

 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY

APR 09 2014

Deadra L. Jefferson, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

WREN ROBINSON HINTON,

APPELLANT

APPELLATE CASE NO. 2013-001140

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS)

2012-GS-23-09569)

2012-GS-23-09570)

STATE OF SOUTH CAROLINA,)

vs.)

TRANSCRIPT OF RECORD)

WREN R. HINTON,)

DEFENDANT.)

ORIGINAL

May 16, 2013

Greenville, South Carolina

B E F O R E:

THE HONORABLE DEADRA L. JEFFERSON, JUDGE.

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

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Assistant Solicitor

JOHN V. CRANGLE, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

P R O C E E D I N G S

1
2 THE COURT: This is the State of South Carolina v.
3 Wren S. Hinton. Indictments 2012-GS-9569 and 9570, both
4 for possession of a controlled substance. On indictment
5 9569, it is Hydrocodone. And on 9570, it is -- I don't
6 even know how to pronounce it. It's
7 P-H-E-N-D-I-M-E-T-R-A-Z-I-N-E, which I assume is in the
8 phentramine family. Okay. Both indictments have been
9 true billed.

10 The State is represented by Katryna Salisbury. The
11 Defense is represented by John Crangle.

12 And we're going to do this as a bench trial; is that
13 correct, Mr. Crangle?

14 MR. CRANGLE: Yes, Judge.

15 I've discussed the Constitutional rights that my
16 client has fully, and it is with her consent that we go
17 forward with a bench trial, Judge.

18 THE COURT: And we're going to handle the motion to
19 suppress within that trial, because there's only one
20 witness on both items; correct?

21 MR. CRANGLE: Yes, Judge.

22 I do want to make the Court aware that I misspoke in
23 our bench hearing. I believe these are first offenses as
24 the warrant is sworn.

25 THE COURT: Okay. I think they are.

1 MR. CRANGLE: I might have said second offenses, but
2 if I did, I was incorrect.

3 THE COURT: That's okay.

4 MS. SALISBURY: Judge --

5 THE COURT: It looks like they're -- well, I don't
6 know if they're first or second.

7 What are they?

8 MS. SALISBURY: Judge --

9 THE COURT: They wouldn't charge them as second
10 offenses in the indictment. That's an enhancement. So it
11 would be -- that's a matter for sentencing.

12 What's her -- why don't we -- I guess the easier way
13 to do this is to ask, what is her record?

14 MS. SALISBURY: Your Honor, beginning in 1996, false
15 information to police, receiving stolen goods; 1998,
16 obtaining prescription drugs --

17 THE COURT: I need you to slow down for me.

18 MS. SALISBURY: Okay.

19 THE COURT: Okay. Start over again. False
20 information...

21 MS. SALISBURY: False info and receiving stolen
22 goods; 1998, obtaining prescription drugs by fraud, two
23 counts of attempt to obtain a controlled substance by
24 fraud, two counts of shoplifting, four counts of
25 possession of a blank prescription.

1 THE COURT: You said four counts?

2 MS. SALISBURY: Yes, Judge.

3 Three counts of possession with intent to distribute
4 a controlled substance; and a 2005 conviction in
5 California for possession of a controlled substance; then
6 in 2006, a violation of probation.

7 THE COURT: In South Carolina --

8 MS. SALISBURY: Yes, Judge.

9 THE COURT: -- or California?

10 Is she currently on probation, or has her probation
11 ended?

12 MR. CRANGLE: No probation, Judge. She's not on
13 probation.

14 THE COURT: Okay. And she does not wish a formal
15 arraignment; correct?

16 MR. CRANGLE: No, Judge.

17 THE COURT: And are there certain things you all
18 have, also, stipulated to regarding the chain of
19 possession with the substance and supplementing the
20 record?

21 MR. CRANGLE: Yes, Judge.

22 The Defense stipulates to the chain of custody, that
23 it is true and accurate. And, also, the Defense
24 stipulates to the amount -- the quantity of the substance
25 and what they were alleged to be as to the two controlled

1 substances.

2 THE COURT: And you all have, also, consented to the
3 admission of the chemist's report as well; correct?

4 MR. CRANGLE: Yes, Judge.

5 MS. SALISBURY: Your Honor, if it --

6 THE COURT: Yes, ma'am.

7 MS. SALISBURY: -- pleases the Court, we have marked
8 the chemist's report as a State's Exhibit. And I would
9 offer that now before we formally begin.

