSO REQUESTED THAT A COPY OF THE IN-CAR VIDEO OF THIS INCIDENT BE OBTAINED. PSO D. SMITH HAS NO FURTHER.

05/21/2014 2100 HOURS  
PSO D. SMITH 288

RECEIVED  
JUL 27 2016  
SOUTH CAROLINA  
COURT ADMINISTRATION



# ADDITIONAL NARRATIVE

Agency Name: North Augusta Department of Public Safety	ORI #: SC0020300	Report Date/Time: 03/16/2014 18:52	OCA #: 14-000676
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SUP

14-000676  
SHOPLIFTING  
DISORDERLY CONDUCT  
SUBJECT: EDWARD ANTHONY  
SUPPLEMENT

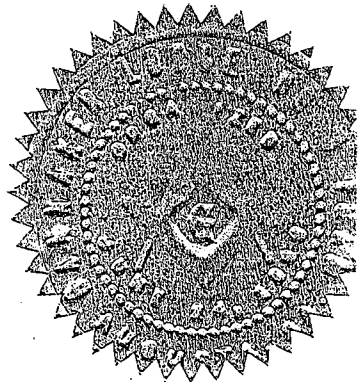
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05/21/2014 2100 HOURS  
PSO D. SMITH 288

RECEIVED

05/22/2014

RECEIVED  
JUL 27 2016  
SOUTH CAROLINA  
COURT ADMINISTRATION





1163 KNOX AVE  
 1163 KNOX AVE  
 NORTH AUGUSTA, SC 29841  
 ( 803 ) 279 - 4420  
 STORE MANAGER: WILL WHITT

See  
↓

STORE: 0299 REG: 5064 UOI.66  
 TRANA: 2373 ASSOC: 003778

ASSOCIATE NAME: JULIAN

SALE

DENIM PANTS  
 690742516534 1 39.99  
 62.00 PERM MKDN 39.99  
 KNIT TOPS  
 888132374813 1 49.99  
 89.50 PERM MKDN 49.99  
 59.99 NEW PRICE 49.99  
 KNIT TOPS  
 888132374813 1 49.99  
 89.50 PERM MKDN 49.99  
 59.99 NEW PRICE 49.99

QUANTITY: 003 SUB-TOTAL 139.97  
 SC 7% TAX 9.80  
 TOTAL \$ 149.77

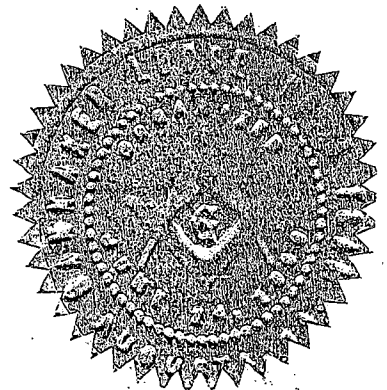
CASH ~~149.77~~

← See

YOU SAVED \$ 101.03

Shop Belk.com 24/7  
 For Great gift ideas  
 Free Shipping everyday  
 See Belk.com for details  
 Thank you for shopping at Belk. Please  
 retain receipt for return or exchange

\*\* REPRINT COPY \*\*



# Evidence Receipt

Location: BA03

Description: Evidence Permanent Assignment Receipt

Entered By: GEORGE A SHAW

Transaction Date: 03/20/2014 08:20:26

Case Number: 14-000676

Date/Time of Storage: 03/20/2014 08:20:19

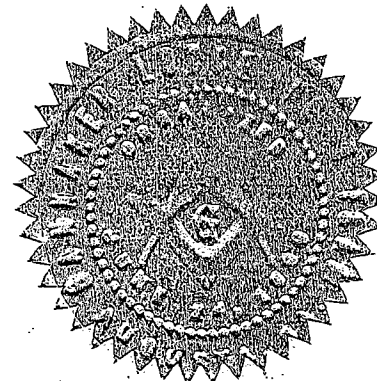
Folder Number : EVMAR2014	Evidence Number : 14-000185-EV	Jurisdiction : SC0020300
Recovery Location : BELK		
Recovery Address : 1163 KNOX AVE NORTH AUGUSTA	SC 29841	
Recovery Date : 03/19/2014 10:53:41	Recovery Officer : 197- BUSBEE, CLINT	
Released By : JC BUSBEE	Released To : EVIDENCE CUSTODIAN	
Other Agency ORI :		
Associated Numbers :		

Barcode : 14-000185-EV0001	Property Classification : General	Category : OTHER ITEMS
Property Code/		
Description : THREE DISCS CONTAINING VIDEO SURVEILLANCE		
Description : THREE DISCS CONTAINING VIDEO SURVEILLANCE		
Make :	Model :	Serial :
Narcotics Type :		
Quantity :	Measure :	
Item Status : Evidence		
Involvement Type : VICTIM		
Name :		
Address : 1163 KNOX AVENUE NORTH AUGUSTA SC 29841.		
Phone : 803-279-4421		

Received By : George Shaw [Signature]

Date Received : 3/20/14

Released To : \_\_\_\_\_



# Chain of Custody Report

Report Date: March 21, 2014

Barcode: 14-000185-EV0001  
Case Number: 14-000676  
Folder Number: EVMAR2014

Description: THREE DISCS CONTAINING VIDEO SURVEILLANCE  
Jurisdiction: SC0020300  
Evidence Number: 14-000185-EV

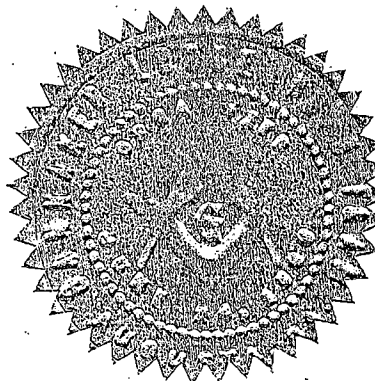
Category: Y      Classification: General      Prop Code/Description: THREE DISCS CONTAINING VIDEO S  
Make:      Model:  
Serial No:      VIN:  
Narcotics Type:      Quantity:  
Measure:      Color:  
Item Status: Evidence  
Temporary Location:  
Temporary Location Date:  
Recovery Date: 03/19/2014 10:53:00      Recovery Officer: 197 BUSBEE, CLINT  
Recovery Address: 1163 KNOX AVE NORTH AUGUSTA SC 29841  
Released By: JC BUSBEE      Released To: EVIDENCE CUSTODIAN  
Other Jurisdiction:  
Associated Numbers:

## Involved Parties

<u>Involvement Type</u>	<u>Name</u>	<u>Address</u>	<u>Phone</u>
SUSPECT	EDWARD RODRIQUEZ ANTHONY	2210 BUNGALOW ROAD AUGUSTA GA 30906-	
VICTIM	BELK	1163 KNOX AVENUE NORTH AUGUSTA SC 29841-	803-279-4421

## Location/Movement History

<u>Location ID</u>	<u>Officer</u>	<u>Reason</u>	<u>Transaction Date</u>	<u>Entered By</u>
BA03: BASKET 03	SHAW, GEOR 122	evidence	03/20/2014 08:20:19	GEORGE A SHAW
LO003: LOCKER 003	197 BUSBEE, CLINT	EVIDENCE	03/19/2014 11:00:55	CLINT BUSBEE



**Excessive  
Force By  
Police In  
Violating 4th  
Amendment**

STATE OF SOUTH CAROLINA )  
COUNTY/MUNICIPALITY OF North Augusta )

IN THE MAGISTRATE/MUNICIPAL COURT  
ORDER FOR DESTRUCTION OF ARREST RECORDS

THE STATE OF SOUTH CAROLINA )  
v. )

Race Black Sex Male Age \_\_\_\_\_  
DOB 03/29/1979 SSN 252-35-6831

EDWARD RODRIQUEZ ANTHONY  
Defendant

SID # \_\_\_\_\_

Charges were disposed of in the court indicated below:

Magistrate  Municipal

AKA \_\_\_\_\_

I, Thomas P. Murphy, Municipal Court Judge, find that the below charge(s) under the jurisdiction of this Court was ended by dismissal, *nolle prosequere*, or the defendant was found not guilty on 09/27/2017; and the defendant is entitled to have all records, including any outstanding associated bench warrants, relating to this offense expunged and destroyed pursuant to §17-22-950 and/or sealed pursuant to §17-1-40 at no cost to the accused.

