

20110

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HAMPTON COUNTY
Court of Common Appeals

Stephanie McDonald – Circuit Court Judge

Case Number 2011200006

William A. Ferrara,

v.


Appellant,

State of South Carolina,

Respondents.

RECORD ON APPEAL

Roberts Vaux, Jr.
PO Box 1880
Bluffton SC 29910



William Ferrara, *Pro Se*
P. O. Box 711
New Ellenton, SC 29809

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SC Court of Appeals

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State of South Carolina)
County of Hampton)

In The Court of Common Pleas
Fourteenth Judicial Circuit
2011-CP-25-263

William A. Ferrara,)
Plaintiff,)

vs.)

State of South Carolina,)
Defendant.)

Transcript of Record

September 6, 2011
Hampton, South Carolina

B E F O R E:

The Honorable Stephanie P. McDonald, Judge

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

William A. Ferrara
Pro Se Plaintiff

Tabor Vaux, Esquire, Assistant Solicitor
Attorney for the Defendant

Elizabeth B. Harris, CVR
Circuit Court Reporter

I N D E X

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1 THE COURT: The last one I have is a *William Ferrara*
2 *vs. State of South Carolina*. Is that correct?

3 MR. FERRARA: Yes, ma'am. Good morning, Your Honor.

4 THE COURT: Good morning.

5 MR. FERRARA: Thank you very much for giving me this
6 opportunity to present oral and written arguments
7 supporting my request for an appeal in this case. As you
8 are aware, we are ---

9 THE COURT: Sir, I might just get you to speak up a
10 little bit for me and for my court reporter.

11 MR. FERRARA: I'm sorry. I just feel a little bit
12 ill.

13 THE COURT: That's okay. Do you need some water?
14 Would you like a glass of water?

15 MR. FERRARA: Sure.

16 (A PAUSE.)

17 THE COURT: Okay, I see several grounds for appeal
18 here, so let's briefly go through them.

19 MR. FERRARA: All right, so one or more of my -- or
20 as you're aware, I've submitted a written request for
21 appeal which lists ten or more material issues which
22 establish the factual basis for this appeal. One or more
23 of these material facts may provide the necessary grounds
24 for granting my appeal. The material facts are associated
25 with and include the following issues, of which I would

1 like to discuss in more detail and provide supporting
2 evidence for the court, for your review for consideration.

3 Number one, pretrial discovery issues, and the summary
4 court failed to grant my motion to compel discovery in
5 accordance with Rule 5 of South Carolina Rules of Criminal
6 Procedure.

7 Number two, repeated requests to be represented by
8 counsel, and the summary court's refusal to continue the
9 case, although my application and payment had been made to
10 be represented by the public defender's office. This is a
11 civil rights issue as a matter of law.

12 Number three, the failure of the summary court to
13 honor my properly made request for a subpoena of a witness.
14 The witness was Horry County Sheriff Thomas Smalls, who
15 injected himself into this case by interfering with my
16 attempt to collect potentially exculpatory evidence during
17 the pretrial discovery phase.

18 THE COURT: Let me ask you a real quick question about
19 that. Did the sheriff witness the circumstances that led
20 to your ticket and to your arrest? Was he there?

21 MR. FERRARA: He did not witness that, but he
22 interfered when I tried to take pictures of the officer's
23 car which could have been potentially exculpatory evidence
24 in the case.

25 THE COURT: How?

1 MR. FERRARA: Well.

2 THE COURT: How could they have been exculpatory?

3 MR. FERRARA: They were just for potential
4 exculpatory.

5 THE COURT: How? Exculpatory as to what?

6 MR. FERRARA: Well, the officer was driving an
7 unmarked car at the time.

8 THE COURT: Okay.

9 MR. FERRARA: And I didn't know if it, it could,
10 could have potentially been part of the case.

11 THE COURT: Okay, let's go to your next ground.

12 MR. FERRARA: On number four, *ex parte* communications
13 between the proceeding officer and the court upon
14 completion of the jury trial on May 25, 2011, at which time
15 I was not present. And I had been disconnected on the
16 phone from the summary court judge, who then proceeded to
17 discuss material facts associated with this case with the
18 prosecuting officer, Sergeant Maurice Hunt.

19 THE COURT: Let me ask you a quick question.
20 Understanding that I've read the file and the magistrate's
21 return, and your dad was in court that day, correct?

22 MR. FERRARA: That's correct.

23 THE COURT: And my understanding is that the court
24 discussed the discovery issues and what evidence the
25 officer had, correct?

1 MR. FERRARA: Uh-huh.

2 THE COURT: Is that your contention that that was an
3 *ex parte* conversation?

4 MR. FERRARA: Yes, because during the time, I wasn't
5 present. I was in Florida.

6 THE COURT: Okay. Let's move on to the next ground.

7 MR. FERRARA: Okay.

8 THE COURT: And you're welcome to tell me more about
9 that if you'd like to, but I think I understand the basis
10 for the argument. You felt you should have been present
11 for that discovery conversation.

12 MR. FERRARA: Well, basically I was doing the jury
13 strike through the telephone conference because I'm a
14 student in Florida. And during that time that she had
15 discussions with the state, I wasn't present on the phone
16 at all.

17 THE COURT: What else do you contend the court had
18 discussions with the state about other than the discovery
19 issue, if any? And if there aren't any, that's fine also.

20 MR. FERRARA: Could you clarify that a little bit?

21 THE COURT: What I have in the magistrate's return is
22 that she asked the officer about the pretrial discovery
23 matter. Basically, what do you have that you haven't given
24 to this defendant that's contending you violated Rule 5 or
25 *Brady vs. Maryland*, or what other entitlement to

1 exculpatory information you have? Because you have a
2 constitutional right to exculpatory information and a Rule
3 5 right.

4 What the officer says, what my understanding is, is we
5 don't have anything other than the ticket, and we gave it
6 to him, the citation.

7 MR. FERRARA: Okay.

8 THE COURT: What else other than that do you contend
9 that the magistrate improperly talked about with the state?

10 MR. FERRARA: I have nothing further on that issue.

11 THE COURT: Okay. If you want to move on to your next
12 one, that will be great.

13 MR. FERRARA: On number six, *ex parte* communications
14 between the director of the prosecuting agency, Sheriff
15 Thomas Smalls, and Judge Carolyn Williams, Horry County
16 summary court judge, resulted in the summary court's
17 failure to honor a duly requested subpoena, an abuse of
18 judicial discretion.

19 THE COURT: Would this be again the subpoena to the
20 sheriff?

21 MR. FERRARA: Yes.

22 THE COURT: Any other subpoena or issue?

23 MR. FERRARA: The issue there is she went out of her
24 way to talk with a, with a, with someone that I subpoenaed
25 when she should have just granted the subpoena and honored

1 it.

2 THE COURT: Okay.

3 MR. FERRARA: Instead of going ---

4 THE COURT: So, you contend ---

5 MR. FERRARA: --- out of her way.

6 THE COURT: --- that any time a criminal defendant or
7 someone requests the court to issue a subpoena, whether
8 there's a valid ground to issue it or not under the rules,
9 the subpoena should just be signed off on?

10 MR. FERRARA: Uh-huh.

11 THE COURT: Okay. Next.

12 MR. FERRARA: Number seven, the summary court's
13 allowance of inappropriate gestures made by Horry County
14 Sheriff Thomas Smalls to the jury while conducting the
15 trial.

16 THE COURT: Okay.

17 MR. FERRARA: Number eight, failure of the summary
18 court to recognize factual grounds of prosecutorial
19 misconduct existed, and ordering the appropriate judicial
20 remedy of dismissing the case.

21 THE COURT: Okay, I need to ask you a little bit more
22 about that. It would be prosecutorial misconduct for, for
23 example, the prosecutor or prosecuting officer to not
24 provide exculpatory information pursuant to *Brady vs.*
25 *Maryland* or Rule 5. What other -- and if it made a

1 difference, if it were prejudicial. What other
2 prosecutorial misconduct do you contend took place here?

3 MR. FERRARA: Well, the failure of the summary court
4 to suppress evidence by the state's hearsay witness
5 Sergeant Smith, who did not observe the alleged offense.
6 Upon several timely motions to do so, I objected to his
7 hearsay testimony.

8 THE COURT: Okay, let me back up a minute, and this
9 just might be the court's confusion. I'm asking you about
10 prosecutorial misconduct other than a discovery issue that
11 was addressed pretrial. You are now telling me about
12 improper hearsay rulings that the lower court made. Those
13 are two different things.

14 MR. FERRARA: Okay.

15 THE COURT: So, which one are we talking about? You
16 want to move on to the ground about hearsay, or do you want
17 to answer my inquiry about prosecutorial misconduct?

18 MR. FERRARA: I'll just move on to that.

19 THE COURT: Okay. All right, tell me about the
20 hearsay. Sergeant Smith, who is Sergeant Smith?

21 MR. FERRARA: Sergeant Smith was the officer that
22 Sergeant Huds -- the first officer called for back up.

23 THE COURT: Okay.

24 MR. FERRARA: After the fact, and he didn't observe
25 the alleged offense. And the summary court failed to

1 suppress his hearsay testimony.

2 THE COURT: What was the ---

3 MR. FERRARA: I had several objections.

4 THE COURT: --- testimony that the court failed to
5 suppress?

6 MR. FERRARA: Well, I simply make the objection that,
7 that he wasn't present during the time of the alleged
8 offense.

9 THE COURT: Okay.

10 MR. FERRARA: So, anything further would be hearsay.

11 THE COURT: So, even though he was called as backup,
12 you think that any testimony he offered would be hearsay
13 because he was not there for the offense. That's your
14 argument?

15 MR. FERRARA: Yes.

16 THE COURT: Okay. I understand. Okay, what's next?

17 MR. FERRARA: The failure of summary court to
18 suppress or -- hold on. The failure of summary court to
19 suppress evidence presented by the state after resting its
20 case. Further, the court never instructed the jury to
21 disregard testimony during their deliberations.

22 THE COURT: I'm sorry, sir. Can you be a little bit
23 more specific about that one for me? Tell me specifically
24 what you contend was error.

25 MR. FERRARA: Well, the summary court failed to grant

1 a motion for a directed verdict as the state failed to meet
2 its burden of proof regarding the charge of reckless
3 driving. The prosecuting officer, Sergeant Maurice Hunt,
4 stated under oath that he needed to observe at least two
5 traffic, traffic infractions in order to make a case for
6 reckless driving. In this case, he claimed that two -- the
7 two infractions were driving above the posted speed limit
8 and improper passing.

9 With regard to driving above the posted seed -- speed
10 limit, he stated that he did not know the driver's speed.
11 And with regard to improper passing, he stated that this
12 infraction occurred because he observed the vehicle
13 crossing a nonexistent solid yellow double line on the
14 section of straight -- of the straight highway in question.

15 The lesser-included offense of speeding under S.C. law
16 section 56-5-1520(h) states:

17 A citation for the violation of speed limits
18 issued by an authorized officer must note on it
19 the rate of speed for which the citation is
20 issued.

21 However, Sergeant Hunt stated under oath that he was
22 unable to cite the driver's speed. Therefore, he could not
23 meet the required, required, required elements of this
24 offense. Further, a solid double yellow line does not
25 exist on this straight road section that Sergeant Hunt

1 testified he observed the vehicle cross in support of the
2 lesser-included offense of improper passing. Therefore, he
3 was unable to meet the required elements of this offense
4 except by committing perjury. Sergeant Hunt knew that,
5 knew or should have known, that a solid double yellow line
6 along this road did not exist as he patrols this road
7 frequently in the line of his duties.

8 Since the state failed to meet its burden of proof of
9 all the elements required in the alleged offense, the trial
10 court erred in not granting a directed verdict as a matter
11 of law and is factual grounds for granting this appeal.

12 THE COURT: Okay. Your next ground, or if that's the
13 last one, anything else you'd like to tell the court?

14 MR. FERRARA: Also, the failure of summary court to
15 permit closing remarks before charging the jury and having
16 them begin deliberations. Upon objection, Judge Williams
17 admitted on the record that she was only human and that
18 judge makes -- judges makes mistakes, too. Basically in
19 that instance, she, she charged the jury and allowed them
20 to go into the jury room for deliberations and upon
21 objection, she recalled the jury back out, which could be
22 prejudicial to the case.

23 Then the failure of the court to grant a motion for
24 directed verdict as the state failed -- or won't worry
25 about that.

1 THE COURT: Could you direct me in your notice of
2 appeal to where you asserted the ground regarding the
3 failure to allow closing arguments? I'm just trying to
4 make sure I have everything straight.

5 MR. FERRARA: I'm not sure if I have a copy of it.

6 (A PAUSE.)

7 THE COURT: Your contention is that you should have
8 been allowed to make a closing argument.

9 MR. FERRARA: And that in doing so, she charged the
10 jury and allowed them to have deliberations and then
11 brought them back out. She brought them out of the jury
12 room and then gave closing arguments.

13 THE COURT: She charged the jury, let them go
14 deliberate, and then brought them back out?

15 MR. FERRARA: If only for a short moment, yes. They
16 were in the jury room.

17 THE COURT: Had she let them know that they could
18 deliberate yet?

19 MR. FERRARA: Yes. She had already charged them for
20 deliberations.

21 MR. VAUX: I'm sorry, Judge. I was going to ask
22 which ground this was, so.

23 THE COURT: I'm not -- I can't find this in the notice
24 of appeal. Do you...

25 MR. FERRARA: I'm looking.

1 (A PAUSE.)

2 THE COURT: All right, and I'll just be candid. I
3 don't see anything about the jury charge, jury
4 deliberation, or closing arguments in the fifteen grounds
5 or fourteen grounds set forth in the notice of appeal.

6 (A PAUSE.).

7 MR. FERRARA: I'm sure if it's in there.

8 THE COURT: Sir?

9 MR. FERRARA: I'm not sure if it's in there.

10 THE COURT: Is it in there or not? Be clear and
11 candid.

12 (A PAUSE.)

13 MR. FERRARA: I don't believe it is.

14 THE COURT: Okay. Do you have another ground? I want
15 to make sure we've covered everything you need to cover.

16 MR. FERRARA: What's that?

17 THE COURT: Anything else?

18 (A PAUSE.)