10 THE COURT: Well, he's -- y'all have stipulated to
11 it --

12 MS. SALISBURY: Okay.

13 THE COURT: -- pursuant to the rules without the
14 necessity of the chemist being present. So we can go
15 ahead and mark that as a State's Exhibit without
16 objection.

17 (WHEREUPON, State's Exhibit No. 1 was marked for
18 identification and admitted into evidence.)

19 THE COURT: And, Mr. Crangle, were you able to
20 determine if your client is employed?

21 MR. CRANGLE: Yes, Judge.

22 She works as a house cleaner. And she works for some
23 of her friends in areas of the neighborhood. But it's not
24 a formal contract basis.

25 THE COURT: Okay. And is she married?

1 DEFENDANT HINTON: Separated.

2 THE COURT: Does she have any children?

3 MR. CRANGLE: Yes, Judge, she does.

4 THE COURT: What are their ages?

5 MR. CRANGLE: Her daughter is 18 years old.

6 THE COURT: Is she out of high school, or in high
7 school?

8 MR. CRANGLE: Her senior prom is coming up in a
9 couple of days.

10 And she has a grandson. He's three years old. And
11 she has a son. Her son is 22.

12 THE COURT: And your client was offered -- prior to
13 this being placed on the trial roster, she was extended a
14 plea offer to nolle process one of her charges and to
15 reduce the other charge to a first versus a second; is
16 that correct, with a recommendation of probation and
17 substance abuse counseling?

18 MR. CRANGLE: Yes, Judge.

19 THE COURT: And she rejected that offer; is that
20 correct?

21 MR. CRANGLE: Yes, Judge.

22 THE COURT: Ma'am, if you would stand for me, please,
23 and raise your right hand to be sworn.

24 WHEREUPON,

25 WREN R. HINTON,

1 after first having been duly sworn, testified as follows:

2 THE COURT: And, ma'am, state your name for the
3 record.

4 DEFENDANT HINTON: Wren Hinton.

5 THE COURT: And, Ms. Hinton, has your lawyer fully
6 explained to you what the State offered you in terms of
7 plea negotiation?

8 DEFENDANT HINTON: Yes, ma'am.

9 THE COURT: And what was your understanding of what
10 was offered to you?

11 DEFENDANT HINTON: Time served and probation.

12 THE COURT: And did they, also, agree to dismiss one
13 of your indictments?

14 DEFENDANT HINTON: I'm not sure.

15 THE COURT: Okay. Are you sure now that they were --
16 do you now understand that a part of that deal would have
17 been to dismiss one of your indictments?

18 DEFENDANT HINTON: Yes, ma'am.

19 THE COURT: And, also, to recommend probation and
20 substance counseling?

21 DEFENDANT HINTON: Yes, ma'am.

22 THE COURT: Okay. And did you freely and voluntarily
23 reject that offer?

24 DEFENDANT HINTON: Yes, ma'am.

25 THE COURT: Were you suffering from any mental

1 diabilities, or under the influence of any drugs or
2 alcohol?

3 DEFENDANT HINTON: No, ma'am.

4 THE COURT: Did you feel you were forced in any way
5 to reject that offer.

6 DEFENDANT HINTON: No, ma'am.

7 THE COURT: And did you have any questions for your
8 lawyer or anything you didn't understand when he was
9 explaining that offer to you?

10 DEFENDANT HINTON: No, ma'am.

11 THE COURT: Okay. You may take your seat.

12 Is the State ready to proceed?

13 UNIDENTIFIED PERSON: We waive opening arguments.

14 THE COURT: That would be a beautiful thing.

15 MR. CRANGLE: No problem. No objection, Judge.

16 THE COURT: You may proceed.

17 MS. SALISBURY: In that event, Your Honor, the State
18 calls Deputy Justin Lanford.

19 THE COURT: Sir, if you would come forward to be
20 sworn.

21 THE CLERK: Please place your left hand on the Bible
22 and raise your right hand.

23 WHEREUPON,

24 JUSTIN LANFORD,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 You may be seated.

3 Please state your name for the record.

4 THE WITNESS: Justin Lanford.

5 THE CLERK: Thank you.

6 THE COURT: And, sir, spell your last name for the
7 benefit of the court reporter.

8 THE WITNESS: L-A-N-F-O-R-D.

9 THE COURT: Lanford?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: Okay. I thought I heard Lambert. I'm
12 glad I asked you to spell it.