Warrant/Ticket/Courtesy Summons No. 90065 GO Date of Arrest 03/16/2014 Place of Arrest Aiken County, S.C. \_\_\_\_\_  
Arrest Charge RESISTING ARREST

Warrant/Ticket/Courtesy Summons No. 90066 GO Date of Arrest 3/16/2014 Place of Arrest Aiken County, S.C. \_\_\_\_\_  
Arrest Charge DISORDERLY CONDUCT

The charge(s) covered by this order was not dismissed or *nolle prosequere* because of successful completion of the Pre-Trial Intervention Program, Traffic Education Program, Alcohol Education Program, conditional discharge, or any other statutorily authorized diversion program operated by a solicitor's office. The dismissal did not occur at a preliminary hearing and the accused does not have charges pending in summary court and a court of general sessions that arise out of the same course of events.

I find that §17-22-950 has been complied with as follows (check one):

- The defendant was fingerprinted.
- The defendant was not fingerprinted. The defendant has made application to the summary court for expungement pursuant to §17-22-950(B).

IT IS ORDERED that all records relating to such arrest or issuance of ticket or courtesy summons and subsequent discharge, including associated bench warrants, pursuant to the above-referenced section be expunged and destroyed and that no evidence of such records pertaining to such charge shall be retained by any municipal, county or state agency, except for the following: arrest and booking record, associated bench warrants, mug shots, and fingerprints of the defendant shall be retained under seal pursuant to §17-1-40, by law enforcement, detention, correctional and prosecution agencies for three years and one hundred twenty days, and law enforcement and prosecution agencies may retain the information indefinitely under seal for purposes set forth in §17-1-40 (B)(1)(a) and (b); pursuant to §17-1-40 (C)(1), this order does not require the destruction of evidence gathered, unredacted incident and supplemental reports, and investigative files, which statutorily shall be retained under seal for three years and one hundred twenty days, and may be retained indefinitely under seal for purposes set forth in §17-1-40 (C)(1); and information retained under seal by law enforcement, detention, correctional and prosecution agencies pursuant to §17-1-40 is not a public information and is exempt from disclosure, except by court order. Criminal charges must be removed from all Internet-based public records no later than thirty days from the disposition date.

KELLY ZIER

SUZANNE HAYES

Arresting Officer/Prosecutor/Affiant (Circle One)  
(To Verify Accuracy of Disposition)

Name of Defense Counsel and SC Bar # (if represented)

Thomas P. Murphy

Thomas P. Murphy  
Judge Signature and Judge Code

Printed/Typed Judge Name

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN  
CITY OF NORTH AUGUSTA

Signed this 1<sup>st</sup> day of Nov., 2017

I do hereby certify that the foregoing constitutes a true and correct copy of the original document which has been filed in the office of the Clerk of Court

For SLED internal use only: Expunged by SLED by: \_\_\_\_\_

Date: 5<sup>th</sup> day of NOV, 2017

Handcuffs On See pages.

look

Handcuffed  
Kill along

★ 161r

UNConstitutional  
misconduct  
Never Read my Rights  
Fake statement  
lying under oath  
Its a camera is the R

DANIEL DAVID SMITH - DIRECT BY SLOCUM

1 that I would detain the Defendant and proceed to the loss  
2 prevention office to further investigate the case.

3 Q. ~~★~~ Was he arrested at this point? *Go to page 176* ★

4 A. ~~★~~ No, sir. He was not. *★ Deputy Smith lied under oath*

5 Q. Was he being combative continually or just your  
6 initial approach?

7 A. ~~★~~ Yes, sir. He continued to be. Attempted to pull  
8 away when we attempted to detain him. ★

9 Q. ~~★~~ All right. Was he under arrest at this point?

10 A. ~~★~~ No, sir. He was not.

11 Q. What did you do when you got back to the loss  
12 prevention office?

13 A. I advised the Defendant of his Miranda warnings.  
14 He stated that he understood his rights under Miranda.  
15 And I asked him if he wanted to talk to me without an  
16 attorney present and he just continued to talk.

17 Q. ~~★~~ At this point was he under arrest? *He never Read Rights*

18 A. ~~★~~ No, sir. He was not.

19 Q. ~~★~~ At what point did he become under arrest?

20 A. ~~★~~ After obtaining the loss prevention associate's  
21 statement and viewing video surveillance and seeing that  
22 both coincided with one other, I determined that I had  
23 probable cause to arrest the Defendant for shoplifting.

24 Q. So you didn't just take the statement of  
25 Ms. Singletary, you watched the video to confirm?

Handicuffs On See pages.

Look \*

Handicuffed.  
All Along False Testimony  
164  
Lying Under oath  
Unconstitutional  
Rights Violated

DANIEL DAVID SMITH - DIRECT BY SLOCUM

1 A. \* I advised the Defendant that he was being placed  
2 into -- being arrested for shoplifting. At that point the  
3 Defendant began to yell and grabbed -- he was sitting in a  
4 chair outside the loss prevention office. \* He grabbed onto  
5 the chair and would not release it even after we commanded  
6 him -- or excuse me, after I commanded him to do so.

7 Q. What are you trained to do in these situations?

8 A. In a situation like that with a passive-resistant  
9 individual, we're trained to attempt first to contain them  
10 without force. If that does not work, we are taught soft,  
11 empty-hand control techniques such as pain compliance  
12 measures on nerves. I attempted to use a soft, empty-hand  
13 control technique on the hypoglossal nerve which is  
14 located in the jaw, on the notch right there, with my  
15 thumb.

16 Q. What was the result of that technique?

17 A. It was ineffective.

18 Q. What are you trained to do after that?

19 A. At that point we are trained if soft, empty-hand  
20 control technique does not work we transition to

21 intermediate weapons such as the X-26 taser. \*

22 Q. And was that used in this instance?

23 A. Yes, sir. It was.

24 Q. By whom?

25 A. Public Safety Officer Nichols used it.

Handcuffs been on see pages.

lied under oath. LOOK  
Handcuffs on 176 \*  
False testimony  
Unconstitutional  
Rights Violated

DANIEL DAVID SMITH - CROSS BY McMILLIAN

1 belly and you searched him, you said he was detained. At  
2 that point did you put him in handcuffs? \*

3 A. Yes, sir. \*

4 Q. \* And what's the wording y'all would use? Double  
5 locked and --

6 A. \* Check for proper fit and double locked.

7 Q. \* And y'all escorted him to loss prevention?

8 A. \* Yes, sir.

9 Q. \* Did you ever remove those handcuffs?

\* Go back to page 161  
Deputy Smith has lied under oath \*

10 A. \* No, sir.

11 Q. Now, can you describe the scene in the loss  
12 prevention office? How big an office is that?

13 A. I don't know the exact dimensions to describe to  
14 you. It's --

15 Q. Bigger or smaller than the jury box?

16 A. I would believe smaller than the jury box.

17 Q. So it's tight quarters?

18 A. Myself and the loss prevention associate were in  
19 there.

20 Q. \* And my client?

21 A. \* Your client was sitting in the hallway outside.

22 Q. \* Okay. And are there cameras in the loss prevention  
23 area as well? [Yes it is there. He the officer looked at it.]

24 A. \* No, sir. To the best of my knowledge there are  
25 not. He Lied. it is A surveillance camera back there in the room.

Handcuffs on. See pages.

Lying Under Oath \* <sup>yes look</sup>

177

False testimony  
Unconstitutional  
Rights Violated

DANIEL DAVID SMITH - CROSS BY McMILLIAN

1 Q. ~~♥~~ Now, you said he was seated in a chair?

2 A. ~~★~~ Yes, sir.

3 Q. ~~♥~~ Did the chair have arms? Yes, the Chair had Arms to Grabb \*

4 A. ~~★~~ I don't recall. I'm sorry.

5 Q. ~~♥~~ But he was handcuffed this entire time?

6 A. ~~★~~ Yes, sir. He was.

7 Q. Now, could I ask you to do something for me? Would  
8 you step down here in front of the jury with me? And I  
9 assume to apply the pressure, you need to approach the  
10 suspect from behind?