19 MR. FERRARA: If I may, I'd like to submit this as an
20 exhibit.

21 THE COURT: Was it submitted to the lower court?

22 MR. FERRARA: It's been submitted to the state.

23 THE COURT: What is it?

24 MR. FERRARA: It's just my brief.

25 THE COURT: Oh, your brief?

1 MR. FERRARA: Uh-huh.

2 THE COURT: Sure. I mean, if you'll let the solicitor
3 look at it, I'm happy to read your brief and make it a part
4 of the record.

5 (A PAUSE.)

6 THE COURT: Do you have another copy, sir, and I can
7 look at it while he looks at it?

8 MR. FERRARA: Yes.

9 THE COURT: All right, we'll take a quick second to
10 read this.

11 (A PAUSE.)

12 THE COURT: Sir, you keep mentioning on the record and
13 on the record. Is there a transcript of this proceeding
14 because generally our magistrate and municipal courts are
15 not courts of record. They generally do not have a court
16 reporter there. Is there transcript?

17 MR. FERRARA: I did make a request to the...

18 THE COURT: To whom?

19 MR. FERRARA: To the lower court. I sent a certified
20 letter.

21 THE COURT: Well, I'm not asking if there's a request.
22 I'm asking is there one? Is there a transcript?

23 MR. FERRARA: I do not have one with me, but I sent
24 one -- I sent a request to the lower court to submit a
25 transcript to you as well as to me if you'd like to see

1 that certified letter.

2 THE COURT: I'm just asking if there was a court
3 reporter there. There is usually not.

4 MR. FERRARA: No.

5 THE COURT: Okay. Okay, anything else? I'm looking
6 through your brief right now, but I want to make sure we
7 cover all your grounds of appeal.

8 MR. FERRARA: No. That's all. That's it.

9 THE COURT: That's it?

10 MR. FERRARA: Yes.

11 THE COURT: Okay, I will let the solicitor finish
12 looking through your brief, and I'll hear from the state.

13 Whenever you are ready, sir.

14 (A PAUSE.)

15 MR. VAUX: I think that there are some points in his
16 brief but not in his appeal, and I would just ask that you
17 not consider those today.

18 But as far as the fourteen grounds that he did appeal
19 on, I don't see any errors of law in it. I see some bad
20 faith on his part and his father's part in trying to set up
21 the court, and then trying to get him out on a technicality
22 like him calling in on the telephone and then as soon as he
23 hangs up, his father tries to lure them into an *ex parte*
24 communication as a ground for appeal.

25 You know, he went on about Sergeant Smith testifying.

1 He was the one that subpoenaed Sergeant Smith to come
2 there. And he certainly cross-examined him in the trial,
3 Judge.

4 You know, he mentioned the sheriff. There's no
5 evidence that the sheriff did any jury tampering in that
6 trial.

7 You know, as far as the reckless driving, you know,
8 section 56-5-29-20 says that:

9 Any person who drives any vehicle in such a
10 manner as to indicate either a willful or wanton
11 disregard for the safety of persons or property
12 is guilty of reckless driving.

13 That's the law as to reckless driving, not what he
14 stated, Judge. And, you know, I just, I don't see any
15 errors of law. I just see a lot of bad faith on his part
16 and his father's part in this case, Judge.

17 THE COURT: Okay. Thank you, sir.

18 Any response? It's your motion.

19 MR. FERRARA: Just have to say that even though I may
20 have sent a request to subpoena Sergeant Smith, I don't
21 believe that subpoena was requested because Judge, Judge
22 Williams told me that since I didn't have his name on the,
23 on the actual request, that she would only grant subp -- or
24 subpoenas that specifically listed the officer's name. And
25 that's all I have.

1 RULING OF THE COURT:

2 THE COURT: Okay, the court will affirm the decision
3 of the lower court for a number of reasons. One, as the
4 solicitor has argued and as I have found in reviewing this
5 entire file and the brief submitted today and the arguments
6 presented by Mr. Ferrara, there is no error of law that the
7 court finds here. In fact, the court is concerned and
8 disappointed that Mr. Ferrara would toss around terms like
9 prosecutorial misconduct when there is absolutely no basis
10 in this record to support such.

11 The record is replete with the fact that the only
12 evidence that was at issue in this trial was the citation.
13 The officer said so. He was provided with it. Mr. Ferrara
14 is trying to make an issue there where none exists.

15 There was no *ex parte* conversation with anyone. The
16 court, this court asked Mr. Ferrara extensively what
17 exactly was the alleged *ex parte* conversation other than
18 the discovery issue. And despite some creative tap dancing
19 around that, Mr. Ferrara admitted that it was just a
20 discovery issue.

21 The court does have a problem with -- to the extent
22 that Mr. Ferrara's father attempted to represent him.
23 Unless he is an attorney -- is he an attorney, your father?

24 MR. FERRARA: He's not.

25 THE COURT: No?

1 MR. FERRARA: No.

2 THE COURT: That would be the unauthorized practice of
3 law to the extent that he appeared in court on Mr.
4 Ferrara's behalf.

5 The court is disappointed about the attempt to
6 subpoena a public official who had no evidence whatsoever
7 to support regarding the underlying offense, as Mr. Ferrara
8 has admitted that the sheriff was not at the scene. I find
9 that the lower court properly declined to execute such a
10 subpoena or permit it to be served based on relevance.
11 There was no relevant testimony the officer could offer.
12 Why pictures of an undercover police car not at the scene
13 of the issue would ever be relevant or probative is a
14 mystery to the court.

15 The hearsay testimony allegedly to have been presented
16 by Sergeant Smith, Mr. Ferrara has averred that it was just
17 his entire testimony that should have been stricken.
18 Hearsay objections are properly made to questions which
19 attempt to elicit hearsay, or to a response that is an
20 out-of-court statement for the truth of the matter asserted
21 which a witness attempts to present that does not fall into
22 one of the enumerated exceptions of 803 and 804. I'm not
23 sure that Mr. Ferrara understands that. Therefore, there
24 is no error of law there.

25 With respect to letting the jury deliberate and then

1 calling them back, there is no reference to that whatsoever
2 in the notice of appeal. Therefore, the magistrate did not
3 have a chance to respond to it in her return. That is
4 waived. The error needed to be set forth within the proper
5 time limit within the notice of appeal.

6 I will affirm the decision of the magistrate, and I
7 thank you for your time.

8 And just while we're on the record, sir, you seem to
9 be a very intelligent young man, and I'm impressed by what
10 you've done. But I think you need to direct that
11 intelligence and energy elsewhere and with more
12 straightforwardness. Thank you.

13 MR. FERRARA: Thank you, Your Honor.

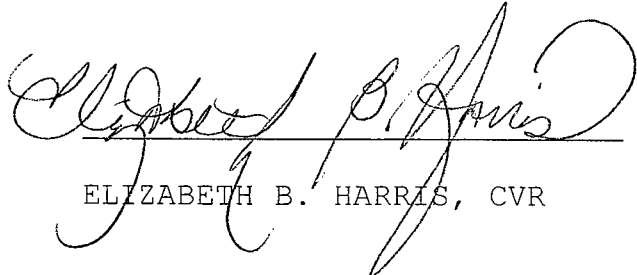
14 (BRIEF MARKED INTO EVIDENCE AS COURT'S EXHIBIT NUMBER
15 1.)

16 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR HAMPTON COUNTY, SOUTH CAROLINA, ON THE 6TH DAY OF SEPTEMBER, 2011.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



ELIZABETH B. HARRIS, CVR

COLUMBIA, SOUTH CAROLINA

DECEMBER 14TH, 2011

EXHIBITS

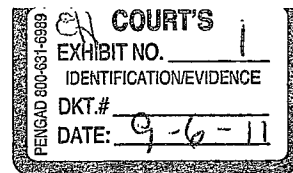
Plaintiff(s) William A. Ferrara
 Vs.
 Defendant(s) State of SC

| Plaintiff's Exhibits | Defendant's Exhibits | Court's Exhibits |
|----------------------|----------------------|------------------|
| 1. | 1. | 1. P's Brief |
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 BY
 MYLINDA D. NETTLES
 CLERK OF COURT
 HAMPTON COUNTY, S.C.

FILED

Court Reporter Elizabeth Harris Trial Judge Stephanie P. McDonald
 Clerk of Court Mylinda D. Nettles
 Date 9/6/11



Your honor thank you very much for giving me this opportunity to present oral and written arguments supporting our request for appeal in this case. As you are aware I have submitted a written request for appeal which lists ten or more material issues which establish the factual basis for this appeal. One or more of these material facts provide the necessary grounds for granting my appeal. These material facts are associated with and include the following issues each of which I would like to discuss in more detail and provide additional supporting evidence to the Court for your review and further consideration:

- (1) Pre-trial discovery issues and the summary court failed to grant the motion to compel discovery in accordance with Rule 5 of the South Carolina Rules of Criminal Procedure,
- (2) Repeated requests to be represented by counsel and the summary court's refusal to continue the case although application and payment had been made to be represented by the Public Defender's office. This is a civil rights issue as a matter of law.
- (3) Failure of the summary court to honor a properly made request for subpoena a witness. The witness was Hampton County Sheriff Thomas Smalls who injected himself into this case by interfering with my attempt to collect potentially exculpatory evidence during the pre-trial discovery phase of the case.
- (4) Ex-parte communications between the prosecuting officer and the court upon completion of the jury strike on May 25, 2011 at which time I was not present and had been disconnected on the telephone by the summary court judge who

then proceeded to discuss material facts associated with this case with the prosecuting officer, Sgt. Maurice Hunt.

- (5) Ex-parte communications between the prosecuting officer and the court upon completion of the jury strike on May 25, 2011 at which time I was not present and had been disconnected on the telephone by the summary court judge who then proceeded to discuss material facts associated with this case with the prosecuting officer, Sgt. Maurice Hunt.
- (6) Ex-parte communications between the director of the prosecuting agency, Sheriff Thomas Smalls, and Judge Carolyn Williams, Hampton County Summary Court Judge, resulting in the summary court's failure to honor a duly requested subpoena and abuse of judicial discretion.
- (7) Summary courts allowance of inappropriate jesters made by Hampton County Sheriff Thomas Smalls to the jury while conducting the trial.
- (8) Failure of the summary court to recognize that factual grounds of prosecutorial misconduct existed and ordering the appropriate judicial remedy of dismissing the action.
- (9) Failure of the summary court to suppress evidence provided by the State's hearsay witness, Sgt. Smith, who did not observe the alleged offense, upon several timely motions to do so. Further, the court never instructed the jury to disregard this testimony during their deliberations.
- (10) Failure of the summary court to suppress evidence presented by the State after resting its case. Further, the court never instructed the jury to disregard this testimony during their deliberations.

- (11) Failure of the summary court to suppress evidence provided by the State's hearsay witness, Sgt. Smith, who did not observe the alleged offense, upon several timely motions to do so. Further, the court never instructed the jury to disregard this testimony during their deliberations.
- (12) Failure of the summary court to permit closing remarks before charging the jury and having them begin deliberations. Upon objection, Judge Williams admitted on the record that she was "only human" and that "judge make mistakes too."
- (13) Failure of the summary court to grant a motion for a directed verdict as the State failed to meet its burden of proof regarding the charge of reckless driving.
- (14) Material evidence obtained which proves that SGT Hunt's testimony was false and intentionally misleading (perjury in violation of SC law, section 16-9-10). The prosecuting officer falsely stated that one of the two required traffic infractions he observed was the illegal crossing of a solid double line constituting "improper passing". Evidence submitted today will show that a solid double line does not exist in the roadway where such a traffic infraction was falsely and improperly alleged.

Arguments for each issue – material facts

- (1) Pre-trial discovery issues and the summary court failed to grant the motion to compel discovery in accordance with Rule 5 of the South Carolina Rules of Criminal Procedure. In this case a request for discovery under Rule 5 was made on May 19, 2011 and received by certified mail by the State on May 20, 2011

(Exhibit 1). The State refused to comply with this discovery request; therefore, a motion to compel discovery was mailed by certified mail to the summary court on June 9, 2011 (Exhibit 2). During the pre-trial hearing on June 16, 2011 once again a request was made of the court to compel discovery at which time the court improperly refused to grant this motion. During the trial the State disclosed that radio transmissions were in fact used as well as telephone communications. The State refused to provide a copy of these recorded transmissions which were potentially exculpatory.

(2) Repeated requests to be represented by counsel and the summary court's refusal to continue the case although application and payment had been made to be represented by the Public Defender's office. This is a civil rights issue as a matter of law. During the pre-trial hearing Judge Williams was informed that payment had been made and accepted by the Hampton County Clerk of Court's office for a public defender (Exhibit 3). A request was made that the case be continued until the plaintiff could be properly represented by counsel as requested. The court failed to continue the case and this is factual grounds for appeal.

(3) Failure of the summary court to honor a properly made request for subpoena a witness. The witness was Hampton County Sheriff Thomas Smalls who injected himself into this case by interfering with my attempt to collect potentially exculpatory evidence during the pre-trial discovery phase of the case. On May 25, 2011 a written request to subpoena Sheriff Thomas Smalls was made by certified mail (attached letter and USPS certification) and received by Judge

Williams on May 31, 2011. During the pre-trial hearing on June 16, 2011 Judge Williams stated that she failed to subpoena Sheriff Thomas Smalls as requested.

(4) Ex-parte communications between the prosecuting officer and the court upon completion of the jury strike on May 25, 2011 at which time I was not present and had been disconnected on the telephone by the summary court judge who then proceeded to discuss material facts associated with this case with the prosecuting officer, Sgt. Maurice Hunt. Show end of audio/visual tape of jury strike and Judge Williams' disconnect. Witness to testify observing Judge Williams and Sgt Hunt discussing the case outside the presence of the defendant regarding material issues of discoverable evidence in the case.

(5) Ex-parte communications between the director of the prosecuting agency, Sheriff Thomas Smalls, and Judge Carolyn Williams, Hampton County Summary Court Judge, resulting in the summary court's failure to honor a duly requested subpoena and abuse of judicial discretion. During the pre-trial hearing Judge Williams was asked if she had issued a subpoena to Thomas Smalls at which time she responded that she failed to do so, but that she had taken the liberty to speak to him directly about the case during an Ex-Parte meeting. Thomas Smalls had interfered with our attempts to collect potentially exculpatory evidence, is the director of the prosecuting agency, and supervisor of the prosecuting officer, Sgt Maurice Hunt. Judge Williams stated that she learned from that Ex-Parte conversation that Thomas Smalls was not involved in the case; therefore, she unilaterally, without informing me, decided no to honor the duly and properly requested subpoena.