13 You may proceed.

14 MS. SALISBURY: May it please the Court, Your Honor.

15 THE COURT: You're welcome.

16 DIRECT EXAMINATION

17 BY MS. SALISBURY:

18 Q Deputy, where are you employed?

19 A The Greenville County Sheriff's Office.

20 Q And how long have you worked for the Sheriff's
21 Office?

22 A Six years.

23 Q What is your current capacity with the Greenville
24 County Sheriff's Office?

25 A I work in the direct patrol unit.

1 Q Could you describe for the Court a little bit about
2 what the direct patrol unit is?

3 A We're a team assigned to high drug areas. We go into
4 the areas and saturate them, and mostly look for illegal
5 narcotics, weapons. We don't answer calls. It's a
6 completely proactive, not reactive type of unit.

7 Q And how long have you been working, specifically,
8 with the patrol unit?

9 A Three years.

10 Q Generally speaking, day-to-day, what are -- what do
11 you end up encountering during a typical shift?

12 A Drug users. We take part in search warrants where
13 narcotics are located. We help out vice. We work very
14 closely with them. Basically, anything anybody needs
15 done, we take care of it.

16 Q Do you conduct traffic stops?

17 A Yes, ma'am.

18 Q And did you -- you mentioned search warrants. Are
19 those narcotics-specific search warrants?

20 A Yes, ma'am.

21 Q All right. And do you remember whether you were
22 working in that capacity in June of 2012?

23 A Yes, ma'am.

24 Q What would have been your hours that evening?

25 A We normally work 2:00 to 12:00, 2:00 p.m. to 12:00

1 midnight.

2 Q Were you patrolling a particular area of the county
3 at that point?

4 A Yes, ma'am. We were in the Brandon and Woodside
5 community, which is on the west side of Greenville.

6 Q How often are -- do you patrol that particular
7 neighborhood?

8 A The majority, at that time, was about 70 percent of
9 it. I mean, we're always over there because that's
10 where -- it's lower income, high drug use over there. So
11 that's where they mostly have us at.

12 Q How frequently have you made arrests in that
13 geographical neighborhood?

14 A Multiple occasions a week. Because, I mean, we're
15 over there so much that -- that's why we make a lot of
16 cases.

17 Q How frequently are those investigations and possible
18 arrests related to narcotics?

19 A 100 percent of the time.

20 Q Specifically, on June 22nd of 2012, do you recall
21 patrolling that particular area?

22 A Yes, ma'am.

23 Q What do you recall encountering that night as it
24 relates to this Defendant?

25 A I was patrolling a -- the Pendleton Avenue -- or

1 Pendleton Street -- Road. I passed a vehicle who was
2 turning behind me. I noticed that they weren't using a
3 proper turn signal. I then moved around and conducted a
4 traffic stop on Woodside Avenue, which is probably half a
5 mile from where I saw them turn.

6 After I stopped the vehicle, I gathered the driver's
7 information and Ms. Hinton's. I found that she didn't
8 have a South Carolina ID with her. At which time, I asked
9 her to step out of the vehicle so I could use my
10 Greenville County fingerprint reader to positively
11 identify her.

12 While that was taking place and Ms. Hinton was out of
13 the vehicle, I asked if she had any weapons on her. And I
14 asked that due to the area she was coming from and the
15 area she was in, which is very high drug usage and
16 weapons -- taking part in that.

17 She said that I could check her for weapons. At
18 which time, I ran my hand down her waist and her front
19 left pocket where I could feel several pills inside that
20 front left pocket.

21 Q Did you, at that point, reach into the pocket?

22 A No, ma'am. I asked Ms. Hinton what they were. And
23 she told me they were Hydrocodone -- or, I'm sorry,
24 Lortabs.

25 Q When you ran your hand on the outside of the

1 Defendant's clothing, did you have to -- was it
2 immediately apparent to you what was in her pocket?

3 A Yes, ma'am.

4 Q What were your immediate impressions about what you
5 felt in the Defendant's pocket?

6 A That it was several pills. You could tell that they
7 weren't circle. You could tell they were oblong, you
8 know. They were hard pills.

9 Q Were they in any packaging?

10 A No, ma'am.

11 Q What did you end up doing next after this initial
12 frisk?

13 A I asked -- like I said, I asked Ms. Hinton what they
14 were. She told me they were Lortabs that her doctor had
15 prescribed her for a urinary tract infection. After she
16 stated that, I took her into investigative detention.
17 Right then, I pulled the pills out of her pocket.

18 I then continued to search her for weapons where,
19 again, I located more pills in her back pocket. They were
20 not the same, but you could plainly tell that there were
21 pills in her back pocket as well.