11 A. (No audible response.)

12 Q. ~~♥~~ Can you demonstrate where exactly that is for the  
13 jury?

14 A. ~~★~~ Yes, sir. It is right here in the notch in your  
15 jaw, right where my thumb is. \* CHOKING on the floor happen.

16 Q. ~~★~~ Now do you apply pressure to both sides?

17 A. ~~★~~ In this occasion I more than likely would have  
18 applied to one side. The other officer was on the other  
19 side.

20 Q. ~~♥~~ And it's with your thumb?

21 A. ~~★~~ Yes, sir.

22 Q. ~~♥~~ Okay. And when that didn't work you claim that he  
23 was holding onto a chair with both hands handcuffed behind  
24 his back.

25 You can take your seat. I'm sorry.

Handcuffs on, See pages.

lying under oath  
Handcuffs  
All along  
tased in cuffs

178  
False testimony  
Unconstitutional  
Rights Violated

DANIEL DAVID SMITH - CROSS BY McMILLIAN

1 A. Can you repeat the question, please?

2 Q. \* When applying pressure to his hypoglossal nerve,  
3 when that didn't work you had to deploy a drive stun, I  
4 believe was your testimony?

5 A. Yes, sir. It was.

6 Q. \* And that was while his hands were behind his back?

7 A. \* Yes, sir. See pages 203

8 Q. \* Okay. Is there any truth to that rumor that you  
9 have to be tased before you can carry a taser?

10 \*A. I mean, it depends on the department, I assume. \* In  
11 my department it is not policy. \*

12 \*Q. Okay. So you've never been tased before?

13 A. Yes, sir. I have.

14 Q. You have?

15 A. I volunteered to be tased.

16 Q. What's that feel like?

17 A. Not fun.

18 Q. Not fun.

19 Judge, if I may have just a moment? (Pause.)

20 Judge, I don't think I have any further questions.

21 THE COURT: Okay. Redirect?

22 MR. SLOCUM: Briefly, Judge.

23

24

25

# **Brady Violation**

- 1. Prosecutorial  
misconduct**
- 2. Ineffective assistance  
of trial counsel**
- 3. Courts erred Fruit of  
the poisonous tree**

# False evidence

---

**False evidence**, **fabricated evidence**, **forged evidence** or **tainted evidence** is information created or obtained illegally, to sway the verdict in a court case. Falsified evidence could be created by either side in a case (including the police/prosecution in a criminal case), or by someone sympathetic to either side. Misleading by suppressing evidence can also be considered a form of false evidence (by omission), however, in some cases, suppressed evidence is excluded because it cannot be proved the accused was aware of the items found or of their location. The analysis of evidence (forensic evidence) may also be forged if the person doing the forensic work finds it easier to fabricate evidence and test results than to perform the actual work involved. Parallel construction is a form of false evidence in which the evidence is truthful but its origins are untruthfully described, at times in order to avoid evidence being excluded as inadmissible due to unlawful means of procurement such as an unlawful search.

Apart from the desire for one side or another to succeed or fail in its case, the exact rationale for falsifying evidence can vary. Falsifying evidence to procure the conviction of those honestly believed guilty is considered a form of police corruption even though it is intended to (and may) result in the conviction of the guilty; however it may also reflect the incorrect prejudices of the falsifier, and it also tends to encourage corrupt police behavior generally. In the United Kingdom, this is sometimes called 'Noble Cause Corruption'. A "throw down", i.e. the planting of a weapon at a crime scene might be used by the police to justify shooting the victim in self-defense, and avoid possible prosecution for manslaughter.<sup>[1]</sup> However, the accused might have falsified some evidence, especially if not arrested immediately, or by having other access to a crime scene and related areas.

## Contents

---

### Types

### Cases

- The Crewe murders
- Killing of Bernard Whitehurst
- Murder of Holly Staker
- New York State Police Troop C scandal
- FBI scandal
- Iraq and Afghanistan Wars

### See also

### References

### Further reading

## Types

---

- Forged evidence* - an item or information manufactured, or altered, to support some agenda, is not admissible in many courts, including U.S. criminal courts.
- Planted evidence* - an item or information which has been moved, or planted at a scene, to seem related to the accused party, is not admissible in many courts, including U.S. criminal courts.
- Tainted evidence* - information which has been obtained by illegal means or has been revealed (or traced) using evidence acquired by illegal search, and/or seizure, is called the "fruit of the poisonous tree" and is not admissible in many courts, including U.S. criminal courts.

- **Parallel construction** - tainted evidence, where the origin of the evidence is untruthfully represented, preventing discussion of whether it was legally obtained or not.
- **Suppressed evidence** - an item or information which a court judge has ruled as "inadmissible" is forbidden to be presented in a court case. Suppressed evidence might be excluded because it was found hidden or locked away in areas the accused could not be proven to know.

In some criminal cases, a person will be identified as a "**person of interest**" for a few days before arrest, allowing time to reveal suspicious actions (such as in recorded phone calls), or to attempt to falsify evidence before their arrest. A type of falsified evidence, used to acquit, would be faked sales receipts which indicated activities (with the accused) had occurred elsewhere during the time of the crime.

## Cases

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### The Crewe murders

In June 1970 a Pukekawa, Lower Waikato, couple were killed and their bodies dumped in the Waikato River. Arthur Allan Thomas, a local farmer, was twice convicted of their murders but following massive publicity was later given a Royal Pardon.

Two bullet cases presented by senior policemen Hutton and Johnston were crucial evidence for the conviction. In 1980, after Thomas's pardon a Royal commission into the convictions concluded "Mr Hutton and Mr Johnston planted the shellcase, exhibit 350 in the Crewe garden, and that they did so to manufacture evidence that Mr Thomas's rifle had been used for the killings."<sup>[2]</sup>

### Killing of Bernard Whitehurst

In 1975, after the shooting death of **Bernard Whitehurst** by a Montgomery, Alabama police officer who mistakenly thought Whitehurst was the suspect in the robbery of a neighborhood grocery store, there was a police cover-up that included police officers planting a gun on him from the police evidence room. The coroner relied on police reports that Whitehurst was killed by a bullet fired through the chest.<sup>[3]</sup> After an investigation by the local newspaper and local attorney Donald Watkins raised questions about the facts of the case, six months later, the District Attorney James Evans ordered the body to be exhumed and an autopsy to be performed.<sup>[3]</sup> The results of the autopsy showed that Whitehurst had been shot in the back.<sup>[3]</sup> The attempted cover-up led to the resignation of eight police officers, the city's mayor, James Robinson and the Director of Public Safety, Ed Wright.<sup>[4][5]</sup> No police officer was convicted of a crime.<sup>[6]</sup> Forty years later, the Montgomery City Council passes a resolution that formally expressed regret for the shooting and cover-up.<sup>[4]</sup>

### Murder of Holly Staker

In 1992, 11-year-old Holly Staker was raped and murdered while babysitting in Waukegan, Illinois. A local man named Juan Rivera was convicted of the murder solely on the basis of a confession, one that he claimed was coerced. No physical evidence linked him to the crime scene and many details of his confession contradicted known evidence from the crime scene. DNA testing done in 2004 on semen taken from the crime scene ruled out Rivera as the source, however, the prosecution argued that the semen sample came from previous consensual sex with another man. Rivera was convicted again. His conviction was overturned by the appellate court who took the unusual step of barring prosecutors from retrying Rivera and he was released.<sup>[7]</sup>

After his release, Rivera's attorneys asked the courts to order genetic testing on a piece of evidence the prosecution had tried to use at his trial in 1993. Rivera's shoes had blood on them, which the prosecution argued belonged to Holly. The prosecution withdrew them prior to his first trial when it was discovered that the shoes were not available for sale anywhere in the United States until after the murder. In 2015, Juan's attorney sought further forensic testing on the shoes. DNA analysis indicated that the blood indeed belonged to Holly, but also contained another genetic sample; one that matched the semen sample. Rivera's defense team insists that this is proof not only that the blood was planted, but that the real killer's DNA was inadvertently planted as well. The DNA has yet to be matched to an individual, but has been linked to DNA from another home invasion and murder. The man convicted of that crime also claims to be wrongfully convicted.<sup>[8][9]</sup>

Following his exoneration, he was awarded \$20 million USD, the largest wrongful conviction settlement in US history.<sup>[10][11][10]</sup>

## New York State Police Troop C scandal

In the New York State Police Troop C scandal of 1993, Craig D. Harvey, a New York State Police trooper, was charged with fabricating evidence. Harvey admitted he and another trooper lifted fingerprints from items the suspect, John Spencer, touched while in Troop C headquarters during booking. He attached the fingerprints to evidence cards and later claimed that he had pulled the fingerprints from the scene of the murder. The forged evidence was used during trial and John Spencer was sentenced to 50 years to life in prison.<sup>[12]</sup>

After the truth came out, it was discovered that they had been falsifying evidence in cases for many years. At least three officers were convicted. Every case the department had been involved in had to be reinvestigated.