- (6) Summary courts allowance of inappropriate jesters made by Hampton County Sheriff Thomas Smalls to the jury while conducting the trial. Thomas Smalls was allowed to enter the courtroom, remain standing and making inappropriate jesters to the jury while trial was being conducted in an attempt to improperly influence and intimidate the jury. This inappropriate conduct was observed by all in the courtroom to include Judge Williams.
- (7) Failure of the summary court to recognize that factual grounds of prosecutorial misconduct existed and ordering the appropriate judicial remedy of dismissing the action. Undisputed facts of prosecutorial conduct were presented to Judge Williams and a motion was made to dismiss the case as a judicial remedy to such misconduct. Judge Williams was aware and acknowledged that she had inappropriate Ex-Parte discussions with both Sgt Maurice Hunt and Sheriff Thomas Smalls, but failed to grant my motion for dismissal on the grounds of prosecutorial misconduct. Failure to grant the motion was inappropriate and abuse of judicial discretion and is grounds for granting this appeal request.
- (8) Failure of the summary court to suppress evidence provided by the State's hearsay witness, Sgt. Smith, who did not observe the alleged offense, upon several timely motions to do so. Further, the court never instructed the jury to disregard this testimony during their deliberations. Sgt Smith, an officer who did not observe the alleged offence of reckless driving and who did not observe me driving at all, was allowed to testify as a State witness against repeated objections. Judge Williams failed to rule this testimony inadmissible and failed to instruct the jury to disregard his testimony. Evidence presented by the hearsay

witness should have been ruled inadmissible by the trial court and is grounds for approving this appeal request.

(9) Failure of the summary court to permit closing remarks before charging the jury and having them begin deliberations. Upon objection, Judge Williams admitted on the record that she was "only human" and that "judge make mistakes too." During the trial after each side had presented its case Judge Williams sent the jury into deliberations without allowing closing remarks. Clearly an abuse of process violation. Upon my objection, Judge Williams admitted her mistake by stating, "I only human" and that "judges make mistakes too." At that point the jury had retired to the deliberation room and the door had been closed without them having the benefit of closing remarks.

(10) Failure of the summary court to grant a motion for a directed verdict as the State failed to meet its burden of proof regarding the charge of reckless driving. The prosecuting officer, Sgt Maurice Hunt, stated under oath that he needed to observe at least two traffic infractions in order to make a case for reckless driving. In this case he claimed those two infractions were driving above the posted speed limit and improper passing. With regard to the driving above the posted speed limit he stated that he did not know the driver's speed and with regard to improper passing he stated that this infraction occurred because he observed the vehicle crossing a non-existent solid double line along the section of strait highway in question. The lesser included offense of speeding under SC law section 56-5-1520(h) states: "a citation for violating the speed limits issued by any authorized officer must note on it the rate of speed for which the citation is issued." However, Sgt Hunt stated under oath that he was unable to

cited the driver's speed; therefore, could not meet the required elements of this offense. Further, a solid double line does not exist along the strait road section Sgt Hunt testified he observed the vehicle cross in support of the lesser included offense of improper passing; therefore, he was unable to meet the required elements of this offense except by committing perjury. Sgt Hunt knew or should have known that a solid double line along this road did not exist as he patrols this road frequently in line of his duties. Since the State failed to meet its burden of proving all the elements required in the alleged offense, the trial court erred in not granting a directed verdict as a matter of law and is factual grounds for granting this appeal request.

(11) Material evidence obtained which proves that SGT Hunt's testimony was false and intentionally misleading (perjury in violation of SC law, section 16-9-10). The prosecuting officer falsely stated that one of the two required traffic infractions he observed was the illegal crossing of a solid double line constituting "improper passing". Evidence submitted today will show that a solid double line does not exist in the roadway where such a traffic infraction was falsely and improperly alleged (show video of this section of road in Hampton County).

Your honor based on one or more of these issues factual grounds have been established to grant my request for dismissal of this charge or in the alternative to remand this case back to summary court for re-trial.

NOTICE OF APPEAL

WARRANT / CITATION NO. 93022EH

2011-CP-25-263

The Plaintiff / Defendant, William A. Ferrara

Hereby gives notice of intention to appeal from the judgment of the Magistrate's Court in the above action, to the Circuit Court of Common Pleas, in the county of _____

Hampton

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 16 day of JUNE

The ground(s) for this appeal are as follows:

See attached document.

BY
MELINDA D. NETTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.
20

2011 JUN 20 PM 1:39

FILED

Dated : JUNE 17, 2011

W.A. Ferrara

Plaintiff / Defendant (or his/her agent of attorney)

1. The defendant made a proper and timely request for Rule 5 discovery in this case by sending a certified letter to the State who received this request on May 19, 2011; however, the State never responded in any manner whatsoever. In addition, a copy of this request was given to the Court on May 25, 2011 upon the Court's request (Exhibit 1).
2. The defendant made a proper and timely pre-trial motion to compel discovery on June 9, 2011: a copy of which was sent by certified mail to both the State and Court (Exhibit 2).
3. The Court failed to properly rule on Defendant's motion to compel discovery as the State disclosed during the trial that tangible evidence in the case existed which had been properly requested by the Defendant to include training records and radio transmission recordings although initially the State intentionally mislead the Court by stating that they only used their telephones during the alleged incident (Exhibit 2). Evidence of this fact is contained in the summary court trial transcript. The Court should have granted the Defendant's motion to compel discovery, its failure to do so was prejudicial to the Defendant's case and is grounds for granting this appeal request.
4. The Defendant was not represented by counsel although he made it clear to the Court that he had made application to the Hampton County Public Defender's Office, had paid and they had accepted the required application fees, and that he was a college student in Florida attempting to pursue his education and had no income (Exhibit 3). Even after giving the Court notice of these facts, the Court refused to continue the case and afford the Defendant his civil rights to be represented by counsel as requested. The Defendant even requested the Court to appoint counsel, upon which she immediately refused to do so as evidenced in the summary court trial transcript. The Court erred and should have

- continued the case in order to allow the Defendant an opportunity to be properly represented by counsel as evidenced in the trial transcript. The Court's failure to do so was prejudicial to the Defendant's case and is grounds for granting this appeal request.
5. Upon request from the Court on May 25, 2011 the Court requested that both parties submit a list of witnesses to be subpoenaed by Friday, May 27, 2011. On May 26, 2011 by certified and registered letter the Defendant sent a letter to the Court requesting both a 60-day extension because the State continued to be unresponsive in his Rule 5 request for discovery and also provided the Court with a list of witnesses to be subpoenaed (Exhibit 4). This letter was pickup up and received by the Court on May 31, 2011. Subsequently, the Defendant received a letter from the Court dated June 1, 2011 stating that his request for continuance had been denied (Exhibit 4); however, the Court was silent on the issue of the Defendant's request for witness subpoenas. The Court should have granted the Defendant his request for continuance as well as his subsequent motion to compel discovery in this case as the State disclosed during their trial testimony the existence of requested discoverable evidence (exculpatory or otherwise). The Court's refusal to grant Defendant's motion to compel discovery was prejudicial to the Defendant's case and is grounds for granting this appeal request.
 6. The Court refused to subpoena Sheriff Thomas Smalls as request by the Defendant in his timely certified and registered letter to the Court dated May 25, 2011 and received by the Court on May 31, 2011. As evidenced in the summary court trial transcript the Court was asked during pre-trial motions if she has subpoenaed Thomas Smalls as properly requested by the Defendant at the which time the Court responded, "no." The Court further informed the Defendant that she had discussed the case with Hampton County

Sheriff Smalls and he said that he was not involved in the case although he directs the law enforcement agency that prosecuted this case. Although apparently lying to the Court because Sheriff Smalls was involved in the Defendant's attempt to collect potentially exculpatory evidence to present to the jury with regard to obtaining photographs of one of the vehicles involved in the incident (an unmarked law enforcement vehicle parked in public view outside the magistrate's office). The reason this evidence was considered by the Defendant to be potentially exculpatory was because the officer issuing the citation in this case, Sgt Maurice Hunt, told the Defendant at the traffic stop that he observed two violations of traffic law which justified the overcharge of reckless driving: speeding and attempting to evade his unmarked illegally tinted law enforcement vehicle. The Defendant's agent attempted to take photographs of this vehicle on Wednesday, May 25, 2011 at which time Sheriff Thomas Smalls approached him and informed him that he was not allowed to photograph the vehicle involved in the incident although the vehicle was parked in public view and Thomas Smalls was informed that the purpose of the attempted evidence collection was for the benefit of the jury in a scheduled upcoming trial that involved an employee of his agency and his agency was prosecuting the citation. In this regard, he was in fact involved in this case in that he attempted to interfere with the Defendant's attempt to collect potentially exculpatory evidence supporting his pre-trial motion for prosecutorial misconduct as evidenced in the summary court trial transcript as well as director of the prosecuting agency. Further, as evidenced in the summary court transcript, the Court disclosed that she had inappropriate Ex-Parte discussions with the prosecuting agency in this case (e.g., Sheriff Thomas Smalls) outside the presence of the Defendant regarding his involvement

in this case. Clearly the Defendant's request to subpoena Sheriff Thomas Smalls should have been honored by the Court and her inappropriate Ex-Parte discussions with the law enforcement agency that issued and prosecuted this citation should not have occurred and is grounds for judicial ethical misconduct, dismissal and/or granting this appeal request. The Court's blatant and willful failure to subpoena this witness as properly requested by the Defendant was prejudicial to his case and is sufficient grounds for granting this appeal request.

7. During the trial, however not during pre-trial motions when the possibility of his being called by the Defendant, the Court permitted Sheriff Thomas Smalls to enter the courtroom, being the only observer not to take a seat and inappropriately communicating using hand and facial jesters with some members of the jury (disrupting or distracting the jury) during the conduct of the trial for an extended period of time. The Court should have recognized this as an obvious jury intimation technique, jury disruption and/or attempt to unduly or improperly influence the jury and declared a mistrial. Members of the jury as well as others present in the courtroom can attest to this fact.
8. The Defendant made a pre-trial motion for dismissal on the grounds of prosecutorial misconduct in that the State had Ex-Parte discussions with the Court outside the presence of the Defendant as evidenced in the jury strike transcript and jury trial transcript. After completion of the jury strike on May 25, 2011 the Court disconnected the Defendant from the teleconference: he was not physically present in the courtroom. Immediately after disconnecting the Defendant she proceeded to have Ex-Parte discussions regarding the case with the State (e.g. Sgt Maurice Hunt) at which time Sgt Maurice Hunt informed the Court that the only evidence he had in this case was the traffic citation. This

inappropriate Ex-Parte communications, as well as Ex-Parte communication cited above with Sheriff Thomas Smalls, was prejudicial and is grounds for dismissal or granting this appeal request. As evidenced in the Court's two transcript hearings the summary court judge was made aware of the Defendant's objections to Ex Parte communications, Sgt Hunt testified as to his participation in these discussions, and at a minimum upon being informed of these objections the Summary Court Magistrate should have recused herself from the case in order to avoid even the appearance of impropriety or judicial ethical misconduct.

9. The Defendant made a per-trial motion for dismissal on the grounds of prosecutorial misconduct in that the State on May 25, 2011 attempted to prohibit the Defendant in his efforts to obtain potentially exculpatory evidence (e.g. photographs of one of the vehicles involved in this incident). At which time Sgt Maurice Hunt when asked which vehicle he operated as a deputy sheriff while standing next to his law enforcement vehicle lied by stating, "I don't know. Who's asking?" Followed by Sheriff Thomas Smalls making the statement that photographs of law enforcement vehicles, owned by Hampton County taxpayers and parked in public view at the sheriff's office, was not allowed by anyone to include a defendant or his agent for the purpose of providing evidence to a jury in a trial. This pre-trial motion, as evidenced in the Court's transcript, should have been granted by the Court and provides the basis for granting the Defendant's appeal in this case.
10. During the trial the Defendant made a motion followed by several requests to disallow the testimony of the State's hearsay witness, Sgt Smith, who did not observe the alleged offense of reckless driving. The content of this motion and numerous objections by the Defendant as well as the Court's improper ruling with regard to its admissibility is

contained in the Summary Court's trial transcript. The State's previous witness, Sgt Maurice Hunt, had previously testified that there were no other witnesses to the alleged traffic offense; however, the Court improperly ruled on the Defendant's motion to disallow Sgt Smith's testimony. Clearly, the Court's improper and inappropriate ruling was prejudicial to the Defendant's case. Inadmissible evidence presented by Sgt Smith to the jury, to include the Defendant's exercising his civil rights to be represented by an attorney, silence and non-consent of his person, property and vehicle being searched, given multiple objections by the Defendant, should not have been allowed nor introduced to the jury, was prejudicial, and should have been ruled inadmissible by the Court. The Court's improper ruling on this motion is grounds for granting this appeal.

11. During the trial the State after resting its case in chief was permitted to introduce additional evidence by essentially testifying while addressing the Defendant's only witness in an attempt to explain or justify to the jury why he was unable to properly identify the Defendant's vehicle involved in this case. The Defendant brought this objection to the attention of the Court and requested that a mistrial be declared. The Court refused to do so as evidenced in the Court's transcript. This decision by the Court was improper and prejudicial to the Defendant's case and is grounds for granting this appeal request.
12. The Defendant made a motion for a directed verdict because the State failed to meet its burden of proof regarding the charge of reckless driving in that the State alleged only two observed traffic violations by one lone witness; speeding, but could not cite the rate of speed only that it exceeded the posted speed limit, and improper passing by the crossing of a non-existent solid double line along Highway 321. The State further provided direct

testimony that only one lone witness observed these alleged traffic violations, however he did not use radar nor any other speed detection equipment, and he had only had an 85% accuracy rate in visual speed estimation (or 15% inaccuracy rate regarding the witness' ability to properly visually estimate vehicle speed). Also, the State's lone witness was not able to properly identify the Defendant's vehicle and stated that he lost visual contact with the vehicle in pursuit on one or more occasions. Further, the State's witness perjured himself by stating that along the section of Highway 321 where he first observed a speeding vehicle and the intersection of Highway 321 at Hope Wells Road that he also observed this vehicle improperly pass vehicle(s) by crossing a non-existent solid double yellow line. This perjured testimony of a material fact by Sgt Maurice Hunt is evidenced on the Summary Court trial transcript, and by on-site verification that a solid double yellow line along Highway 321 (section identified by the State regarding their alleged pursuit) does not exist. The Court improperly ruled on Defendant's motion for a directed verdict, this ruling was prejudicial to the Defendant's case and is grounds for granting this appeal or dismissal.