22 Q With respect to the vehicle in which the Defendant
23 was a passenger, how many individuals were in that car?

24 A Two.

25 Q And do you remember what time of day you encountered

1 the Defendant and the other occupant of that car?

2 A At 9:19.

3 Q In the evening?

4 A Yes, ma'am.

5 Q Do you remember whether it was dark outside?

6 A It was dusky. And there's a lot of tree cover in
7 there, so you can't -- the lighting is not very good where
8 we had the traffic stop at.

9 Q Were there any other deputies with you at the time of
10 the traffic stop?

11 A Initially, no. But then Deputy Swift showed up to
12 assist me.

13 Q By the time you exited your car to approach the
14 vehicle in which the Defendant was a passenger, were you
15 alone?

16 A Yes, ma'am.

17 Q Now, you mentioned that you took the Defendant into
18 custody. And what physically did you do with the
19 Defendant at that point?

20 A I took possession of the pills. And then I placed
21 her in my patrol car. At that time -- that's when Deputy
22 Swift showed up. And I had made contact with the driver.

23 Q And what happened with respect to the driver?

24 A He was, also, taken into custody for the same pills.

25 There were no pill bottles present in the car where we

1 could tell anybody was prescribed anything.

2 Q What happened next?

3 A We went to the jail. At which time, I identified the
4 pills through the Internet, Web MD -- or I'm sorry, pill
5 identifier. And that's where we came up with -- it was
6 Hydrocodone and the "P" word. I'm not quite sure how to
7 say it. But it was schedule three, I believe, for both of
8 them.

9 Q All right. Based on that discovery, what did you do?

10 A I issued two warrants for Ms. Hinton, and two
11 warrants for the driver.

12 Q What did you do with the actual pills that you took
13 into custody?

14 A After leaving the detention center, I placed them
15 into property and evidence where a lab analysis was --

16 Q And is property and evidence a secure location?

17 A Yes, ma'am.

18 Q All right. Did you -- have you retrieved those pills
19 or interacted with them in any way since depositing them
20 that evening?

21 A No, ma'am.

22 MS. SALISBURY: All right. Deputy, if you would,
23 answer any questions Mr. Crangle may have for you.

24 THE COURT: You may proceed.

25 MR. CRANGLE: Thank you, Deputy [sic].

CROSS-EXAMINATION

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BY MR. CRANGLE:

Q Okay. So you see an improper turn signal; right?

A Yes, sir.

Q And my client is the passenger in that car; right?

A Yes, sir.

Q And there was nothing unusual as far as when you were approaching, you don't see any fidgeting, or anything like that; right?

A No, sir.

Q All right. And you don't see any movement or anything unusual like that; right?

A Right.

Q So you approach the car, and the driver has his identification; correct?

A Yes, sir.

Q All right. At that point, you're looking to ticket him for improper turn signal; correct?

A Yes, sir.

Q All right. And then you see my client and she doesn't have her identification; right?

A Correct.

Q All right. And you asked her to step out of the car; right?

A Correct.

1 Q And, at that point, you realize that my client is
2 five feet tall; right?

3 A Right.

4 Q You, also, realize that she weighs less than 100
5 pounds?

6 A Sure.

7 Q All right. And how tall are you, sir?

8 A 5'7".

9 Q All right. And how much do you weigh?

10 A 150.

11 Q All right. And, if you don't mind me asking, how old
12 are you?

13 A 29.

14 Q All right. And you realized, at that time, my client
15 was 46 years old; right?

16 A No. I did not know how old she was.

17 Q All right. You didn't.

18 So you asked her to step out. And you were going to
19 have her do the county fingerprinting; right?

20 A Right.

21 Q The little machine?

22 A Right.

23 Q So, as she's walking towards you, do you have the
24 machine already out?

25 A Yes, sir.

1 Q All right. And so she comes toward you and she puts
2 her fingers on the machine?

3 A Right.

4 Q All right. And then after you realize who she is,
5 you're good then; right?

6 A It takes some time for the -- because it works on a
7 blue tooth. The machine is not connected to a computer.
8 So it has to send it to the computer. It roughly takes
9 about two minutes for the information to come back.