## FBI scandal

In the 1990s, the fingerprint, DNA, and explosive units of the Federal Bureau of Investigation Laboratory had written reports confirming local police department theories without actually performing the work.

Such laws and regulatory procedures stipulating the conditions under which evidence can be handled and manipulated fall under a body of due process statues called chain of custody rules. It is crucial for law enforcement agencies to scrupulously collect, handle and transfer evidence in order to avoid its falsification. In most jurisdictions, chain of evidence rules require that the transfer of criminal evidence be handled by as few persons as possible. To prevent error or improper tampering, chain of evidence rules also stipulate that those authorized to experiment with collected evidence document the nature, time, date and duration of their handling.

## Iraq and Afghanistan Wars

In the wars in Iraq and Afghanistan, soldiers have been known to place weapons on or near a slain individual to make that person appear to be an enemy combatant or insurgent.<sup>[13][14][15]</sup> Alternatively, a drop weapon or other item is left in the open; any individual who picks it up may be fired upon; a process known as baiting.<sup>[13][14][15]</sup>

The use of drop weapons has been the cause of some controversy in the Iraq War.<sup>[16][17][18]</sup>

In 2008, three United States Army soldiers were found guilty of planting evidence in this way; one of them, Sgt. Evan Vela, was also sentenced to a 10-year prison term for murder of an unarmed Iraqi.<sup>[16]</sup>

A military court found that on the 27th of April, 2007, Specialist Jorge Sandoval, shot an Iraqi man, on the order of Staff Sgt. Michael Hensley. The two men then placed a spool of wire into the pocket of the dead man, who had been cutting grass with a rusty sickle.<sup>[14]</sup> Hensley and Sandoval were charged with murder, of which they were acquitted, and with planting evidence, of which they were found guilty.<sup>[16]</sup>

The Asymmetric Warfare Group is said by Captain Didier to have sent boxes of the kind normally used to hold ammunition filled with "drop items" to his unit, the 1st Battalion 501st Infantry Regiment in order "to disrupt the AIF (Anti-Iraqi Forces) attempts at harming coalition forces and give us the upper hand in a fight."<sup>[13][14]</sup>

The Independent newspaper quoted a spokesperson for the US military as saying: "There are no classified programs that authorise the murder of local nationals and the use of 'drop weapons' to make killings appear legally justified."<sup>[13]</sup>

## See also

- False accusations
- False arrest
- Fingerprint
- Intimidation
- Kompromat § History
- Miscarriage of justice
- Parallel construction
- Surveillance abuse
- 2015 Ninoy Aquino International Airport bullet planting scandal
- Bariş Pehlivan
- Howland will forgery trial
- List of wrongful convictions in the United States
- M62 Coach Bombing

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## Further reading

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- *National Law Journal*; October 9, 1995; "Faked Evidence Becomes Real Problem-From Fingerprints to Photos to Computer Data, Lawyers are Learning to be Vigilant"
- *New York Times*; November 22, 1992, Sunday; "Ripples of a Pathologist's Misconduct In Graves and Courts of West Texas. The prairie graveyards of West Texas are giving mute testimony to the misdeeds of a circuit-riding pathologist who left a trail of faked autopsies, botched blood samples and missing organs from the Panhandle to the Rio Grande. According to defense lawyers' estimates, as many as 20 capital murder cases ..."
- John F. Kelly and Phillip K. Wearne; *Tainting Evidence: Inside The Scandals At The FBI Crime Lab*

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# Prosecutorial misconduct

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In jurisprudence, **prosecutorial misconduct** is "an illegal act or failing to act, on the part of a prosecutor, especially an attempt to sway the jury to wrongly convict a defendant or to impose a harsher than appropriate punishment."<sup>[1]</sup> It is similar to selective prosecution. Prosecutors are bound by a sets of rules which outline fair and dispassionate conduct.<sup>[2]</sup>

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## Types of misconduct

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- Burden Shifting
- False confession
- False arrest – abetting
- Falsified evidence
- Intimidation
- Police brutality – abetting
- Prosecutorial corruption
- Political repression
- Racial profiling
- Sexual abuse
- Surveillance abuse – abetting
- Testifying -- Subornation of perjury
- Failure to disclose exculpatory evidence

## Abuses of discretion

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Prosecutors are given discretion about how they conduct their business. However, while some practices are not illegal, they may be seen as unethical and/or abusive and in need of reform, particularly by defendants and criminal defense attorneys:

- Selective prosecution by race, income, political affiliation, etc.
- Capture of the grand jury, misusing it as a tool for inquisitorial abuse, or excluding citizen complaints from being heard.
- Plea bargaining abuses, such as seeking testimony in exchange for leniency. This may solicit perjury or falsified evidence.
- "Horsetrading", the practice of colluding with defense attorneys to agree to get some of their clients to plead guilty in exchange for letting others off.
- Threatening public officials, especially judges, with prosecution if they don't unduly support their cases.

- Tainting of jury pools with public statements by prosecutors that are either inaccurate, exaggerated, unsupported by evidence or that could be inadmissible at trial, and such statements become widely promulgated by the media.
- Prosecutors causing depositions in a related civil trial which were likely to yield exculpatory evidence, and then "staying" those statements so they cannot be used in a criminal trial.
- Prosecutors naming a host of "un-indicted co-conspirators" in conspiracy cases to intimidate potential defense witnesses with threats of retaliatory prosecution.
- Prosecutors using their Peremptory Challenges to remove from the jury anyone with relevant experience in the complex subjects of a trial. Defense attorneys often use similar tactics. Both attempt to prevent a juror's technical knowledge from interfering with the credibility of their expert witnesses.
- Prosecutors pursuing criminal penalties for selected industry practices in Corporate America when regulatory intervention would be more appropriate. For example, prosecuting a mechanic for minor violations of the Clean Water Act rather than affording the opportunity for the mechanic to correct their error and pay the appropriate fines.
- Prosecutors using multidendant trials to get defendants to turn on one another in the courtroom, as judges may be reluctant to allow separate trials in multi-defendant cases.

## Examples and remedies

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In late 1993, the 6th US Circuit Court of Appeals ruled that John Demjanjuk had been a victim of prosecutorial misconduct during a 1986 trial in which federal prosecutors withheld evidence. Demjanjuk's sentence was overturned, but he lost when his case was retried.

In the 1995 murder trial of O. J. Simpson, the defense argued that Los Angeles Police Department detective Mark Fuhrman had planted evidence at the crime scene. Although Fuhrman denied the allegations, Simpson was found not guilty, although he was later held liable for the deaths in a civil suit filed by the families of the victims. In USA Today (August 24, 1995), Francis Fukuyama stated, "[Such defenses lead to] a distrust of government and the belief that public authorities are in a vast conspiracy to violate the rights of individuals." However, such misconduct may actually be widespread in the United States. "It's a result-oriented process today, fairness be damned," Robert Merkle, former U.S. Attorney for the Middle District of Florida, said.<sup>[3]</sup> Prosecutors are protected from civil liability even when they knowingly and maliciously break the law in order to secure convictions, and the doctrine of harmless error can be used by appellate courts to uphold convictions despite such illegal tactics, which some argue gives prosecutors few incentives to comply with the law.<sup>[4]</sup>

A more recent example of prosecutorial misconduct can be seen in the 2006 Duke lacrosse case. In that incident, members of the Duke University men's lacrosse team hired a female stripper for a team party. She went on to accuse three players of raping her at that party. Making the case even more volatile was the fact that the stripper was black and the three accused players were white. The actions of the prosecutor in this case, Mike Nifong, drew enormous criticism, as he proceeded with the case despite numerous inconsistencies in the accuser's story, a lack of DNA evidence conclusively linking any player to any sexual assault, and at least two of the accused having solid alibis. He also made numerous inflammatory statements to the media. The case against the players eventually collapsed; all charges were dropped, and the North Carolina Attorney General took the unusual step of declaring the players innocent. The North Carolina State Bar eventually disbarred Nifong for his actions during this case.