13. In addition, the Defendant is requesting that the Court turn these allegations of officer perjury as cited herein along with the court's transcript, and any other supporting evidence, over to SLED and request that SLED conduct a full independent investigation into these serious allegations of law enforcement officer perjury while under oath. The Defendant contends and believes that Sgt Maurice Hunt willfully and knowingly fabricated false testimony of a material fact in order to provide the Court and the jury with the second required alleged observation of a violation of traffic law (e.g. improper passing by crossing a non-existent solid double line along this strait section of Highway

321). This fact or falsehood can be easily verified by on-site inspection of this section of Highway 321 and review of the Court's trial transcript. Sgt Maurice Hunt knew or should have known that such false testimony was prejudicial to the Defendant's case. Defendant Hunt further testified while under oath that he was required to observe two violations of traffic law in order to cite a driver for reckless driving (see Court transcript).

14. During the trial the State failed to introduce any tangible evidence. The only evidence the State introduced was direct testimony during presentation of their case in chief. However, the Court improperly provided a copy of the traffic citation to the jury which was not properly introduced by the State as evidence. The Defendant objected to the jury being given prejudicial evidence by the Court which was not properly introduced by the State. The Court improperly overruled Defendant's objection, this ruling was prejudicial to the Defendant's case and is grounds for granting this appeal. Evidence of this fact is contained in the Summary Court's trial transcript.

15. Based on the foregoing grounds, and the Court's review of both the jury strike and jury trial transcripts and any appropriate grounds determined therein, and results of the SLED independent investigation of alleged officer perjury, the Defendant is respectfully requesting that the Circuit Court of Common Pleas dismiss this citation or remand it back to summary court for retrial, as it deems just and appropriate.


Dated: June 17, 2011



William A. Ferrara, Defendant
Case Number 93022EH

5. A list of all witnesses (to include certified law enforcement officers, pedestrians, other drivers, passengers or any other persons who witnessed the alleged crime) the state intends to present at trial who observed the alleged offense or who the state intends to present to provide any and all other material evidence against the Defendant at the trial.
6. A list of all certified law enforcement officers at the scene of the incident, and if these officers are going to testify at trial.
7. Whether or not the Defendant was lawfully arrested or detained.
8. The period of time between arrest and testing, if applicable.
9. Whether or not the Defendant was given a written copy of and verbally informed of the rights enumerated in applicable U.S. and South Carolina.
10. Whether the Defendant consented to a search of his person and/or vehicle.
11. Whether the Defendant's was informed of his rights under Miranda v. Arizona.
12. The total time or duration of Defendant's detention and/or seizure.
13. Whether the Defendant consented to taking a test pursuant to Section 56-5-2950, if applicable.
14. If applicable, whether the:
 - (a) reported alcohol concentration at the time of testing was eight one-hundredths of one percent or more;
 - (b) individual who administered the test or took samples was qualified pursuant to Section 56-5-2950;
 - (c) tests administered and samples obtained were conducted pursuant to Section 56-5-2950 and regulations adopted pursuant to Section 56-5-2951(O) and Section 56-5-2953(F); and
 - (d) the machine was working properly, if applicable.
14. Evidence of field sobriety tests to include, if applicable:
 - (a) evidence of the amount of alcohol consumed by the person; and
 - (b) evidence of the person's driving.
15. Any and all video and audio recordings of the officer's alleged pursuit of the Defendant's vehicle or the vehicle the Defendant is alleged to have been operating.
16. Start and end location of officer's pursuit of Defendant's vehicle or the vehicle the Defendant is alleged to have been operating, distance, speed, alleged reckless conduct and required elements thereof, and any other relevant evidence the prosecution intends to present at trial
17. Any and all material evidence associated with Defendant's alleged damage to any public and/or private property.
18. Any and all video and audio recordings of the Defendant's conduct at the incident site and breath testing site taken pursuant to Section 56-5-2953.
19. Any other evidence of the state of a Defendant's faculties or inability to drive a motor vehicle which would call into question the results of any observations by certified law enforcement officers or any other witnesses at the scene of the alleged incident to include breath or bodily fluid tests, as applicable.
20. Any and all material evidence which the prosecution intends to present at trial which supports the alleged offense and the required elements of the alleged offense.

21. Pursuant to Rule 5, SCRCrimP, this request imposes a continuing duty upon the prosecution to supplement any evidence or material as additional evidence or material is discovered which should be immediately disclosed to the Defendant under this request for discovery.



William Ferrara, *Defendant*
109 Fox Lea Trail
Aiken, SC 29803

May 19, 2011

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MAURICE HUNT, Sgt
 Hampton County Sheriff's
 Office
 Hampton County Law
 Enforcement Center
 1109 Cemetery Rd
 Warville, S.C. 29944

2. Article Number
(Transfer from)

7010 3090 0001 8076 6468

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

[Handwritten Signature]

- Agent
- Addressee

B/ Received by (Printed Name)

[Handwritten Name]

C. Date of Delivery

[Handwritten Date: 11-25-2011]

- D. Is delivery address different from item 1? Yes
- If YES, enter delivery address below: No

3. Service Type

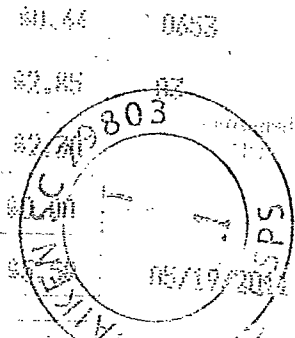
- Certified Mail
- Express Mail
- Registered
- Return Receipt for Merchandise
- Insured Mail
- C.O.D.

4. Restricted Delivery? (Extra Fee)

- Yes

7010 3090 0001 8076 6468

WARVILLE SC 29944



[Handwritten address: Maurice Hunt, Sgt, Hampton County Sheriff's Office, 1109 Cemetery Rd, Warville, S.C. 29944]

June 9, 2011

Magistrate Carolyn Williams
Hampton County Magistrate
411 Cemetery Road
P. O. Box 1299
Varnville, SC 29944

Dear Judge Williams:

Please accept this letter as a pre-trial motion to compel discovery regarding the trial date set for case number 93022EH currently scheduled on June 16, 2011. As you know, a Rule 5 discovery request has been made in this case and the State has failed to respond in any fashion whatsoever to this request. The State received this request by certified mail on May 20, 2011, but continues in its refusal to provide any evidence whatsoever in this case (see attached request for discovery and U.S.P.S. certified delivery receipt).

Specifically, the following evidence is being requested in this case, as well as any and all other tangible evidence the State intends to present at trial:

- 1 Copy of the Officer Hunt's dash cam video/audio recording during the entire alleged pursuit,
- 2 Copy of any and all radio correspondence between Officer Hunt and the dispatch officer at the onset of the incident or pursuit to the point of termination or release of the defendant (initiation of pursuit, license & vehicle check, warrant check(s), call for drug dogs/ K-9 Unit, etc.),
- 3 Copy of any and all recordings made while reading Miranda rights and further questioning the defendant after invoking his right to legal representation and non-consent to search,

- 4 Copy of dash cam video/recordings at the location of the incident location,
- 5 Copy of any and all radar recordings, documents, model, make and daily calibration records,
- 6 Officer Hunt's training certification on the operation of radar equipment in-use and visual speed estimation examination/certification records, and
- 7 I Duration of seizure during this routine traffic stop.

A copy of this motion to compel discovery has been also mailed to the State. Thank you very much for your consideration of this motion.

Sincerely,



William Ferrara
109 Fox Lea Trail
Aiken, SC 29803

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION OF DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

A. Signature

[Handwritten Signature]

Agent

Addressee

B. Received by (Printed Name)

[Handwritten Name]

C. Date of Delivery

6-10-11

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below:

No

1. Article Addressed to:

*MAURICE HUNT, SGT
 Hampton County Sheriff's Office
 Hampton County Law Enforcement Center
 409 Cemetery Rd
 Varnville, S.C. 29944*

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

2. Article Number

(Transfer from servic

7010 1060 0001 1803 1748

7010 1060 0001 1803 1748

*MAURICE HUNT, SGT
 409 Cemetery Rd.
 Varnville, S.C. 29944*

General Sessions
Clerk : Mylinda Nettles
1 Courthouse Square Elm St
Hampton, SC 29924
(803) 914-2250

EXHIBIT 3

DUPLICATE

Received From: William Andrew Ferrara

Date : 6/15/2011

Paying for: William Andrew Ferrara,

RECEIPT # 241036

Clerk: c25jbrooks

Payment Type: Cash \$40.00

Reference #

Total Paid 40.00

Comment: 93022EH

May 25, 2011

Magistrate Carolyn Williams
Hampton County Magistrate
411 Cemetery Road
P. O. Box 1299
Varnville, SC 29944

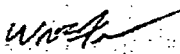
Dear Judge Williams:

Please accept this letter as a request for a 60-day extension regarding the trial date set for case number 93022EH currently scheduled on June 16, 2011. As you know, a Rule 5 discovery request has been made in this case and the State has not yet responded. The 60-day trial date extension is being made in order to resolve potential issues associated with and completion of discovery to include defendant's pre-trial motion to compel discovery, if required.

As instructed by the court, at this time subpoena of the following witnesses is being requested: Hampton County Sheriff Thomas Smalls, all law enforcement officers who responded to the incident location of the alleged offense, and Hampton County Sheriff's Office law enforcement officer(s) assigned to the K-9 Unit. I reserve the right to request the subpoena of additional witnesses who may be identified as being necessary in order to adequately prepare my defense as a result of pre-trial discovery.

Thank you very much for your consideration of my request.

Sincerely,


William Ferrara
109 Fox Lea Trail
Aiken, SC 29803

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 MAGISTRATE CAROLYN WILLIAMS
 HAMPTON COUNTY MAGISTRATE
 411 Cemetery Rd.
 P.O. Bx 1299
 VARNVILLE, S.C. 29944

2. Article Number
 (Transfer from service label)

7010 1060 0001 1803 1700

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *Senemika Jones* Agent Addressee

B. Received by (Printed Name) C. Date of Delivery
Senemika Jones 5/31/11

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7010 1060 0001 1803 1755

MAGISTRATE CAROLYN WILLIAMS
 411 Cemetery Rd P.O. Bx 1299
 Varnville, S.C. 29944

**HAMPTON COUNTY MAGISTRATE OFFICE
LAW ENFORCEMENT CENTER
P.O. BOX 1299
411 CEMETERY RD.
VARNVILLE, S.C. 29944**

Carolyn A. Williams
Chief Magistrate

Telephone: 803-914-2230
Fax: 803-914-2239

June 1, 2011

To: William Andrew Ferrara

From: Magistrate Williams

Re: Jury Trial Date & Time

State vs William Andrew Ferrara

93022EH

The jury trial continuance request has been denied. If you have any questions or concerns please contact the office at 803-914-2230.

Sincerely,
Stacy Sullivan
Clerk

Varnville Magistrate Court

~~EXHIBIT~~ 3

Judge : Carolyn A. Williams

411 Cemetery Rd.

Varnville, SC 29944

(803) 914-2230

Received From: Ferrara, William Andrew
109 Fox Lea Trl
Aiken, SC 29803-8914

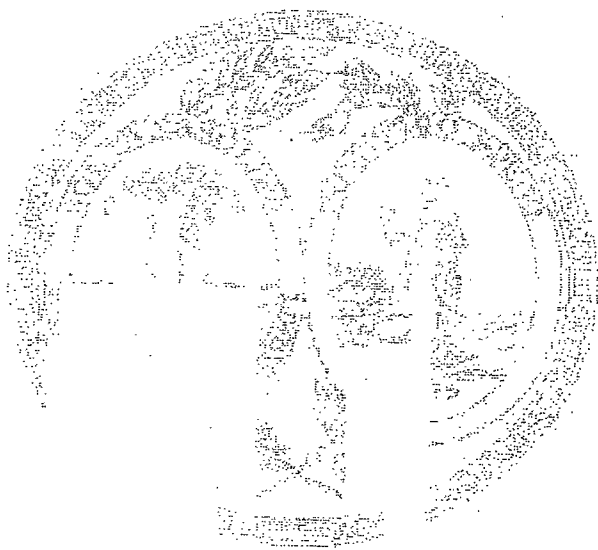
Date : 6/16/2011
RECEIPT # 767352
Clerk: c25ssulliv

Paying for: Self
Transaction Type: Payment

Payment Type: Cash \$445.00
Total Paid \$445.00

Reference #
Comment:

| <u>Case #</u> | <u>Caption</u> | <u>Previous Balance</u> | <u>Amount Paid</u> | <u>Balance Due</u> |
|-----------------------|---|-------------------------|--------------------|--------------------|
| 93022EH | The State of South Carolina VS William Andrew Ferrara | \$445.00 | \$445.00 | \$0.00 |
| Total Cases: 1 | | \$445.00 | \$445.00 | \$0.00 |



Form 6-459
Rev. 12/03

STATE OF SOUTH CAROLINA
UNIFORM TRAFFIC TICKET

COUNTY OF Hampton VERSUS:

FIRST NAME William MIDDLE NAME Andrew LAST NAME Ferrara

STREET AND NO. 109 Fox Lea Trl CITY Hiken STATE SC ZIP CODE 29803

STATE LICENSED SC DRIVER'S LICENSE NO. 10159660 CDE YES NO DRI. LIC. CLASS D

VEH. LIC. NO. ES 1688 STATE SC MAKE OF VEH. HVUNION YEAR 09 COL. VEH. YES NO 16 PEER. VEH. COMB. HAZ. MT. MOPED MTRCYCL. OTHER

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL OFFICER

NAME OF TRIAL OFFICER Magistrate Court STREET AND NO. 411 Cemetery Rd

DATE OF TRIAL 05/25/11 TIME OF TRIAL 10:00 AM CITY Carnville STATE SC ZIP CODE 29144

VIOLATION - COURT APPEARANCE REQUIRED - YEB VIOLATION SECTION NO. 36-5-2920

OWNER OF VEHICLE William R Ferrara DATE OF ARREST 04/28/11

ADDRESS OF OWNER 2916 Loren St, Hiken SC DATE OF VIOLATION 04/26/11

NAME OF ARRESTING OFFICER M. Hunt RANK Sgt

RACE W SEX M BIRTH DATE 10/25/80 HT. 5'10" HAIR BRN EYES BRN COUNTY Hampton DISTRICT 25

DATE BAR. REST. BY BADGE NO. N-22 67

CASE BEFORE: MAGISTRATE JUD. COURT CIRCUIT COURT FAMILY COURT FEDERAL COURT

NAME OF TRIAL OFFICER IF DIFFERENT FROM ABOVE: _____

DEFENDANT: DID NOT APPEAR APPEARED

DISPOSITION: NOLLE PROSE GUILTY FORFEITED BOND PLED: NOLLE CONTENDERE

TRIAL BY: TRIAL OFFICER JURY FINE NO. 321 PITY Gifford

VERDICT OF TRIAL IF ANY: GUILTY NOT GUILTY DATE OF TRIAL IF ANY: _____

JAIL SUSPEND 0 FINE 0 AMT. COLLECTED 0 AMT. SUSPENDED 0

COMMITTED TO: _____ VEHICLE SEARCHED ARREST OR RECEIPT OF COLLATERAL

OFFENSE CODE 64 B.A. LEVEL _____

CERTIFIED CORRECT: _____ DATE: _____

93022 EH

DRIVER'S RECORD COPY

Bond Requested \$445.00

STATE OF SOUTH CAROLINA

COUNTY OF Hampton

FILED IN THE CIRCUIT COURT

2011 JUN 23 PM 12:57

THE STATE

VS.