10 Q All right. But you -- she's done the fingerprints,
11 though?

12 A Right.

13 Q And so you're waiting on the results?

14 A Correct.

15 Q All right. At that point, you say, Ma'am, I'd like
16 to pat you down for weapons; right?

17 A Right.

18 Q All right. And in your report -- do you have your
19 report up there with you?

20 A No, sir.

21 Q Would a copy of your report help refresh your
22 recollection?

23 A Certainly.

24 MR. CRANGLE: May I approach, Your Honor?

25 THE COURT: You may.

1 BY MR. CRANGLE:

2 Q Deputy, I know there is some highlighting on here
3 that I've made. But would you just look over and confirm
4 the report -- that this is your report. It's on the back,
5 too.

6 A Yes, that's it.

7 Q All right. So, in your report, you say that you
8 asked if she had any legal -- anything illegal on her
9 person and she stated, no; right?

10 A Right.

11 Q All right. And then you told her that you were going
12 to check her for weapons; right?

13 A Right.

14 Q All right. And then you ran her hand down -- your
15 hand down her front pocket; right?

16 A Right.

17 Q All right. So you told her that you were going to
18 pat her down though; right?

19 A Correct.

20 Q All right. And is there anything in your report --
21 did you make this report after you've done the stop, like
22 a couple of days later?

23 A It's probably the next day.

24 Q The next day?

25 A Yes, sir.

1 Q All right. And are you at the law enforcement center
2 when you do that, or are you in your car?

3 A No, sir. We work out of Donaldson Center.

4 Q All right. But you're in the office, though?

5 A Yes, sir.

6 Q And you have plenty of time to sit down and write the
7 report. You're not under any time pressure?

8 A No.

9 Q All right. So you wouldn't have any reason to leave
10 anything out, or put anything in?

11 A No.

12 Q And there's nowhere in your report that says she
13 consented to any sort of pat down; right?

14 A Right.

15 Q So you've done the fingerprint ID. And, at that
16 point, you're going to pat her down; right? But she's
17 already done the fingerprint ID prior to you patting her
18 down; correct?

19 A Correct.

20 Q All right. And then the fingerprint ID, she's,
21 obviously, got to come up and stand next to you; right?

22 A Yes, sir.

23 Q All right. So you're holding the machine like so.
24 And then she comes up and puts her fingers on it next to
25 you; right?

1 A Right.

2 Q And that was done before any frisk; right?

3 A Right.

4 Q All right. And then when you do the frisk, you're
5 patting down the outside; right?

6 A Correct.

7 Q All right. And it's June of 2012, at around 9:00 at
8 night, maybe -- I think you said 9:19; correct?

9 A Yes, sir.

10 Q All right. And so it's summertime, a summer evening,
11 kind of dusky, getting a little bit darker. And my client
12 is wearing a pink shirt, I believe, and some jeans -- or
13 some jean shorts; right? Do you remember?

14 A No, sir. I don't recall.

15 Q You don't remember at all?

16 A Huh-uh.

17 Q All right. Do you remember if she had a jacket or
18 anything on?

19 A No, sir. I don't remember.

20 Q All right. And do you remember anything about her
21 physical description at that point?

22 A No, sir.

23 Q All right. And when you patted her down, you didn't
24 find any weapons, did you?

25 A No, sir.

1 Q All right. And let me step back a bit. When you
2 pulled over the car, you didn't have any suspicious
3 activity that they're throwing stuff out of the car. You
4 see that occasionally, don't you, if they're trying to
5 move stuff -- hide stuff; right?

6 A Right.

7 Q And that indicates drug activity; right?

8 A It can. I mean, it could point to all kinds of
9 things.

10 Q I mean, it could be someone just getting their stuff
11 out of there?

12 A Right. Yes, sir.

13 Q And, typically, drug activity goes hand in hand with
14 weapons; right?

15 A Correct.

16 Q But you didn't see any indication of suspicious drug
17 activity while you're getting ready to do the stop, or
18 when you pulled her out to do the fingerprint ID; correct?

19 A No, sir.

20 Q So no indication of drug activity?

21 A No, sir.

22 Q All right. And then after you pat her down, where
23 did you locate the pills? Do you remember?

24 A Her front left pocket and her rear left pocket.

25 Q All right. And you found the rear ones later on;

1 right?

2 A Yes, sir.

3 Q All right. So you find them in the front; correct?

4 A Correct.

5 Q All right. Was there anything else in her pocket
6 that you remember? Combs?

7 A No, sir, not that I recall.

8 Q Phones? Keys?

9 A No, sir.

10 Q Okay. And do you remember how many were -- six pills
11 in the front pocket?

12 A Four.

13 Q Four pills?

14 A Yes, sir.

15 Q All right. And how small are those pills roughly?

16 A I'm trying...

17 Q Tic Tac size maybe?

18 A No, sir. They're about that big. I mean, they're a
19 little bit bigger than a Tic Tac, about three if you put
20 them together. I mean, that's a rough estimate.