In 2011 a Texas man, Michael Morton was released from prison after serving nearly 25 years for the murder of his wife in 1987. He was released after DNA evidence pointed to another man as the killer.<sup>[5]</sup> The prosecutor, Ken Anderson later plead guilty to withholding evidence that could have helped Morton fight the murder charge. He was sentenced to spend 10 days in jail and was also disbarred.<sup>[6]</sup>

Despite such, the defense has been successful in roughly 1 out of 6 times it has been used from 1970 to 2003. During that period, judges have cited misconduct by prosecutors as a reason to dismiss charges, reverse convictions, or reduce sentences in 2,012 cases, according to a study by the Center for Public Integrity released in 2003; the researchers looked at 11,452 cases in which misconduct was alleged.<sup>[7]</sup>

A debate persists over the meaning of the term. Prosecutors have asked judges to stop using the term to refer to an unintentional error, and to restrict its use to describe a breach of professional ethics. E. Norman Veasey, the chief justice of Delaware Supreme Court, answered one such request in 2003 by noting the term's extensive use in rulings over the past 60 years. "We believe it would be confusing to change the terminology in view of this history," he wrote in reply.

## See also

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- Attorney misconduct
- Fruit of the poisonous tree
- Harmless error
- Malicious Prosecution
- Selective Prosecution
- List of wrongful convictions in the United States

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## External links

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- Discovery violations have made evidence-gathering a shell game ([http://www.post-gazette.com/win/day3\\_1a.asp](http://www.post-gazette.com/win/day3_1a.asp)), *The Pittsburgh Post-Gazette*, November 24, 1998

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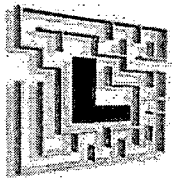
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USLegal (https://uslegal.com/) >  
 Legal Definitions (https://definitions.uslegal.com/) >  
 G (https://definitions.uslegal.com/g/) > Giglio Information

## Giglio Information Law and Legal Definition



### Charity State Filings

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▶ × In U.S. law, Giglio information or material refers to material tending to impeach the character or testimony of the prosecution witness in a criminal trial.

The Supreme Court's 1963 decision in *Brady v. Maryland*, 373 U.S. 83 (U.S. 1963) held that the prosecution violates due process when it "withholds evidence on demand of an accused which, if made available, would tend to exculpate him or reduce the penalty.

In *Giglio v. United States*, 405 U.S. 150, 153 (U.S. 1972), the Supreme Court extended the prosecution's obligations under *Brady* to disclosure of impeachment evidence. Supreme Court clarified that all impeachment evidence, even if not a prior statement by a witness falls within the *Brady* rule. Giglio mandated that the prosecution should disclose any and all information that may be used to impeach the credibility of prosecution witnesses including law enforcement officers. Impeachment information under Giglio includes information such as prior criminal records or other acts of misconduct of prosecution witness, promises of leniency or immunity offered to prosecution witnesses.

### ▶ Legal Definition list

# S A D O

## New Trial Granted for Brady-Violation and for Trial Counsel's Failure to Secure Expert in Abusive Head Trauma Case

In a Macomb County case, *People v. DiMambro*, the defendant was convicted of first-degree felony murder and first-degree child abuse, Judge Jennifer M. Faunce presiding. Mr. DiMambro appealed by right to the Court of Appeals and sought remand for an evidentiary hearing on an issue of ineffective assistance of trial counsel for failure to investigate the prosecution's causation theory.

The defense arguments on ineffective assistance of trial counsel were supplemented on remand by an allegation of a *Brady*-violation [*Brady v. Maryland*, 373 U.S. 83 (1963)], after 32 additional photographs taken during the brain autopsy by the Macomb County Medical Examiner, Dr. Daniel Spitz, were given to the defense only a short time before the evidentiary hearing. Neither trial counsel nor the defense expert at trial had, or were aware of, the photographs at the time of trial.

Judge Faunce found trial counsel was ineffective for not investigating alternate theories of causation. Trial counsel proceeded on an involuntary manslaughter theory based on an understanding that the fatal injuries occurred hours before hospitalization. The trial defense expert, Dr. Bader Cassin, similarly thought the injuries were within hours of hospitalization, and the severity of the injuries would have rendered the child symptomatic immediately after they occurred—testimony that actually undercut a portion of the defense. During the evidentiary hearing, the defense presented as witnesses Oakland County Medical Examiner Dr. Ljubisa J. Dragovic, and Dr. Chris A. Van Ee, a biomechanics engineer specializing in pediatric head injuries. The evidence from the photos, Dr. Dragovic testified, supported a determination that the areas of bruising in the brain could have resulted from a single event, i.e., a fall, the day before the child was hospitalized and that the child could have appeared asymptomatic for a time after the fall. Dr. Dragovic also testified that Dr. Spitz did not take steps during the autopsy to determine the age of the bruises found on the brain.

Judge Faunce concluded that Dr. Dragovic's testimony was information relevant to determining cause of death "from both a pathological and biomechanical standpoint," and trial counsel rendered ineffective assistance by failing to seek out the alternate opinions of causation.

Judge Faunce also found that there was a *Brady*-violation, and that it was not harmless error, because the autopsy photographs were material to Dr. Spitz's conclusion that the death of the child was intentionally caused some hours before the child's hospitalization, and the testimony from experts at the evidentiary hearing undermined that conclusion.

The prosecutor has appealed this ruling; the appeal is pending in the Court of Appeals.

Mr. DiMambro was represented on appeal by SADO Assistant Defender **Erin Van Campen**. A copy of the January 5, 2016, opinion in *People v. DiMambro*, Macomb County Circuit Court No. 2013-004215-FC, is available here: [http://www.sado.org/cdn/articles/10677\\_People-v-DiMambro.pdf](http://www.sado.org/cdn/articles/10677_People-v-DiMambro.pdf).

**by Neil Leithauser**  
**Associate Editor**

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by Department. No Evidence \*  
False statement  
False testimony

DANIEL DAVID SMITH - CROSS BY McMILLIAN

1 THE COURT: Yes, sir.

2 \* THE WITNESS: Here's the supplemental.

3 BY MR. McMILLIAN:

4 Q. \* And in that supplemental you also requested that a  
5 copy of your in-car video be added? - Dash - Cam

6 A. \* Yes, sir. I did. "Brady Violation"

7 Q. \* We were never provided any of that, though, were  
8 we?

9 A. \* No, we were not.

10 Q. So we don't have any proof of this alleged  
11 statement that you say he made in the car?

12 A. No, sir.

13 Q. \* You went back out and collected the video on May  
14 21st? Turn Evidence May, illegal obtained. Planting Evidence

15 A. \* Yes, sir. True. It unconstitutional. "Rights Violated"

16 Q. \* Did you collect any other evidence, any broken  
17 security tags?

18 A. \* No, sir. I did not.

19 Q. \* Any merchandise?

See page 173, and 167

20 A. \* No, sir. I did not.

21 Q. \* So when the solicitor asked you earlier if you  
22 conducted any forensic stuff, that's because you didn't  
23 have anything to conduct any tests on; correct?

24 A. \* No, sir. I did not.

25 Q. Let's talk for a minute. After he exposed his

\*179  
Withheld evidence  
to prove my innocence  
by Police Department  
Unconstitutional

REDIRECT EXAMINATION

BY MR. SLOCUM: < Prosecutor Coerce

Q. \* Officer Smith, you testified earlier that --  
Mr. McMillian asked you a question. When you walked in.  
the store you walked right past my client. But you didn't  
see him, did you, when you came in the store? See page 172

A. \* No, sir. I didn't. He lied again,

Q. \* Not until Ms. Patsy pointed him out?

A. \* Yes. Lied under oath

Q. \* And your in-car video, any reason that you know of  
why that wasn't dropped? See page 175. "Brady Violation"

A. I have no idea.

Q. Do you work for CSI or NCIS?

A. No, sir. I do not.

Q. This is the real world; isn't it?

A. Yes, sir. It is.

Q. Stuff happens?

A. Yes, sir.

Q. Did you do anything outside of North Augusta  
Department of Public Safety protocol on this date? *lying under oath*

A. No, sir. It was reviewed to ensure I did not.

MR. SLOCUM: That's all the questions I have,  
Judge.