MYLINDA D. NETTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.

BY) RETURN OF THE CRIMINAL APPEAL

William Ferrara Jr)

109 Fox Lea Trl. 1)

Aiken, SC 29803)

DEFENDANT(S) ADDRESS

This matter is on appeal from the Hampton County Magistrate
(Summary Court Judge)

Court of Varnville, South Carolina, the

Honorable Carolyn Williams, Presiding Judge.
(Name of Judge)

The defendant, William Ferrara Jr., was charged with
(Name of Defendant)

violating S.C. Code Ann. § 56-5-2920 which is commonly
(Code Section)

referred to as Reckless Driving, 04/28,
(Common Name of Offense) (Month & Date)

20 11.
(Year)

This matter was heard in a Jury trial on
(Bench/Jury)

June 16, 20 11 and the Notice of Appeal was filed
(Month & Day) (Year)

on June 20, 20 11. The proceedings were (Check
(Month & Day) (Year)

Appropriate Box)

- recorded electronically.
- recorded by a court reporter.
- recorded in writing by the judge.

The jury list was prepared pursuant to S.C. Code Ann. (Check Appropriate Box)

§ 22-2-80. Selection of jury list for a single trial.

§ 22-2-90. Selection of jury list for scheduled terms of jury trials.

and the Defendant and the State were given an opportunity to exercise peremptory challenges on

May 25, 20 11.
(Month & Day) (Year)

The State called the following witnesses:

1. Sgt. Maurice Hunt
2. Deputy Craig Smith
3. _____
4. _____
5. _____

A summary of their testimony is attached.

The Defendant called the following witnesses:

1. William Ferrara SR.
2. _____
3. _____
4. _____
5. _____

A summary of their testimony is attached.

The State made the following Motions:

1. None
2. _____
3. _____
4. _____
5. _____

A summary of the State's and Defendant's position on each motion and the Court's ruling is attached.

The Defendant made the following Motions:

1. To Continue Case (trial)
2. Motion to Compel (Pre-trial)
3. motion for prosecutorial misconduct (Pre-trial)
4. motion for dismissal
5. _____

A summary of the Defendant's and State's position on each motion and the Court's ruling is attached.

The State offered the following items into evidence:

1. N/A
2. _____
3. _____
4. _____
5. _____

The Defendant raised the following objections to the items that the State sought to introduce into evidence:

1. N/A
2. _____
3. _____
4. _____
5. _____

A summary of the Defendant's and State's position and the Court's ruling on the objection is attached.

The Defendant offered the following items into evidence:

1. Exhibit 1 - picture of vehicle
2. " 2 - picture of vehicle
3. 3 - pictures of vehicle
4. 4 - Picture of Defendant's father vehicle
5. _____

The State raised the following objections to the items that the Defendant sought to introduce into evidence:

1. NONE
2. _____
3. _____
4. _____
5. _____

A summary of the State's and Defendant's position and the Court's ruling on the objection is attached.

The Defendant was found guilty of violating S.C. Code Ann. § 56-5-2920,
(Code Section)
commonly known as Reckless Driving and the Court imposed the following
(Common Name of Offense)

sentence: 30 days suspended upon payment
of Court Cost \$ 445⁰⁰

Attached are copies of the items which are checked.

- Uniform Traffic Ticket # 93022 EH
- Arrest Warrant # _____
- The jury list.
- List of witnesses and a summary of their testimony.
- List of motions, a summary of the parties' positions, and the court's ruling.

STATE OF SOUTH CAROLINA
UNIFORM TRAFFIC TICKET

CITY OR COUNTY OF Hampton VERSUS

FIRST NAME William MIDDLE NAME Andrew LAST NAME Ferrara

STREET AND NO. 109 FOL LEA TIL Aiken CITY SC STATE SC ZIP CODE 29803

STATE LICENSED SC DRIVER'S LICENSE NO. 101159660 CDI YES NO CLASS D

VEH. LIC. NO. ESR 688 STATE SC MAKE OF VEH. Hyundai YEAR 09 COMM. VEH. AUTO. PASGR. VEH. COMB.

HAZ. MT. MOPED MTRCYCL. OTHER

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL OFFICER

NAME OF TRIAL OFFICER Magistrate Court STREET AND NO. 411 Cemetery Rd

DATE OF TRIAL 05 25 2011 TIME OF TRIAL 10:00am CITY Hamville STATE SC ZIP CODE 29144

VIOLATION Reckless Driving COURT APPEARANCE REQUIRED YES NO VIOLATION SECTION NO. 305-2920

OWNER OF VEHICLE William R Ferrara DATE OF ARREST 04 28 2011

ADDRESS OF OWNER 2916 Loren St, Aiken SC DATE OF VIOLATION 04 28 2011

BAIL DEPOSITED _____ NAME OF ARRESTING OFFICER N. Hunt RANK Sgt

RACE W SEX M BIRTH DATE 09 11 1980 HT. 510 WT. 145 EYES BO COUNTY Hampton NUMBER 25

DATE BAIL REC'D. BY _____ BADGE N 22 DISTRICT _____

CASE BEFORE: MAGISTRATE MUN. COURT CIRCUIT COURT FAMILY COURT FEDERAL COURT

NAME OF TRIAL OFFICER IF DIFFERENT FROM ABOVE _____ TIME OF VIOLATION 4:50 WEATHER Wet

DEFENDANT: DID NOT APPEAR APPEARED DISTANCE IN FEET FROM INTERSECTION OF Hopewell Rd AND Beer Dr

NOLLE PROSSED: GUILTY FOREFEIT BOND: PLED: NOLO CONTENDERE

TRIAL BY _____ TRIAL OFFICER JURY HWY NO. 321 CITY Gifford

VERDICT OF: GUILTY TRIAL IF ANY: NOT GUILTY DATE OF TRIAL IF ANY _____

JAIL SUSPEND FINE AMT. COLLECTED _____ AMT. SUSPENDED _____

COMMITTED TO: Vehicle Searched Arrest as Result of Collision OFFENSE CODE 64 B.A. LEVEL _____

CERTIFIED CORRECT _____ DATE _____

93022 EH

DRIVER'S RECORD COPY

Bond Requested \$445.00

Varnville Magistrate Court
RANDOM STRIKE SHEET

J-1. 6/16/2011
10:00

JUDGE NAME :

TRIAL TYPE : Criminal/Traffi

PANEL ID : 05252011

COURTROOM CTRM

DESCRIPTION : State VS William A. Ferrara

Sorted by: Random Nbr

Appearance

| NAME | JUROR NBR | RACE | SEX | CYCLE | DEL | GT | REMARKS |
|----------------------------|-----------|------|-----|---------|-------|-------|---------|
| 1 Dempsey, Jason R | 11 | W | M | () | () | () | — |
| 2 Doctor, Chalette D | 12 | B | F | 1 () | () | () | — |
| 3 Mole, Roy H | 29 | W | M | 2 () | () | () | — |
| 4 Rituno, Ralph | 37 | W | M | () | 2 () | () | — |
| 5 Hamilton, Kameko S | 22 | B | F | () | 3 () | () | — |
| 6 Brown, El Donis | 4 | B | M | 3 () | () | () | — |
| 7 Maner, Venice T | 28 | B | F | () | 4 () | () | — |
| 8 Gordon, Trentin N | 18 | B | M | 4 () | () | () | — |
| 9 Hart, Pauline A | 23 | W | F | 5 () | () | () | — |
| 10 Burch, William A IV | 6 | W | M | () | () | (+) | 1 |
| 11 Richardson, Christina L | 35 | W | F | () | () | (+) | 2 |
| 12 Capers, Antonio M | 8 | B | M | 6 () | () | () | — |
| 13 Anderson, Emmaline | 1 | B | F | 7 () | () | () | — |
| 14 Hipp, Tiffany J | 24 | W | F | () | () | (+) | 3 |
| 15 Myers, Linda W | 31 | B | F | () | () | (+) | 4 |
| 16 Grant, Della Ann | 19 | B | F | () | 5 () | () | — |
| 17 Potter, Adam A | 34 | W | M | () | () | (+) | 5 |
| 18 Gilyard, Demetrius | 17 | B | M | () | () | (+) | 6 |
| 19 Bates, Frampton R | 2 | W | M | () | () | (+) | 7 |
| 20 Petrea, Jesse L | 33 | W | M | () | () | () | 8 |
| 21 Brown, Robin U | 5 | W | F | 8 (+) | () | () | — |
| 22 Perry, Larry | 32 | B | M | () | 6 () | () | — |
| 23 Muckenhirn, Genevieve H | 30 | W | F | 9 (+) | () | () | — |

Via telephone with defendant
subject's father present at strike

Varnville Magistrate Court RANDOM STRIKE SHEET

JUDGE NAME :

TRIAL TYPE : Criminal/Traffi

PANEL ID : 05252011

COURTROOM CTRM

DESCRIPTION : State VS William A. Ferrara

Sorted by: Random Nb

Appearance

| NAME | JUROR NBR | RACE | SEX | STATUS | DE | CH | REMARKS |
|--------------------------|-----------|------|-----|--------|-------|-----|---------|
| 24 Cook, Bridget L | 9 | W | F | () | () | (+) | 9 |
| 25 Capers, Alice C | 7 | B | F | () | () | (+) | 10 |
| 26 Jackson, William | 25 | B | M | () | () | (+) | 11 |
| 27 White, Tykeem L | 43 | B | M | () | 7(+) | () | — |
| 28 Gibson, Alice B | 16 | W | F | 10(+) | () | () | — |
| 29 Bowers, Jeremy L | 3 | W | M | () | () | (+) | 12 |
| 30 Smalls, Tomika V | 42 | B | F | () | () | (+) | 13 |
| 31 Major, Ella M | 27 | B | F | () | 8(+) | () | — |
| 32 Curry, Felicia L | 10 | B | F | () | 9(+) | () | — |
| 33 Donehue, Lindsay E | 13 | W | F | () | () | (+) | 14 |
| 34 Magwood, Charles H JR | 26 | B | M | () | () | (+) | 15 |
| 35 Wilson, Andrew S | 45 | W | M | () | () | (+) | 16 |
| 36 Roberts, Mildred S | 38 | W | F | () | 10(+) | () | — |
| 37 Gray, Syrina A | 20 | B | F | () | () | (+) | 17 |
| 38 Williams, Keith A | 44 | B | M | () | () | (+) | 18 |
| 39 Russell, Monique J | 39 | B | F | () | () | (+) | 19 |
| 40 Simmons, Mickey M | 41 | W | M | () | () | (+) | 20 |
| 41 Sanders, Birdie Mae | 40 | B | F | () | () | (+) | 21 |
| 42 Freeman, Miles E | 15 | W | M | () | () | (+) | 22 |
| 43 Dyer, Meagan R | 14 | W | F | () | () | (+) | 23 |
| 44 Griner, Cheryl A | 21 | W | F | () | () | (+) | 24 |
| 45 Riley, Terrell L | 36 | B | M | () | () | (+) | 25 |

Total Number of Jurors:

45

** END OF REPORT **

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON
PLANTIFF

FILED

2011 JUN 23 PM 12:58

IN THE COURT OF GENERAL SESSIONS
ANSWER TO MAGISTRATE'S APPEAL

V

MYLINDA D. NETTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.

WILLIAM FERRARA JR.
DEFENDANT

BY _____

THE DEFENDANT, WILLIAM FERRARA JR., REQUESTED AN APPEAL FROM THE COURT OF MAGISTRATE JURISDICTION. THE APPEAL HAS SET FORTH NUMEROUS GROUNDS. THE JUDGE CONDUCTED A MOTION HEARING PRIOR TO JURORS BEING BROUGHT INTO COURT. THE JUDGE RULED ON ALL MOTIONS THAT WERE PRESENTED.

THE GROUNDS FOR APPEAL ARE AS FOLLOW IN SUMMARY:

GROUND 1. THE DEFENDANT MADE A PROPER AND TIMELY REQUEST FOR A RULE 5 DISCOVERY IN THIS CASE BY SENDING A CERTIFIED LETTER TO THE STATE.

ANSWER: THE COURT ACKNOWLEDGES THE REQUEST FOR A RULE 5 DISCOVERY. THE STATE, SGT. MAURICE HUNT, INDICATED AT THE JURY STRIKE HELD ON MAY 25, 2011 AND AT MOTION HEARING HELD ON JUNE 16, 2011 THAT THE ONLY EVIDENCE HE INTENDS TO PRESENT OR HAVE TO PRESENT WAS THE UNIFORM TRAFFIC TICKET OF WHICH THE DEFENDANT HAD A COPY.

GROUND 2. THE DEFENDANT MADE A PROPER AND TIMELY PRETRIAL MOTION TO COMPEL DISCOVERY ON JUNE 9, 2011: A COPY OF WHICH WAS SENT BY CERTIFIED MAIL TO BOTH THE STATE AND THE COURT.

ANSWER: THE COURT ACKNOWLEDGES A PRETRIAL MOTION TO COMPEL DISCOVERY WAS SENT TO THE STATE VIA CERTIFIED MAIL. THE COURT RECEIVED NOTIFICATION JUNE 15, 2011 AS INDICATED BY DATE OF RECEIPT STAMP DATED JUNE 15, 2011.(APPEAL EXHIBIT #1).