21 Q Like a -- what's it called -- an Altoid? About that
22 big?

23 A A little bit like that.

24 Q A Tums maybe?

25 A Yeah, oblong, though.

1 Q All right. I see. And, at that point, you placed
2 her under arrest after finding the pills; correct?

3 A Yes, sir.

4 MR. CRANGLE: That's all the questions I have, Your
5 Honor..

6 THE COURT: Any redirect for the witness?

7 MS. SALISBURY: No redirect, Your Honor.

8 THE COURT: Sir, you may step down.

9 THE WITNESS: Thank you.

10 THE COURT: Anything further from the State?

11 MS. SALISBURY: Just State's Exhibit No. 1, which I
12 believe is admitted.

13 With that, the State rests.

14 THE COURT: Anything from -- well, I guess -- I'll
15 reserve motions.

16 Anything from any witnesses you wish to call?

17 MR. CRANGLE: No, Judge.

18 THE COURT: Do I need to question your client
19 regarding her right to testify?

20 MR. CRANGLE: I've explained it to her. But,
21 perhaps, for the record, if Your Honor is comfortable
22 doing it, we can.

23 THE COURT: Yes. I think we might need to just to be
24 on the safe side.

25 Ma'am, has your lawyer explained to you your right to

1 testify?

2 DEFENDANT HINTON: Yes, ma'am.

3 THE COURT: Under the Fifth Amendment to the
4 Constitution, you have the right to testify. However, the
5 law and our Constitution, in particular, does not require
6 anyone to incriminate themselves.

7 The State has the burden of proving your guilt beyond
8 a reasonable doubt on anything you've been charged with.
9 And you have the right to testify, if you should so
10 desire. However, you cannot be compelled in any criminal
11 case to be a witness against yourself. If you decide to
12 testify, you'll be subject to the rules that govern other
13 witnesses. You may be examined and cross-examined on any
14 relevant issue in this case.

15 In addition, if you have any convictions involving
16 dishonesty or false statement and the Court determines
17 that the probative value of that impeachment -- of those
18 crimes for impeachment purposes outweighs any prejudicial
19 effect to you, those convictions would be admissible to
20 impeach your credibility. You have several offenses that
21 the State could use, that being the shoplifting, false
22 information to police -- let me find my list -- the false
23 information to the police, anything that involves fraud,
24 as well as shoplifting offenses would be admissible to
25 impeach your credibility.

1 Do you understand?

2 DEFENDANT HINTON: Yes, ma'am.

3 THE COURT: Any decision to testify on your part must
4 be made freely, voluntarily, and intelligently with
5 knowledge of the protections given to you by the Fifth
6 Amendment and the consequences of your decision to
7 testify.

8 Do you understand your rights as I've just explained
9 them to you?

10 DEFENDANT HINTON: Yes, ma'am.

11 THE COURT: Do you need to talk with your lawyer any
12 more about what I've just explained to you?

13 DEFENDANT HINTON: No, ma'am.

14 THE COURT: Have you discussed with your lawyer
15 whether you should or should not testify?

16 DEFENDANT HINTON: Yes.

17 THE COURT: And do you wish to testify or not to
18 testify?

19 DEFENDANT HINTON: No, ma'am.

20 THE COURT: You mean you don't wish to testify?

21 DEFENDANT HINTON: No, ma'am.

22 THE COURT: Okay. Do you need to supplement
23 anything --

24 MR. CRANGLE: No, Judge.

25 THE COURT: Ma'am, you may be seated.

1 And does the Defense rest as well?

2 MR. CRANGLE: Yes, Judge.

3 Obviously, you're going to hear the motions.

4 THE COURT: Oh, yes. I'm going to hear motions. But
5 I need to make sure there's no further evidence that needs
6 to be --

7 MR. CRANGLE: I guess, for the record, I move for a
8 directed verdict.

9 THE COURT: Yes. Give me one second.

10 MR. CRANGLE: All right. I'm sorry.

11 THE COURT: I just need to make sure that you have no
12 evidence you wish to present regarding any of the issues
13 in the case.