THE COURT: Thank you. May this witness be  
excused?

Look  
★ 173  
False testimony  
Under oath  
No Evidence

1 Q. And he, in fact, immediately said, I didn't do  
2 anything?

3 A. Yes, sir.

4 Q. And he immediately started lifting his shirt?

5 A. Yes, sir.

6 Q. In fact, he exposed his bare belly --

7 A. Yes, sir.

8 Q. -- to you?

9 A. Yes, sir.

See page 167, and 175

10 Q. ★ There was no merchandise in his waistline?

11 A. ★ No, sir.

12 Q. ★ None in his jacket?

13 A. ★ No, sir.

14 Q. ★ None in his underwear?

15 A. ★ No, sir.

16 Q. ★ You further searched him; correct?

17 A. ★ Yes, sir. I did.

18 Q. ★ Did you find any merchandise in that search?

19 A. ★ No, sir. I did not.

20 Q. ★ Now, obviously during your search you didn't add  
21 anything to his person, you didn't put anything in his  
22 pockets?

23 A. ★ No, sir. I didn't.

24 Q. ★ You didn't take anything out?

25 A. ★ No, sir.

See page.

No Evidence See page.

Date and time Don't Relate  
With the Crime or Evidence

False testimony LOOK

\* 174

May 21, 2014 in NC

March 16, 2014

DANIEL DAVID SMITH - CROSS BY McMILLIAN

Planting of Evidence, tainted evidence, illegally obtained evidence

1 Q. And you never did --

2 A. I apologize. I'm sorry. I did remove -- once I  
3 located the adjustable channel-lock pliers and what  
4 appeared to be a magnet, I did remove those to see what  
5 they were.

6 Q. Okay. But at some point you put those back in his  
7 pocket?

8 A. Yes, sir. They remained on his person.

9 Q. Okay. So, everything he had on his person is the  
10 same stuff he would have had when he got to the jail?

11 A. Yes, sir.

12 Q. \* Did you ever go back out to Belk's to collect any  
13 photographs?

14 A. \* I did go back out. I'm unsure of the exact date.  
15 I have a report if you'd like for me to check.

16 Q. Would you reference that?

17 A. \* Yes, sir. (Looking at document.)

18 \*\* Okay. According to my supplemental report to my  
19 original incident, on <sup>\*</sup>May 21st, 2014, at seven p.m., I  
20 returned to Belk. I obtained a copy of the receipt of the  
21 items in question and obtained a video surveillance,  
22 dropped it into evidence.

23 Q. May I see what you're referencing?

24 A. Absolutely.

25 MR. McMILLIAN: Permission to approach, Judge?

Exhibit  
( 38 )

Withheld Evidence by Prosecutor  
Brady Violation

(255) "North Augusta Police"  
"Judge's Error"

(Judge's Doubt)

1 \*Officer Daniel Smith's police report that he was referring  
2 \*to on the stand entered into evidence.

3 \* MR. McMILLIAN: No, Your Honor.

4 THE COURT: And so, my -- I would say no, and you  
5 just got to make a decision based on the evidence that's  
6 in the record at this point.

7 \* Any problem with that from either side?

8 MR. SLOCUM: No, sir.

9 \* MR. McMILLIAN: No, Judge. Key

10 THE COURT: Any other requests or instructions to  
11 the jury?

12 MR. SLOCUM: None from the State, Judge.

13 THE COURT: Okay. Bring the jury out, please.

14 (Jury enters courtroom at 3:15 p.m.)

15 \* THE COURT: All right. Madam Forelady, the  
16 \*question from the jury was: Was Officer Daniel Smith's  
17 \*police report that he was referring to on the stand  
18 \*entered into evidence; correct?

19 FOREPERSON OF THE JURY: Yes, Your Honor.

20 \* THE COURT: And the answer to that question is no.

21 \*And the record that's been placed before you is what  
22 \*you'll have to make your decision on. Okay?

23 FOREPERSON OF THE JURY: Yes, Your Honor.

24 \* THE COURT: Does that respond to the jury's  
25 question?

Exhibit  
(50)

Withheld Evidence by Prosecutor and Cops  
Safeguard is Imposed, by Violating <sup>262</sup> Rights

1 return?

2 THE DEFENDANT: 2012.

3 THE COURT: Sir?

4 THE DEFENDANT: 2012.

5 THE COURT: 2012. What income were you claiming  
6 from that?

7 THE DEFENDANT: I get paid under the table. I do  
8 contractor work with my grandfather..

9 THE COURT: Uh-huh.

10 THE DEFENDANT: So you set a price and they pay you  
11 then.

12 THE COURT: Right.

13 THE DEFENDANT: I work every year though. I work  
14 temporary jobs with the Coops Staffing. I lost my job. I  
15 got a job now though.

16 THE COURT: Now, Mr. Anthony, I told you I'd let  
17 you speak. Go ahead. I'll be glad to let you.

18 THE DEFENDANT: All right. In the case that y'all  
\* 19 presented today, I was -- it <sup>\*</sup>violated my rights to a fair  
20 trial.

\* 21 First of all, it's Safeguard imposed. She said she seen me do  
22 something. She didn't show you actual footage where I  
23 went to go back the cell phone. The man said I had a  
24 magnet. I never had a magnet.

25 The clothes that they presented today, I didn't put

Exhibit  
(5A)

**4th  
amendment  
violation with  
illegally  
obtained  
evidence**

# belk

1163 KNOX AVE  
1163 KNOX AVE  
NORTH AUGUSTA, SC 29041  
( 803 ) 279 - 4420  
STORE MANAGER: WILL WHITE

See  
↓

STORE: 0299 REG: 5064 U01.6b ~~0527111111~~  
TRAN#: 2373 ASSOC: 003778 ~~003778~~

ASSOCIATE NAME: JULIHN

SALE

DENIM PANTS		
690742516534		39 99
62 00 PERM MKDN		
KNIT TOPS		
888132374813		49 99
89 50 PERM MKDN		59 99
59.99 NEW PRICE		49.99
KNIT TOPS		
888132374813		49 99
89 50 PERM MKDN		59 99
59 99 NEW PRICE		49 99

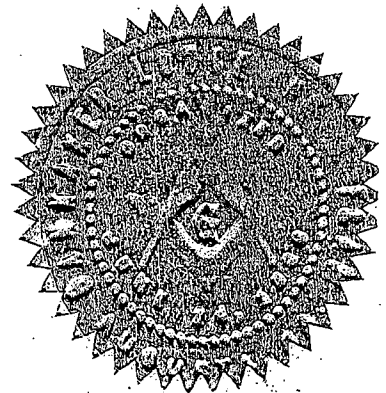
QUANTITY: 003 SUB-TOTAL 139 99  
SC 7% TAX 9 80  
TOTAL \$ 149.77  
~~CASH 149.77~~

← See

YOU SAVED \$ 101 03

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For Great gift ideas  
Free Shipping everyday  
See Belk.com for Details  
Thank you for shopping at Belk. Please  
retain receipt for return or exchange

\*\* REPRINT COPY \*\*



Agency: North Augusta Department of Public Safety

Officer ID/Name:

Date:

Incident:

Incident Number: 14-000676

Case Number: 14-000676

Narrative Title: SUP

14-000676

SHOPLIFTING 3RD OR SUBSEQUENT OFFENSE

DISORDERLY CONDUCT

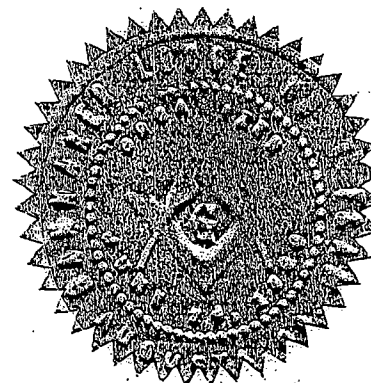
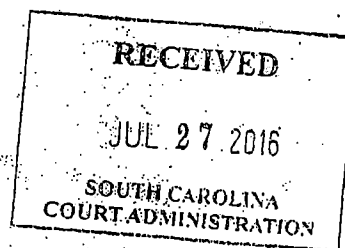
SUBJECT: EDWARD ANTHONY

SUPPLEMENT

ON 05/21/2014 AT 1900 HOURS, PSO D. SMITH OBTAINED VIDEO AND A COPY OF THE RECEIPT OF THE STOLEN ITEMS FROM BELK. PSO D. SMITH WILL DROP THE VIDEO INTO EVIDENCE AND TURN THE RECEIPT IN TO THE RECORDS DIVISION. PSO D. SMITH ALSO REQUESTED THAT A COPY OF THE IN-CAR VIDEO OF THIS INCIDENT BE OBTAINED. PSO D. SMITH HAS NO FURTHER.