GROUND 3. THE COURT FAILED TO PROPERLY RULE ON DEFENDANT'S MOTION TO COMPEL DISCOVERY AS THE STATE DISCLOSED DURING THE TRIAL TANGIBLE EVIDENCE WHICH WAS REQUESTED BY THE DEFENDANT TO INCLUDE TRAINING RECORDS AND RADIO TRANSMISSION RECORDINGS.

ANSWER: THE ISSUES OF TRAINING RECORDS AND RADIO TRANSMISSIONS RECORDINGS WERE PRESENTED AT THE PRETRIAL MOTION HEARING. THE DEFENSE MADE MOTION FOR DISCOVERY ON (a)DASH CAM VIDEO/AUDIO RECORDINGS (b)OFFICER TRAINING/CERTIFICATIONS. SGT. MAURICE HUNT INDICATED HE DID NOT HAVE A DASH CAM IN HIS VEHICLE; THEREFORE, HE DIDN'T HAVE ANY VIDEO/AUDIO TO PRESENT. SGT HUNT ALSO INDICATED AT MOTION HEARING THAT HE HAD NO OTHER SPECIAL TRAINING OTHER THAN WHAT WAS TAUGHT AT THE POLICE ACADEMY AND HIS APPROXIMATELY 11 YEARS OF EXPERIENCE. (FINALLY) SGT. HUNT INDICATED THAT THERE WEREN'T RADIO TRANSMISSION BECAUSE THE PHONE CALL BETWEEN HIMSELF AND DEPUTY CRAIG SMITH WAS ON A PRIVATE LINE. THE FACT THAT SGT. HUNT AND DEPUTY CRAIG SMITH USED THEIR PRIVATE LINE

WAS ALSO ESTABLISHED AT TRIAL DURING CROSS EXAMINATION TESTIMONY AS WELL AS THE ONLY CERTIFICATION WAS HIS TRAINING AT THE ACADEMY AND HIS WORK EXPERIENCE, THUS THE COURT DID NOT HAVE ANY EVIDENCE TO COMPEL.

GROUND 4. THE DEFENDANT WAS NOT REPRESENTED BY COUNSEL ALTHOUGH HE MADE IT CLEAR TO THE COURT THAT HE HAD MADE APPLICATION TO THE HAMPTON COUNTY PUBLIC DEFENDER'S OFFICE AND THAT HE WAS A COLLEGE STUDENT IN FLORIDA. EVEN AFTER THESE NOTICES, THE COURT REFUSED TO CONTINUE THE CASE AND AFFORD THE DEFENDANT HIS RIGHTS TO BE REPRESENTED BY COUNSEL AS REQUESTED. THE DEFENDANT REQUESTED THE COURT APPOINT COUNSEL. THE COURT ERRED AND SHOULD HAVE CONTINUED THE CASE IN ORDER TO ALLOW THE DEFENDANT AN OPPORTUNITY TO BE PROPERLY REPRESENTED BY COUNSEL.

ANSWER: (FIRST) DURING PRETRIAL MOTIONS, THE COURT ASKED THE DEFENDANT ON A COUPLE OF OCCASSIONS IF HE HAD AN OPPORTUNITY TO CONSULT WITH CONSEL. HE CHOSE NOT TO ANSWER THE QUESTION.(SECONDLY) IT WAS NOT UNTIL THE DEFENDANT HAD CONDUCTED HIS PRETRIAL HEARING THAT HE REQUESTED AN ATTORNEY AND JUST BEFORE THE JURORS WERE TO BE ASSEMBLED IN THE COURTROOM. (THIRDLY) CHIEF JUSTICE TOAL HAS INDICATED THAT CASES SHOULD NOT BE CONTINUED UNLESS ABSOLUTELY NECESSARY. THE DEFENDANT HAD AMPLE TIME TO RETAIN OR REQUEST THE SERVICE OF COUNSEL. THE DEFENDANT WAS CITED APRIL 28, 2011 BUT FAIL TO REQUEST THE SERVICE OF THE PUBLIC DEFENDER UNTIL JUNE THE 15, 2011, ONE DAY BEFORE THE JURY TRIAL WAS SCHEDULED. (NEXT) THE PUBLIC DEFENDER'S OFFICE HAD INDICATED THEY DID NOT REPRESENT DEFENDANTS ON THAT TYPE OF CASE. THE PUBLIC DEFENDER'S OFFICE ATTEMPTED TO NOTIFY THE DEFENDANT THAT THEY WOULD NOT HANDLE HIS CASE ON JUNE 15, 2011.THE SAME DAY THE DEFENDANT APPLIED AT THE CLERK OF COURT'S OFFICE. (APPEAL EXHIBIT#2). FINALLY THE MAGISTRATES IN THE 14TH CIRCUIT DO NOT APPOINT COUNSEL PER CHIEF ADMINISTRATE JUDGE. THAT IS THE RESPONSIBILITY OF THE CLERK OF COURT. AFTER CAREFUL CONSIDERATION FOR THE DEFENDANT'S DUE PROCESS RIGHTS, THE COURT DECLINED TO CONTINUE THE CASE.

GROUND 5. ON MAY 26, 2011, THE DEFENDANT RREQUESTED BOTH A 60-DAY EXTENSION BECAUSE THE STATE CONTINUED TO BE UNRESPONSIVE TO HIS RULE 5 REQUEST AND ALSO PROVIDED THE COURT WITH A LIST OF WITNESSES TO BE SUBPOENAED. THE COURT SHOULD HAVE GRANTED THE DEFENDANT'S REQUEST FOR A CONTINUANCE AS WELL AS HIS MOTION TO COMPEL DISCOVERY.

ANSWER: AS STATED IN ASWER TO GROUND 3, THE ONLY EVIDENCE THE STATE HAD WAS THE CITATION. THE STATE OFFERED NO OTHER EVIDENCE AT TRIAL. PER THE DEFENDANT'S FATHER INQUIRY AT JURY STRIKE REGARDING THE RULE 5, THE STATE HAD INDICATED NO OTHER EVIDENCE TO DISCOVER.

GROUND 6. THE COURT REFUSED TO SUBPEONA SHERIFF THOMAS SMALLS AS REQUESTED BY THE DEFENDANT. THE COURT WAS ASKED DURING PRETRIAL MOTION HEARING IF SHE HAS SUBPEONA THOMAS SMALLS AS PROPERLY REQUESTED BY THE DEFENDANT. THE COURT INFORMED THE DEFENDANT THAT SHE HAD DISCUSSED THE CASE WITH HAMPTON COUNTY SHERIFF SMALLS AND HE

SAID HE WAS NOT INVOLVED IN THE CASE. THE COURT DISCLOSED THAT SHE HAD INAPPROPRIATE EX-PARTE DISCUSSIONS WITH THE PROSECUTING AGENCY IN THIS CASE (e.g., SHERIFF THOMAS SMALL).

ANSWER: (FIRSTLY) AS THE COURT'S APPEAL EXHIBIT #3 WILL INDICATE, THE REQUEST FOR SUBPEONAS WERE VERY BROAD WITH THE EXCEPTION OF SHERIFF THOMAS SMALLS. AT THE JURY STRIKE ON MAY 25, 2011, THE COURT REQUESTED ALL SUBPEONAS HAVE THE PERSON NAME TO BE SUBPEONA, THEIR PHYSICAL AS WELL AS MAILING ADDRESS, AND TELEPHONE NUMBER IN ORDER FOR THE CLERK TO SEND THE SUBPEONAS. THE COURT DID NOT SEND A SUBPEONA TO SHERIFF SMALLS BECAUSE LIKE A JUDGE, THE SHERIFF IS AN ADMINISTRATOR WHO DOES NOT CONDUCT DAY TO DAY OPERATIONS BUT RATHER HANDLES THE ADMINISTRATION DUTIES. THE SHERIFF LIKE THE JUDGE SHOULD NOT BE COMPELLED TO TESTIFY IN A CASE THAT IS NOT DIRECTLY RELATED TO HIM. (SECONDLY) THE JUDGE DID NOT HAVE EX-PARTE DISCUSSIONS WITH SHERIFF SMALLS OR ANY OTHER OFFICER OF THE PROSECUTING AGENCY. DURING THE PRETRIAL HEARING, THE JUDGE INDICATED THAT THE CLERK HAD SPOKEN WITH THE SHERIFF WHO INDICATED HE HAD NOTHING TO DO WITH IT. THE JUDGE NEVER SAID SHE SPOKE WITH ANYONE. BECAUSE OF THE BROAD REQUEST OF PERSONS TO BE SUBPEONAED WITHOUT SPECIFIC NAMES, THE CLERK WAS INSTRUCTED BY THE JUDGE TO ASK THE SHERIFF WHO WAS AT THE SCENE OF THE INCIDENT AS WELL AS WHO NEEDED TO BE SUBPEONA AS THE K-9 UNIT. THE CLERK ONLY ASKED THAT QUESTION IN ORDER TO SUBPEONA THE PROPER INDIVIDUALS. THE CLERK DID NOT DISCUSS ANYTHING ELSE WITH THE SHERIFF'S OFFICE. THE CLERK SPOKE WITH OFFICER HUNT RATHER THAN SHERIFF SMALLS FOR THAT INFORMATION. IT WAS SGT HUNT NOT SHERIFF SMALLS THAT INDICATED SHERIFF SMALLS HAD NOTHING TO DO WITH THE CASE NOR WERE THERE ANY OTHER OFFICERS PRESENT EXCEPT DEPUTY CRAIG SMITH (APPEAL EXHIBIT #4) WHO WAS SUBSEQUENTLY SUBPEONAED. THE JUDGE WILL CONCEDE THAT SHE MISQUOTED HER CLERK WHEN ASKED HAD SHE SUBPEONAED SHERIFF SMALLS. (FINALLY) BECAUSE SHERIFF SMALLS HANDLES ADMINISTRATIVE DUTIES AND NOT PHYSICAL DUTIES AND BECAUSE THERE WERE NO K-9 UNIT OFFICERS AT THE INCIDENT SITE TO TESTIFY TO FACTS, THE DEFENDANT WAS NOT PREJUDICED.

GROUND 7: THE COURT PERMITTED SHERIFF SMALLS TO ENTER THE COURTROOM, BEING THE ONLY OBSERVER NOT TO TAKE A SEAT AND INAPPROPRIATELY COMMUNICATING USING HAND AND FACIAL GESTURES WITH SOME MEMBERS OF THE JURY. THE COURT SHOULD HAVE RECOGNIZED THIS AS AN OBVIOUS JURY INTIMATION TECHNIQUE, JURY DISRUPTION, OR IMPROPERLY INFLUENCE THE JURY AND DECLARED A MISTRIAL. MEMBERS OF THE JURY AS WELL AS OTHERS PRESENT IN THE COURTROOM CAN ATTEST TO THIS FACT.

ANSWER: (FIRST) THE MAGISTRATE COURT IS OPEN TO THE PUBLIC. IT WOULD BE UNETHICAL TO PREVENT ANYONE FROM ENTERING THE COURTROOM. (SECONDLY) REGULARLY DURING COURT, THE SHERIFF WILL ENTER THE COURTROOM AND OBSERVE FOR A PERIOD OF TIME AND LEAVE. SHERIFF SMALLS STOOD NEAR THE ENTRANCE DOOR JUST AS DEPUTY FIRSTER HAD DONE BEFORE HE EXITED THE COURTROOM FOR A SHORT PERIOD OF TIME. THE USUAL COURT SECURITY PERSON WAS NOT PRESENT. (NEXT) THE COURT NEVER SAW THE SHERIFF ALLEGEDLY MAKE GESTURES OF ANY KIND OTHER THAN STAND NEAR THE ENTRANCE TO THE COURTROOM. (LASTLY) THE DEFENDANT FAILED TO OBJECT TO SHERIFF SMALLS BEING IN THE COURTROOM OR HIS HAVING GESTURED TO THE JURY; THEREFORE, ISSUES NOT RAISED ON THE RECORD TO THE TRIAL COURT CANNOT BE PRESERVED. THE DEFENDANT

HAS NO EVIDENCE THAT THE JURY OR ANY OTHER PERSON CAN ATTEST TO HAVING SEEN SUCH ALLEGED JESTERING; CONSEQUENTLY, THE COURT WOULD HAVE NO GROUNDS TO ISSUE A MISTRIAL.

GROUND 8. THE DEFENDANT MADE A PRETRIAL MOTION FOR DISMISSAL ON THE GROUNDS OF PROSECUTORIAL MISCONDUCT IN THAT THE STATE HAD EX-PARTE DISCUSSION WITH THE COURT OUTSIDE THE PRESENCE OF THE DEFENDANT. AFTER COMPLETION OF THE JURY STRIKE HELD ON MAY 25, 2011, THE COURT DISCONNECTED THE DEFENDANT FROM THE TELECONFERENCE. IMMEDIATELY AFTER DISCONNECTING THE DEFENDANT SHE PROCEEDED TO HAVE EX-PARTE DISCUSSION REGARDING THE CASE WITH THE STATE (e.g., SGT MAURICE HUNT) AT WHICH TIME SGT. HUNT INFORMED THE COURT THE ONLY EVIDENCE HE HAD IN THIS CASE WAS THE TRAFFIC CITATION. THE INAPPROPRIATE EX-PARTE COMMUNICATION, AS WELL AS EX-PARTE COMMUNICATION CITED ABOVE WITH SHERIFF SMALLS WAS PREJUDICIAL. AT MINIMUM BEING INFORMED OF THESE OBJECTIONS, THE MAGISTRATE SHOULD HAVE RECUSED HERSELF FROM THE CASE IN ORDER TO AVOID THE APPEARANCE OF IMPROPRIETY OR JUDICIAL ETHICAL MISCONDUCT.