14 MR. CRANGLE: No, Judge.

15 THE COURT: Now that the State has rested, I'll be
16 glad to hear any motions.

17 MOTIONS

18 MR. CRANGLE: Your Honor, the State -- or the Defense
19 moves to suppress the evidence of the search pursuant to
20 Terry v. United States -- Terry v. Ohio.

21 THE COURT: Okay. Anything further you wish to state
22 regarding that motion?

23 MR. CRANGLE: Yes, Judge.

24 We start with the Fourth Amendment and the right of
25 people to be secure in their purses -- persons, houses,

1 papers, effects against unreasonable searches and
2 seizures. It shall not be violated. Warrantless
3 searches -- Arizona v. United States -- that these are per
4 se unreasonable, unless they fall into the -- of
5 exception.

6 The default rule is that these are unreasonable. And
7 the State has the burden of proof in proving that a
8 warrantless search falls within the exception.

9 Obviously, there's probable cause to stop for the
10 traffic stop. The officer testified to observing an
11 improper turn. Thus, the officer has probable cause to
12 stop the vehicle for a traffic violation. The officer
13 pursuant to the United States Supreme Court -- excuse me,
14 the Supreme Court of the United States has the right to
15 have all the passengers removed from the vehicle.

16 What we're, specifically, challenging is the frisk,
17 not the stop itself, but the Terry frisk. The officer may
18 conduct the Terry frisk if the officer has an objective
19 reasonable suspicion that the person subjected to the
20 frisk is armed and dangerous. And that's pursuant to
21 Arizona v. Johnson.

22 Your Honor, I have a copy of Arizona v. Johnson, if
23 you'd like to see it.

24 THE COURT: I'm well familiar with it.

25 MR. CRANGLE: All right. Thank you, Judge.

1 THE COURT: You're welcome. Don't kill any more
2 trees.

3 MR. CRANGLE: In Arizona v. Johnson --

4 THE COURT: We need to reduce our carbon footprint.
5 I'm trying anyway.

6 Yes, sir.

7 MR. CRANGLE: The specific quote I should say is that
8 police need not have, in addition, cause to believe the
9 occupant of the vehicle is involved in any criminal
10 activity. To justify a pat down of the driver or a
11 passenger during the traffic stop, however, just as in the
12 case of a pedestrian reasonably suspected of criminal
13 activity, the police must harbor reasonable suspicion that
14 the person subjected to the frisk is armed and dangerous.

15 That's what we're here to challenge today, Your
16 Honor. The purpose of the Terry frisk is not to find
17 evidence of the crime. It's only to allow the officer to
18 pursue his investigative -- investigation.

19 Terry emphasizes the fact that officers are not
20 granted a general warrant to rummage at will. They must
21 have some sort of a particularized and objective basis for
22 believing that the person is armed and dangerous. We view
23 this in the objective light, not in the subjective light,
24 Your Honor.

25 But the Government must be able to articulate

1 something more than an unparticular act of suspicion or a
2 hunch. And, of course, the Government bears the burden of
3 proof.

4 Turning specifically to the facts of this case, what
5 we have is we have a traffic stop. The officer testified
6 that unlike many of the cases that you're going to see in
7 the South Carolina record, there's no indication of any
8 drug activity going on. The officer testified to that.
9 He didn't testify to anything being suspicious about the
10 stop. He didn't -- by all counts, this was a cooperative
11 stop. No false statements were made. He does have the
12 right to pull my client out of the car and find out who
13 she is. That's not an issue at all.

14 But there's been no evidence to indicate there was
15 any sort of drug activity going on, aside from the fact
16 that she's in a high crime area, as labeled by the police.
17 But, other than that, where you drive that is a high crime
18 area, that's it.

19 I thought what was key is that the officer testified
20 he fingerprinted her and allowed her to come close to
21 her [sic] before he patted her down. At that point, it
22 shows that he let her come up to him, get close enough to
23 do the fingerprint. And then we have -- you know, then
24 the pat down occurs.

25 So he's, obviously, seen that -- my real problem with

1 it is that, under these facts, the only fact that would
2 support an objective officer reasonably believing that
3 there's some sort of armed activity would be that they're
4 in a high crime area. But that alone I don't think
5 qualifies to allow the officer to pat my client down.

6 My client is 46 years old. She's a grandmother --
7 she's 47 years old. She's a grandmother. She's five feet
8 tall. She weighs less than 100 pounds. The officer is
9 5'7". He's about 160. He's much bigger than her. It's a
10 hot summer night. She's not wearing any bulky clothing
11 that could harbor a gun, or a knife, or a weapon.