05/21/2014 2100 HOURS

PSO D. SMITH 288



# ADDITIONAL NARRATIVE

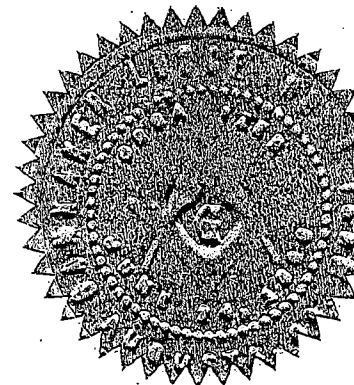
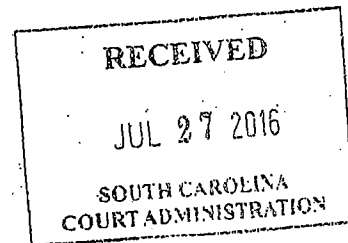
Name: North Augusta Department of Public Safety	ORI #: SC0020300	Report Date/Time: 03/16/2014 18:52	OCA #: 14-000676
--	---------------------	---------------------------------------	---------------------

SUP

14-000676  
SHOPLIFTING  
DISORDERLY CONDUCT  
SUBJECT: EDWARD ANTHONY  
SUPPLEMENT

ON 05/21/2014 AT 1900 HOURS, PSO D. SMITH OBTAINED VIDEO AND A COPY OF THE RECEIPT OF THE STOLEN ITEMS FROM BELK. PSO D. SMITH WILL DROP THE VIDEO INTO EVIDENCE AND TURN THE RECEIPT IN TO THE RECORDS DIVISION. PSO D. SMITH ALSO REQUESTED THAT A COPY OF THE IN-CAR VIDEO OF THIS INCIDENT BE OBTAINED. PSO D. SMITH HAS NO FURTHER.

05/21/2014 2100 HOURS  
PSO D. SMITH 288



# Chain of Custody Report

Report Date: March 21, 2014

Barcode: 14-000185-EV0001  
Case Number: 14-000676  
Folder Number: EVMAR2014

Description: THREE DISCS CONTAINING VIDEO SURVEILLANCE  
Jurisdiction: SC0020300  
Evidence Number: 14-000185-EV

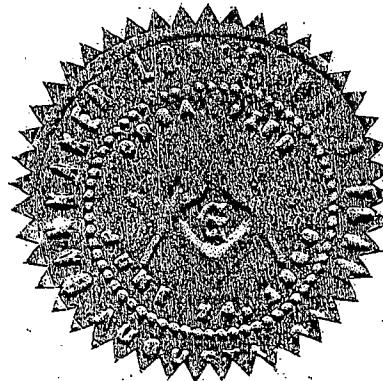
Category: Y Classification: General Prop Code/Description: THREE DISCS CONTAINING VIDEO S  
Make: Model:  
Serial No: VIN:  
Narcotics Type: Quantity:  
Measure: Color:  
Item Status: Evidence  
Temporary Location:  
Temporary Location Date:  
Recovery Date: 03/19/2014 10:53:00 Recovery Officer: 197 BUSBEE, CLINT  
Recovery Address: 1163 KNOX AVE NORTH AUGUSTA SC 29841  
Released By: JC BUSBEE Released To: EVIDENCE CUSTODIAN  
Other Jurisdiction:  
Associated Numbers:

## Involved Parties

<u>Involvement Type</u>	<u>Name</u>	<u>Address</u>	<u>Phone</u>
SUSPECT	EDWARD RODRIQUEZ ANTHONY	2210 BUNGALOW ROAD AUGUSTA GA 30906-	
VICTIM	BELK	1163 KNOX AVENUE NORTH AUGUSTA SC 29841-	803-279-4421

## Location/Movement History

<u>Location ID</u>	<u>Officer</u>	<u>Reason</u>	<u>Transaction Date</u>	<u>Entered By</u>
BA03: BASKET 03	SHAW, GEOR 122	evidence	03/20/2014 08:20:19	GEORGE A SHAW
LO003: LOCKER 003	197 BUSBEE, CLINT	EVIDENCE	03/19/2014 11:00:55	CLINT BUSBEE



03/20/2014

# Evidence Receipt

Location: BA03

Description: Evidence Permanent Assignment Receipt

Entered By: GEORGE A SHAW

Transaction Date: 03/20/2014 08:20:26

Case Number: 14-000676

Date/Time of Storage: 03/20/2014 08:20:19

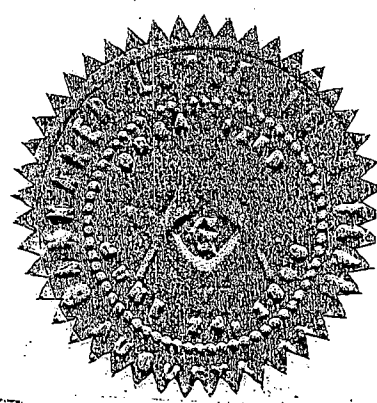
Folder Number : EVMAR2014	Evidence Number : 14-000185-EV	Jurisdiction : SC0020300
Recovery Location : BELK		
Recovery Address : 1163 KNOX AVE NORTH AUGUSTA	SC 29841	
Recovery Date : 03/19/2014 10:53:41	Recovery Officer : 197- BUSBEE, CLINT	
Released By : JC BUSBEE	Released To : EVIDENCE CUSTODIAN	
Other Agency ORI :		
Associated Numbers :		

Barcode : 14-000185-EV0001	Property Classification : General	Category : OTHER ITEMS
Property Code/		
Description : THREE DISCS CONTAINING VIDEO SURVEILLANCE		
Description : THREE DISCS CONTAINING VIDEO SURVEILLANCE		
Make :	Model :	Serial :
Narcotics Type :		
Quantity :	Measure :	
Item Status : Evidence		
Involvement Type : VICTIM		
Name :		
Address : 1163 KNOX AVENUE NORTH AUGUSTA SC 29841-		
Phone : 803-279-4421		

Received By : George Shaw

Date Received : 3/20/14

Released To : \_\_\_\_\_



of No  
14 Returned Back to Belk's See pages.

Time Dont Reflect

Illegal obtained evidence

Objection  
tampered  
Evidence

109  
May 21, 2014  
False Testimony

PATSY SINGLETARY-SISO - DIRECT BY SLOCUM

1 MR. SLOCUM: Okay. Your Honor, at this time the  
2 State moves to enter Exhibits Two and Four into evidence?

3 THE COURT: Any objection?

4 \* MR. McMILLIAN: Yes, sir, Your Honor. There's been  
5 no testimony about when those pictures were taken.

6 THE COURT: Lay a little more foundation, please,  
7 sir.

8 BY MR. SLOCUM:

9 Q. \* When did you take those pictures?

10 A. \* Immediately. After every case we have to  
11 photograph the evidence.

12 \* THE COURT: Okay. They'll be admitted subject to  
13 objection.

14 \* (State's Exhibit Nos. 2 and 4, photographs,  
15 received into evidence.)

16 BY MR. SLOCUM:

17 Q. Can you please tell the jury what you see in  
18 Exhibit Number Two?

19 A. \* Yes, sir. The receipt. Once we retrieve the items  
20 I had Julian which is the store manager, go and make a  
21 receipt because we have to submit a receipt along with  
22 pictures of the evidence for our records. \*

23 Q. And what about State's Exhibit Number Four?

24 A. \* These are the Polo shirts I described that I  
25 photographed. I positioned them to where I could get the

Exhibit  
( 34 )

Lying Under Oath. false testimony  
5 items

150  
\* Low

She lied  
False testimony  
Don't reflect.