ANSWER: (FIRST) THE DEFENDANT'S FATHER ATTENDED THE JURY STRIKE ON MAY 25, 2011. THE DEFENDANT STRUCK THE JURY VIA TELECONFERENCE. BEFORE THE JURY STRIKE BEGAN, THE COURT INQUIRED AS TO WHO THE PERSON IN THE COURTROOM WAS. THE GENTLEMAN STATED " I'M WILLIAM FERRARA'S FATHER". THE JURY WAS STRUCK, THE DEFENDANT WAS GIVEN THE COURT DATE, AND GIVEN INSTRUCTION ON SUBPEONAS AFTER WHICH TIME THE JUDGE DISCONNECTED THE LINE. THE JUDGE WAS PREPARING TO EXIT THE BENCH WHEN MR. FERRARA SR. PRESENTED A COPY OF THE RULE 5 REQUEST. THE FATHER ASKED SGT HUNT IN THE COURTROOM ABOUT THE DISCOVERY REQUEST AND WHY HE HAD NOT COMPLIED. THE JUDGE ASKED; IN FRONT OF SGT. HUNT AND THE DEFENDANT'S FATHER, WHO HAD PRESENTED THE RULE 5 TO THE COURT; WHETHER OR NOT SGT. HUNT HAD RECEIVED A RULE 5 REQUEST. SGT. HUNT INDICATED AT THAT TIME THAT HE HAD RECEIVED THE REQUEST AND THE ONLY EVIDENCE HE HAD WAS THE CITATION. THE CONVERSATION ENDED AT THAT POINT AND THE JUDGE LEFT THE BENCH TO PREPARE FOR THE REGULARLY SCHEDULED COURT. (SECONDLY) AS PREVIOUSLY ATTESTED TO, THE JUDGE DID NOT HAVE CONVERSATION WITH THE SHERIFF OR ANY OTHER LAW ENFORCEMENT OFFICER ABOUT THIS CASE AS INDICATED BY SGT. HUNT DURING PRETRIAL TESTIMONY WHEN QUESTIONED BY THE DEFENDANT. THE ONLY INQUIRY DONE BY THE MAGISTRATE 'S OFFICE WAS DONE BY THE CLERK IN REFERENCE TO THE K-9 UNIT AND OTHER OFFICERS TO BE SUBPEONAED BECAUSE THE DEFENDANT HAD NOT INDICATED AS SUCH IN HIS REQUEST.(APPEAL EXHIBIT #3). (FINALLY) THE JUDGE HAD NOT ENGAGED IN EX-PARTE COMMUNICATION WITH ANY LAW ENFORCEMENT OFFICER ABOUT THIS CASE AS ALLEGED BY THE DEFENDANT; MOREOVER, THE TRIAL WAS BY JURY. BASED ON THESE FACTS, ALONG WITH THE FACT THE OTHER JUDGE HAVING OBSERVED THE ENTIRE COURT PROCEEDING, THERE WOULD NOT BE ANY REASON TO RECUSE MYSELF.

GROUND 9. THE DEFENDANT MADE A PRETRIAL MOTION FOR A DISMISSAL ON THE GROUNDS OF PROSECUTORIAL MISCONDUCT IN THAT THE STATE ON MAY 25, 2011 ATTEMPTED TO PROHIBIT THE DEFENDANT IN HIS EFFORTS TO OBTAIN POTENTIALLY INCULPATORY EVIDENCE (PHOTOGRAPHS OF ONE OF THE VEHICLES INVOLVED IN THIS INCIDENT) BY NOT ACKNOWLEDGING WHO OPERATED THAT VEHICLE AND SHERIFF SMALLS MAKING THE STATEMENT THAT PHOTOGRAPHS OF LAW ENFORCEMENT

VEHICLES WAS NOT ALLOWED BY ANYONE FOR THE PRUPOSE OF PROVIDING EVIDENCE TO A JURY IN A TRIAL. THE PRETRIAL MOTION SHOULD HAVE BEEN GRANTED.

ANSWER: RULE 5 OF RULES OF CRIMINAL PROCEDURE NOTE D1 REGULATION OF DISCOVERY INDICATES THAT UPON SUFFICIENT SHOWING, THE COURT MAY AT ANYTIME ORDER THAT THE DISCOVERY OR INSPECTION BE DENIED, RESTRICTED, OR DEFERRED OR MAKE SUCH OTHER ORDER AS IS APPROPRIATE. SGT. HUNT GAVE TESTIMONY DURING THE PRETRIAL HEARING THAT HIS UNMARKED VEHICLE ALONG WITH OTHER UNMARKED VEHICLES ARE ROUTINELY USED IN UNDERCOVER INVESTIGATIONS. IF THOSE PICTURES WERE POSTED, IT COULD GREATLY EFFECT THOSE INVESTIGATIONS. RULE 402 NOTE 10 INDICATES THAT PHOTOGRAPHS SHOULD BE EXCLUDED IF IT IS IRRELEVANT OR UNNESSARY TO SUBSTANTIATE FACTS. THE DEFENDANT WAS CHARGED WITH RECKLESS DRIVING WHICH HAD NO BEARING ON WHAT VEHICLE THE OFFICER DROVE; THEREFORE, THE COMPROMISING OF FUTURE INVESTIGATIONS FAR OUTWEIGH THE RELEVANCE TO THIS CASE. THE MOTION WAS DENIED.

GROUND 10. DURING THE TRIAL THE DEFENDANT MADE A MOTION FOLLOWED BY SEVERAL REQUEST TO DISALLOW THE TESTIMONY OF THE STATE'S HERESAY WITNESS, SGT. SMITH, WHO DID NOT OBSERVE THE ALLEDGED OFFENSE OF RECKLESS DRIVING. THE COURT IMPROPERLY RULED ON THE DEFENDANT'S MOTION TO DISALLOW SGT. SMITH'S TESTIMONY. THE COURT'S IMPROPER AND INAPPROPRIATE RULING WAS PREJUDICIAL TO THE DEFENSE'S CASE. INADMISSIBLE EVIDENCE PRESENTED BY SGT SMITH TO THE JURY, TO INCLUDE THE DEFENDANT'S EXERCISING HIS CIVIL RIGHTS TO BE REPRESENTED BY AN ATTORNEY, SILENCE AND NON-CONSENT OF HIS PERSON, PROPERTY, AND VEHICLE BEING SERACHED, GIVEN MULTIPLE OBJECTIONS BY THE DEFENDANT SHOULD NOT HAVE BEEN ALLOWED NOR INTRODUCED TO THE JURY, WAS PREJUDICIAL, AND SHOULD HAVE BEEN RULES INADMISSIBLE BY THE COURT.

ANSWER: THE DEFENDANT OBJECTED TO DEPUTY CRAIG SMITH TESTIFYING; HOWEVER, IT WAS THE DEFENDANT THAT REQUIRED ANY OFFICER WHO RESPONSED TO THE INCIDENT LOCATION TO BE SUBPEONAED (APPEAL EXHIBIT #3). THE DEFENSE OBJECTION WAS DENIED. THE DEPUTY WAS ALLOWED TO TESTIFY FOR THE STATE. THE TESTIMONY GIVEN BY SGT. SMITH WAS NOT HEARSAY BECAUSE HE ONLY TESTIFIED TO WHAT HE DID AT THE SCENE AND BECAUSE THE DEFENSE HAD AN OPPORTUNITY TO CROSS-EXAMINE THE WITNESS. SGT SMITH DID NOT PRESENT ANY EVIDENCE ONLY TESTIMONY. SGT SMITH TESTIFIED THAT HE HAD NO KNOWLEDGE OF THE TRAFFIC OFFENSE BUT WAS CALLED BY SGT HUNT FOR BACKUP AFTER HAVING OBSERVED THE DEFENDANT ACTING NERVOUSLY. THE TESTIMONY THAT OFFICE HUNT CALLED SGT SMITH FOR BACKUP WAS ALSO GIVEN BY SGT. HUNT DURING HIS TESTIMONY. DURING EXAMINATION, SGT CRAIG SMITH INDICATED THAT WHEN HE WENT TO SPEAK WITH THE DEFENDANT, THE DEFENDANT IMMEDIATELY STATED" YOU CAN NOT SEARCH MY VEHICLE" , SO SGT SMITH DID NOT GO ANY FURTHER WITH QUESTIONS. DURING CROSS-EXAMINATION, THE DEFENDANT ASKED SGT SMITH WHETHER THE DEFENDANT HAD EXERCISED HIS CIVIL RIGHT TO BE REPRESENTED BY AN ATTORNEY, SILENCE AND NON-CONSENT OF HIS PERSON, PROPERTY, AND VEHICLE SEARCHED, AND THE OFFICER'S RESPONSE WAS "YES AND THAT IS WHY I DID NOT SAY ANYTHING FURTHER. SGT. HUNT GAVE YOU YOUR CITATION AND YOU WERE ALLOWED TO LEAVE". THE STATE'S

RIGHT TO CALL WITNESSES AND THE DEFENSE'S RIGHT TO CROSS-EXAMINATION WAS EXERCISED; THEREFORE, THE TESTIMONY WAS ALLOWED.

GROUND 11. DURING THE TRIAL, THE STATE AFTER RESTING ITS CASE IN CHIEF WAS PERMITTED TO INTRODUCE ADDITIONAL EVIDENCE BY ESSENTIALLY TESTIFYING WHILE ADDRESSING THE DEFENDANT'S ONLY WITNESS IN AN ATTEMPT TO EXPLAIN OR JUSTIFY TO THE JURY WHY HE WAS UNABLE TO PROPERLY IDENTIFY THE DEFENDANT'S VEHICLE INVOLVED IN THIS CASE. THE DEFENDANT BROUGHT THIS OBJECTION TO THE ATTENTION OF THE COURT AND REQUESTED THAT A MISTRIAL BE DECLARED. THE DECISION BY THE COURT WAS IMPROPER AND PREJUDICIAL TO THE DEFENDANT'S CASE.

ANSWER: DURING CROSS-EXAMINATION OF SGT. HUNT, THE DEFENSE PRESENTED THREE PHOTOS OF CARS (DEFENSE EXHIBITS # 1, 2, &3) FOR SGT HUNT TO ATTEMPT TO IDENTIFY THE VEHICLE THAT HE SAW COMMIT THE TRAFFIC OFFENSE. SGT HUNT STATED ON RECORD THAT TWO OF THE VEHICLE COULD POSSIBLE BE THE ONE BECAUSE THE VEHICLE WAS GRAY OR SILVER IN COLOR. HE POINTED TO TWO CARS THAT WERE POSSIBILITIES. DURING EXAMINATION OF THE DEFENDANT'S FATHER, THE FATHER PICKED OUT A DIFFERENT VEHICLE FROM THE TWO THE OFFICER HAD PICKED AS POSSIBLE MATCHES. THE DEFENDANT INDICATED TO THE JURORS THAT HIS FATHER HAD PICKED A TOTALLY DIFFERENT VEHICLE FROM THE TWO THE OFFICER HAD PICKED. SGT. HUNT OBJECTED. THE COURT ASKED THE GROUNDS FOR THE OBJECTION. SGT HUNT PROCEEDED TO EXPLAIN WHAT HIS OBJECTION WAS BY SAYING THAT THE DEFENDANT WAS TRYING TO IMPLY THAT THE OFFICER DIDN NOT KNOW THE VEHICLE THAT THE DEFENDANT WAS DRIVING. BEFORE BEING ABLE TO RULE, THE DEFENDANT OBJECTED STATING THE OFFICER WAS GIVING TESTIMONY. THE COURT ALLOWED THE STATE'S OBJECTION AND OVERRULED THE DEFENSE OBJECTION BECAUSE THE PERSON MAKING THE OBJECTION MUST EXPLAIN THE REASON FOR OBJECTING. RULE 103 OF THE RULES OF COURT INDICATES THAT THE PERSON MAKING THE OBJECTION MUST STATE THE SPECIFIC GROUNDS FOR THE OBJECTION SO THE COURT CAN RULE.

GROUND 12. THE DEFENDANT MADE A MOTION FOR A DIRECTED VERDICT BECAUSE THE STATE FAILED TO MEET ITS BURDEN OF PROOF REGARDING THE CHARGE OF RECKLESS DRIVING IN THAT THE STATE ALLEGED ONLY TWO OBSERVED TRAFFIC VIOLATIONS BY ONE ALONE WITNESS, SPEEDING, BUT COULD NOT CITE THE RATE OF SPEED ONLY THAT IT EXCEEDED THE POSTED SPEED LIMIT, AND IMPROPER PASSING BY CROSSING OF A NON-EXISTED SOLID DOUBLE LINE ALONG HIGHWAY 321. THE OFFICER DID NOT USE A RADAR AND THAT HE HAD ONLY A 85% ACCRACY RATE IN VISUAL SPEED ESTIMATION. THE COURT IMPROPERLY RULED ON DEFENDANT'S MOTION FOR A DIRECTED VERDICT, THIS RULING WAS PREJUDICIAL TO THE DEFENDANT'S CASE.

ANSWER: AS THE COURT IS AWARE OF THE ELEMENTS FOR RECKLESS DRIVING IS ANY PERSON DRIVING ANY VEHICLE IN SUCH A MANNER TO INDICATE A WILLFUL OR WANTON DISREGUARD FOR THE SAFETY OF PERSONS OR PROPERTY. SPEED COULD BE A FACTOR FOR THAT DISREGUARD BUT IS NOT THE ONLY FACTOR. SGT. HUNT INDICATED DURING HIS DIRECT TESTIMONY AS WELL AS CROSS-EXAMINATION THAT SPEED WAS A FACTOR ALONG WITH THE ROAD CONDITIONS AFTER A VERY BAD STORM HAD OCCURRED AS WELL AS THE DEFENDANT PASSING TWO CARS ON A NO PASSING ZONE. DURING THE TESTIMONY, SGT HUNT STATED ON SEVERAL INSTANCES AS A SOLID LINE OR A NO PASSING ZONE.

DURING CROSS-EXAMINATION THE OFFICER SAID SOLID YELLOW LINE THEN THE DEFENDANT ASKED " A SOLID YELLOW DOUBLE LINE" THE OFFICER SAID YES. THE DEFENDANT BASED HIS REQUEST FOR A DIRECTED VERDICT ON ONE MISQUOTE BY THE OFFICER AFTER THE OFFICER HAD SAID SOLID DOUBLE YELLOW LINE ON ONE OCCASION WHILE DISREGARDING THE TESTIMONY THROUGHOUT THE TRIAL ABOUT A SOLID YELLOW LINE OR A NO PASSING ZONE AND BECAUSE THE 85% ACCURACY. THE COURT DENIED THE MOTION FOR A DIRECTED VERDICT BECAUSE IF THE STATE PRESENTS ANY EVIDENCE WHICH REASONABLY TENDS TO PROVE DEFENDANT'S GUILT OR FROM WHICH THE DEFENDANT'S GUILT CAN BE FAIRLY AND LOGICALLY DEDUCED, THE CASE MUST GO TO THE JURY. STATE V BURDETTE (SC 1999), STATE V BRYANT (1994) AND STATE V PRINCE (1993).

GROUND 13. THE DEFENDANT CONTENDS AND BELIEVES THAT SGT MAURICE HUNT WILLFULLY AND KNOWINGLY FABRICATED FALSE TESTIMONY OF A MATERIAL FACT IN ORDER TO PROVIDE THE COURT AND JURY WITH THE SECOND ALLEGED OBSERVATION OF TRAFFIC LAW (PASSING ON A NON-EXISTED SOLID DOUBLE LINE ALONG THIS STRAIGHT SECTION OF HIGHWAY 321). OFFICER HUNT KNEW OR SHOULD HAVE KNOWN THAT SUCH FALSE TESTIMONY WAS PREJUDICIAL TO THE DEFENDANT'S CASE.

ANSWER: REFERENCE ANSWER TO GROUND 12

GROUND 14. DURING THE TRIAL, THE STATE FAILED TO INTRODUCE ANY TANGIBLE EVIDENCE. THE ONLY EVIDENCE THE STATE INTRODUCED WAS DIRECT TESTIMONY DURING PRESENTATION OF THEIR CASE IN CHIEF. HOWEVER, THE COURT IMPROPERLY PROVIDED A COPY OF THE TRAFFIC CITATION TO THE JURY WHICH WAS NOT PROPERLY INTRODUCED BY THE STATE AS EVIDENCE. THE DEFENSE OBJECTED TO THE JURY BEING GIVEN PREJUDICIAL EVIDENCE BY THE COURT WHICH WAS NOT PROPERLY INTRODUCED BY THE STATE. THE COURT IMPROPERLY OVERRULED DEFENDANT'S OBJECTION. THIS RULING WAS PREJUDICIAL TO THE DEFENDANT'S CASE.

ANSWER: THE STATE DID NOT HAVE TO INTRODUCE THE CITATION AS EVIDENCE. THE STATE NEVER MADE REFERENCE TO THE CITATION UNTIL QUESTIONS WERE ASKED BY THE DEFENSE DURING CROSS-EXAMINATION. BY A MATTER OF LAW, THE JURORS SHOULD TAKE THE CHARGING DOCUMENT WITH THEM, AND AT THE DISCRETION OF THE JUDGE, THEY MAY TAKE ANY ITEMS ADMITTED IN EVIDENCE DURING THE TRIAL.

MANY OF THE OBJECTIONS THE DEFENDANT WERE REFERRING TO WAS MADE DURING THE PRETRIAL MOTION HEARING WHICH DOES NOT PRESERVE ON ISSUE FOR REVIEW.

RESPECTFULLY SUBMITTED

MAGISTRATE CAROLYN WILLIAMS
HAMPTON COUNTY

DATED: JUNE 22, 2011

Appeal Exhibit
1

June 9, 2011

Magistrate Carolyn Williams
Hampton County Magistrate
411 Cemetery Road
P. O. Box 1299
Varnville, SC 29944

Dear Judge Williams:

Please accept this letter as a pre-trial motion to compel discovery regarding the trial date set for case number 93022EH currently scheduled on June 16, 2011. As you know, a Rule 5 discovery request has been made in this case and the State has failed to respond in any fashion whatsoever to this request. The State received this request by certified mail on May 20, 2011, but continues in its refusal to provide any evidence whatsoever in this case (see attached request for discovery and U.S.P.S. certified delivery receipt).

Specifically, the following evidence is being requested in this case, as well as any and all other tangible evidence the State intends to present at trial:

- 1 Copy of the Officer Hunt's dash cam video/audio recording during the entire alleged pursuit,
- 2 Copy of any and all radio correspondence between Officer Hunt and the dispatch officer at the onset of the incident or pursuit to the point of termination or release of the defendant (initiation of pursuit, license & vehicle check, warrant check(s), call for drug dogs/ K-9 Unit, etc.),
- 3 Copy of any and all recordings made while reading Miranda rights and further questioning the defendant after invoking his right to legal representation and non-consent to search,

RECEIVED
Date 6/15/11
Hampton County Magistrate
Hampton County, SC

- 4 Copy of dash cam video/recordings at the location of the incident location,
- 5 Copy of any and all radar recordings, documents, model, make and daily calibration records,
- 6 Officer Hunt's training certification on the operation of radar equipment in-use and visual speed estimation examination/certification records, and
- 7 Duration of seizure during this routine, traffic stop.

A copy of this motion to compel discovery has been also mailed to the State. Thank you very much for your consideration of this motion.

Sincerely,


William Ferrara
109 Fox Lea Trail
Aiken, SC 29803

RECEIVED
BY: SJS
DATE: 6-15-2011

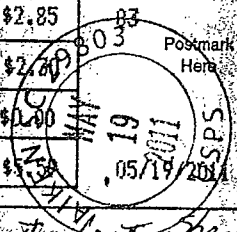
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| Total Postage & Fees | \$4.09 | |



Sent To
MAURICE HUNT, SGT. Hampton County Sheriff
 Street, Apt. No. or PO Box No. **409 Cemetery Rd**
 City, State, ZIP+4 **Vacaville, S.C. 29944**

PS Form 3800, August 2006 See Reverse for Instructions

SENDER, COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece or on the front if space permits.

1. Article Addressed to:
MAURICE HUNT, SGT
HAMPTON COUNTY Sheriff's
Office
HAMPTON COUNTY LAW
ENFORCEMENT CENTER
409 Cemetery Rd
Vacaville, S.C. 29944

2. Article Number **7010 3090 0001 8076 6468**
 (Transfer from)

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
X *[Signature]*
 B. Received by (Printed Name) **MAURICE HUNT** C. Date of Delivery **5-20-04**
 D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
 4. Restricted Delivery? (Extra Fee) Yes

Show Recent Messages (F3)

michelle dimond: no mam.... i tried to talk to him yesterday and tell him, that we dont do those tickets, mylinda was suppose to give him his money back i dont have a attorney here this week even if we could have helped him

Appeal exhibit
2

Appeal exhibit # 3

May 25, 2011

Magistrate Carolyn Williams
Hampton County Magistrate
411 Cemetery Road
P. O. Box 1299
Varnville, SC 29944


Dear Judge Williams:


Please accept this letter as a request for a 60-day extension regarding the trial date set for case number 93022EH currently scheduled on June 16, 2011. As you know, a Rule 5 discovery request has been made in this case and the State has not yet responded. The 60-day trial date extension is being made in order to resolve potential issues associated with and completion of discovery to include defendant's pre-trial motion to compel discovery, if required.

As instructed by the court, at this time subpoena of the following witnesses is being requested: Hampton County Sheriff Thomas Smalls, all law enforcement officers who responded to the incident location of the alleged offense, and Hampton County Sheriff's Office law enforcement officer(s) assigned to the K-9 Unit. I reserve the right to request the subpoena of additional witnesses who may be identified as being necessary in order to adequately prepare my defense as a result of pre-trial discovery.

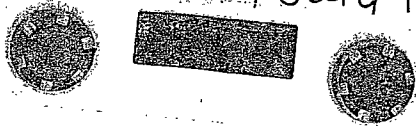
Thank you very much for your consideration of my request.

Sincerely,


William Ferrara
109 Fox Lea Trail
Aiken, SC 29803

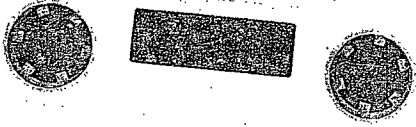
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DATE: 05/31/11

William Ferrara
Jury Strike / Jury Trial



1

William A. Ferrara
Jury Trial



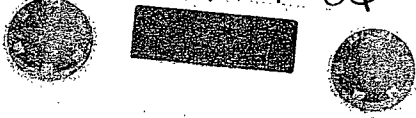
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William Ferrara
Jury Trial



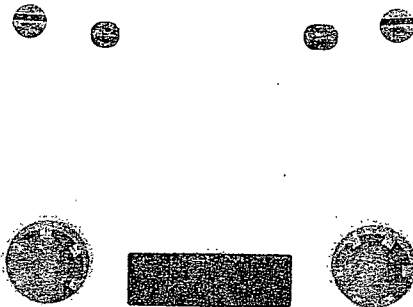
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William Ferrara
Jury Trial

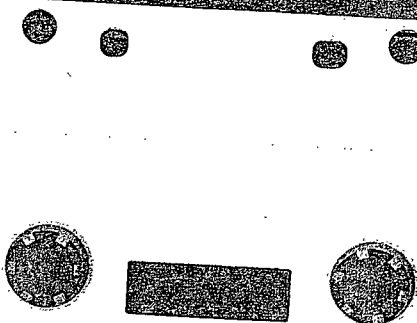


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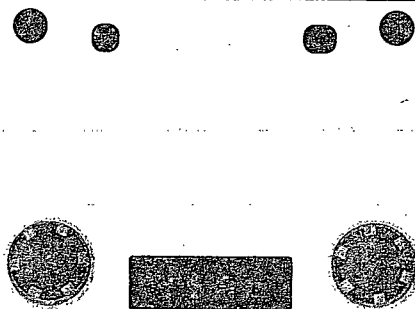
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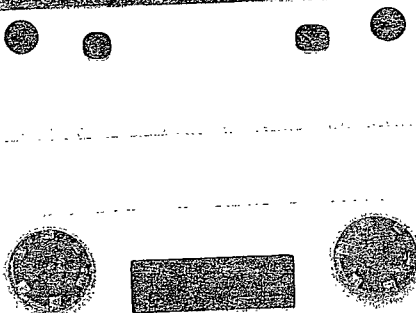
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2



FILED

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON
IN THE COURT OF COMMON PLEAS

2011 SEP -6 PM 4:42

JUDGMENT IN A CIVIL CASE
CASE NO: 2011CP2500263

MYLINDA D. NETTLES
CLERK OF COURT
HAMPTON COUNTY, S.C.

BY William A Ferrara vs. State of SC

CHECK ONE:

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):
 - Rule 12(b), SCRPC;
 - Rule 41(a),
 - SCRPC (Vol. Nonsuit);
 - Rule 43(k), SCRPC (Settled);
 - Other: _____
- ACTION STRICKEN (CHECK REASON):
 - Rule 40(j) SCRPC;
 - Bankruptcy:
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 - Affirmed;
 - Reversed;
 - Remanded;
 - Other: _____

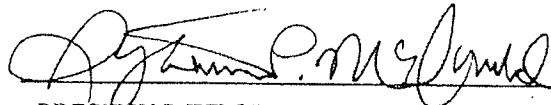
NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Appeal Affirmed

Dated at Hampton, South Carolina, this 6th day of September 2011

Court Reporter: Elizabeth Harris



PRESIDING JUDGE - Hon. Stephanie McDonald

This judgment was entered on the , and a copy mailed first class this , to attorneys of record or to parties (when appearing pro se) as follows:

William A Ferrara P.O. box 711 New Ellenton, SC 298090711

ATTORNEY(S) FOR THE PLAINTIFF(S)

Mag. Carolyn A. Williams
Tameaka A. Legette 14th Circuit Solicitor's Office
P.O. Box 546 Hampton, SC 29924

ATTORNEY(S) FOR THE DEFENDANT(S)

March 8, 2012

South Carolina Court of Appeals
Clerk of Court
1015 Sumter Street
Columbia, SC 29201

RE: William Ferrara v. State of South Carolina
Case No.: 2011200006
Our File No.: SCA-2011-010

Dear Sir:

Please find enclosed fifteen (15) copies of the Record on Appeal for case 2011200006 and Certificate of Service in accordance Rules 210 and 211. If possible, please return a stamped and clocked copy to:

William Ferrara
P. O. Box 711
New Ellenton, SC 29809

Thank you very much for your assistance with this matter!

Sincerely,


William Ferrara

Enclosures(s) as stated

RECEIVED
MAR 08 2012
SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA

COURT OF APPEALS

C/A No. 2011200006

William A. Ferrara,

Appellant,

v.

State of South Carolina,

Respondents.

CERTIFICATE OF SERVICE

I, William A. Ferrara, Appellant, do hereby certify that I served a copy of the Respondent's "Record on Appeal" in the above-captioned matter by depositing same in the United States Postal Service, with proper postage affixed thereto, on the 8th day of March 2012, addressed to its attorney(s) listed below:

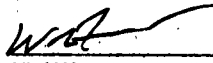
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or PO Box No.: **P.O. Box 1880**
City, State, ZIP+4: **Bluffton, SC 29910**

PS Form 3800, August 2006 See Reverse for Instructions

Robert Vaux, Jr., Assistant Solicitor
14th Circuit Solicitor's Office
P. O. Box 1880
Bluffton, SC 29910


William A. Ferrara, *Pro Se*
Appellant
109 Fox Lea Trail
Aiken, SC 29803

Aiken, South Carolina
March 8, 2012

RECEIVED
MAR 08 2012
SC Court of Appeals

March 12, 2012

South Carolina Court of Appeals
Clerk of Court
1015 Sumter Street
Columbia, SC 29201

RE: State of South Carolina v. William A. Ferrara
Case No.: 2011200006
Our File No.: SCA-2011-010

Dear Sir:

Please find enclosed fifteen (15) copies of the Final Brief for case 2011200006 and Certificate of Service in accordance Rules 210 and 211. If possible, please return a stamped and clocked copy to:

William Ferrara
P. O. Box 711
New Ellenton, SC 29809

Thank you very much for your assistance with this matter!

Sincerely,


William Ferrara

Enclosures(s) as stated

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MAR 13 2012
SC COURT OF APPEALS

IN THE STATE OF SOUTH CAROLINA

COURT OF APPEALS

C/A No. 2011200006

State of South Carolina,

Respondent,

v.

William A. Ferrara,

Appellant,

CERTIFICATE OF SERVICE

I, William A. Ferrara, Appellant, do hereby certify that I served a copy of the Respondent's Brief in the above-captioned matter by depositing same in the United States Postal Service, with proper postage affixed thereto, on the 12th day of March 2012, addressed to its attorney(s) listed below:

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Sent To: Robert Vaux, Jr.
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PS Form 3800, August 2006 See Reverse for Instructions

Robert Vaux, Jr., Assistant Solicitor
14th Circuit Solicitor's Office
P. O. Box 1880
Bluffton, SC 29910

WAF
William A. Ferrara, *Pro Se*
Appellant
109 Fox Lea Trail
Aiken, SC 29803

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SC Court of Appeals

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