\*PATSY SINGLETARY-SISO - CROSS BY McMILLIAN

1 Q. \* That's different from what you testified to  
2 earlier, the seven <sup>7 items</sup> items; correct? ✓

3 A. \* That's five. <sup>5 items</sup> It could have been a typo there.  
4 This report, again, it is used to kind of do the case  
5 report, get the information in but -- \*

6 MR. McMILLIAN: Permission to approach, Judge?

7 THE COURT: Yes, sir.

8 BY MR. McMILLIAN:

9 Q. \* And then there inside your report there, there is a  
10 smaller version of this same picture. I believe it's on  
11 the third page. \*

12 A. Uh-huh.

13 Q. \* And as a part of that report there's a date on that  
14 file name. Can you read that date for the jury?

15 A. Where about? I'm sorry.

16 Q. On the third page. It's here.

17 A. Uh-huh.

18 Q. \* Just under the date there: \*

19 A. \* 3-31-14. \* March 31, 2014.

20 Q. \* Is that the date you would have taken the picture  
21 or the date you added the file? \*

22 A. \* It could have been the date I added the file, but I  
23 took the picture immediately.

24 Q. Okay.

25 A. But we go back, we make -- add more notes and

Exhibit  
(34)

improper testimony evidence  
Tainted Evidence. L0812 \* Yes

151

False testimony  
lying Under oath.  
Planting Evidence

PATSY SINGLETARY-SISO - REDIRECT BY SLOCUM

1 whatnot. But the official report is the report we give to  
2 North Augusta.

3 Q. \* Okay. And I believe the State did move the receipt  
4 for the goods in which is I believe the fourth page of  
5 that report?

6 A. Uh-huh.

-7 Q. \* What's the date of that receipt again? Up in the  
8 upper right-hand corner.

-9 A. \* This says 5-21-14 \*

-10 Q. \* So those items weren't rung up until May 21st?

11 A. \* No, they were rung that day. I'm not for sure why  
12 that date is indicating.

13 Q. \* But you would agree that receipt that was part of  
14 this report that was provided to us reflects that they  
15 were rung up on May 21st?

16 A. \* Well, the system, the cash register could have been  
17 off or Julian probably -- I'm not for sure. I can't  
18 answer for him, but we submit every time a receipt of  
19 items and video. I'm not for sure why the receipt reads  
20 that date.

21 MR. McMILLIAN: Okay. One more time, Judge.

22 (Pause.) I don't have any further questions, Your Honor.

23 THE COURT: Redirect?

24 MR. SLOCUM: Briefly, Judge.

25 REDIRECT EXAMINATION

Exhibit  
(35)

five. See pages. 166, 172, 164

No Evidence Look 167 \*  
False Statement  
False Claims. Combative

DANIEL DAVID SMITH - DIRECT BY SLOCUM

1 A. In this case because the Defendant was being  
2 combative, for our safety and his safety, we determined  
3 that we should transport him directly to the Aiken County  
4 Detention Center.

5 Q. And at this point did you ever take the pliers and  
6 the magnet off of his person?

7 A. No, sir. They were left on him.

8 Q. \* Okay. Did you ever take any pictures of the,  
9 quote, articles of clothing that he alleged to have  
10 concealed?

See page 173 No Evidence, page 175

11 A. \* No, sir. I did not.

12 Q. \* Did you ever find any on his person?

13 A. \* No, sir. I did not.

14 Q. \* Did you do any type of forensic testing, any DNA or  
15 fingerprints on any type of evidence in this case?

16 A. \* No, sir. I did not.

17 Q. \* Was there any reason to?

18 A. \* No, sir.

19 Q. What, if anything, was said on the way to the jail?

20 A. On the way to the jail the Defendant stated -- he  
21 was in the back of my patrol vehicle -- that, and I quote,  
22 Could have would have thought about it was not the same as  
23 shoplifting.

24 Q. And did you ask a question to give this response?

25 A. No, sir. I did not.

Look

★ 173  
False testimony  
Under oath  
No Evidence

DANIEL DAVID SMITH - CROSS BY McMILLIAN

1 Q. And he, in fact, immediately said, I didn't do  
2 anything?

3 A. Yes, sir.

4 Q. And he immediately started lifting his shirt?

5 A. Yes, sir.

6 Q. In fact, he exposed his bare belly --

7 A. Yes, sir.

8 Q. -- to you?

9 A. Yes, sir.

See page 167, and 175

10 Q. ★ There was no merchandise in his waistline?

11 A. ★ No, sir.

12 Q. ★ None in his jacket?

13 A. ★ No, sir.

14 Q. ★ None in his underwear?

15 A. ★ No, sir.

16 Q. ★ You further searched him; correct?

17 A. ★ Yes, sir. I did.

18 Q. ★ Did you find any merchandise in that search?

19 A. ★ No, sir. I did not.

20 Q. ★ Now, obviously during your search you didn't add  
21 anything to his person, you didn't put anything in his  
22 pockets?

23 A. ★ No, sir. I didn't.

24 Q. ★ You didn't take anything out?

25 A. ★ No, sir.

upage.

Evidence See page.

Date and time Don't Reflected  
with the Crime or Evidence

False testimony LOOK

\* 174  
May 21, 2014 in NC  
March 16, 2014

DANIEL DAVID SMITH - CROSS BY McMILLIAN

Planting of Evidence, illegally obtained evidence

1 Q. And you never did --

2 A. I apologize. I'm sorry. I did remove -- once I  
3 located the adjustable channel-lock pliers and what  
4 appeared to be a magnet, I did remove those to see what  
5 they were.

6 Q. Okay. But at some point you put those back in his  
7 pocket?

8 A. Yes, sir. They remained on his person.

9 Q. Okay. So, everything he had on his person is the  
10 same stuff he would have had when he got to the jail?

11 A. Yes, sir.

12 Q. \* Did you ever go back out to Belk's to collect any  
13 photographs?

14 A. \* I did go back out. I'm unsure of the exact date.  
15 I have a report if you'd like for me to check.

16 Q. Would you reference that?

17 A. \* Yes, sir. (Looking at document.)

18 \* Okay. According to my supplemental report to my  
19 original incident, on May 21st, 2014, at seven p.m., I  
20 returned to Belk. I obtained a copy of the receipt of the  
21 items in question and obtained a video surveillance,  
22 dropped it into evidence.

23 Q. May I see what you're referencing?

24 A. Absolutely.

25 MR. McMILLIAN: Permission to approach, Judge?

Exhibit

violation.

Dash-Cam 200k  
withheld by Department. \* 175 \*  
No Evidence  
False statement  
False testimony

DANIEL DAVID SMITH - CROSS BY McMILLIAN

1 THE COURT: Yes, sir.

2 \* THE WITNESS: Here's the supplemental.

3 BY MR. McMILLIAN:

4 Q. \* And in that supplemental you also requested that a  
5 copy of your in-car video be added? - Dash - Cam

6 A. \* Yes, sir. I did. "Brady Violation"

7 Q. \* We were never provided any of that, though, were  
8 we?

9 A. \* No, we were not.

10 Q. So we don't have any proof of this alleged  
11 statement that you say he made in the car?

12 A. No, sir.

13 Q. \* You went back out and collected the video on May  
14 21st? Turn Evidence May, illegal obtained. Planting Evidence

15 A. \* Yes, sir. True. It unconstitutional. "Rights Violated"

16 Q. \* Did you collect any other evidence, any broken  
17 security tags?

18 A. \* No, sir. I did not.

19 Q. \* Any merchandise?

See page 173, and 167

20 A. \* No, sir. I did not.

21 Q. \* So when the solicitor asked you earlier if you  
22 conducted any forensic stuff, that's because you didn't  
23 have anything to conduct any tests on; correct?

24 A. \* No, sir. I did not.

25 Q. Let's talk for a minute. After he exposed his

Edward Anthony  
210 Bungalow Rd  
Augusta, Ga 30906



Supreme Courts - SC  
1231 Gervais St  
Columbia, SC 29201