12 I haven't heard any facts that would articulate to
13 the Court a particularized suspicion that she was armed
14 and dangerous. What we've heard is that she's in a high
15 crime area. And that people in high crime areas -- guns
16 and drugs go together.

17 But, in this case, we haven't even heard that drugs
18 were involved. I asked the officer, specifically, whether
19 he had any indication prior to patting her down that drugs
20 were involved. Now, he does have a hunch that there's
21 some sort of pills, or something like that.

22 But that hunch does not allow you to do a Terry stop
23 and frisk them down. What it allows you to do, as far as
24 a frisk, is to search for weapons. And I have heard no
25 testimony that would support any sort of ruling that would

1 allow an officer to frisk my client for weapons. I don't
2 see particularized suspicion. And that's what the Court
3 requires.

4 And so pursuant to that, we'd argue that this is an
5 Unconstitutional stop under Terry, that the State has not
6 met its burden of proof. It isn't per se unreasonable
7 unless they meet their burden. And we'd ask the Court to
8 suppress the evidence of this unlawful search.

9 THE COURT: Would you like to respond?

10 MS. SALISBURY: Yes, Your Honor, very briefly.

11 On the limited issue and focused issue of the
12 particular frisk that was conducted in this case, as Your
13 Honor is well aware, our courts have required that
14 deputies in -- or officers in these circumstances have a
15 reasonably prudent suspicion under the circumstances to
16 believe that the deputies safety or the safety of others
17 is in danger.

18 And the way the Court has instructed that we evaluate
19 that is to determine whether -- based on the fact that
20 there is an indisputable nexus between drugs and guns
21 where an officer has a reasonable suspicion that drugs are
22 in the vehicle that that necessarily raises the inherently
23 articulable suspicion that weapons and/or guns may, also,
24 be in the vehicle.

25 This officer testified that that particular area of

1 Greenville is a part of town that is known to this
2 proactive aggressive unit to be one of high drug activity.
3 The officer testified that he routinely, at least at that
4 time and possibly even now, encountered narcotics activity
5 in that area of town, participated in narcotics search
6 warrants in that area of town. And this is, as he
7 characterized it, an area that is known as a high crime,
8 high drug traffic area.

9 With that in mind, I'd point out to the Court that
10 there are two individuals in the car. The officer
11 testified that he's alone. He is the only officer on
12 scene at that point. It is beginning to get dark outside.
13 It's 9:00 in the evening. The -- I think those things
14 coupled with the fact that this is an area of town known
15 to officers to be one of narcotics activity.

16 Once the officer is alone, he decides to conduct the
17 traffic stop, and approaches the vehicle that is occupied
18 with more than one person. There is, certainly, an
19 interest in the officer determining whether his safety is
20 in jeopardy. And, as the officer testified, he asked this
21 Defendant if she would step out of the car, and asked if
22 he could pat her down for weapons. The testimony was that
23 she consented to that, and that she allowed the officer to
24 do that. And he felt what was immediately apparent to him
25 to be contraband, and, ultimately, the controlled

1 substances involved in this case.

2 I think that State v. Banda is particularly
3 informative on this particular issue, and very similar to
4 the facts involved in this case. I'd ask the Court to
5 consider that, and deny the Defendant's motion.

6 Thank you, Your Honor.

7 THE COURT: Anything further?

8 MR. CRANGLE: Yes, Judge.

9 Again, we turn towards the standard, which is a
10 particularized and objective basis. I asked the officer
11 directly if he had any suspicion that drugs were involved
12 in this case. And he stated no. That's in this case.
13 That's the particularized instance.

14 What we're looking at is an unparticularized
15 suspicion or hunch. And this is a high crime area. And
16 what we're seeing here is that, in general, there's been
17 drugs found to be in this area. But, in this case, this
18 particularized case, he had no reason to believe that
19 drugs were in the area.

20 As we know drugs and crime -- or drugs and guns go
21 hand and hand. But, in this case, he didn't believe that
22 even drugs were in the vehicle. He testified to that on
23 the stand, Your Honor.

24 And many of the cases that you see in the South
25 Carolina record having reviewed them, they almost always

1 have some sort of drug activity going on where officers
2 suspect drug activity is going on. And the courts have
3 recognized that drugs and guns go hand in hand and
4 officers need to be protected from that.

5 But, in this case, we asked him, and he said there
6 was no evidence of drug activity going on. And, from an
7 objective view, there's no evidence to support that there
8 was. There was no rummaging going around [sic]. There
9 was no hiding. They were cooperative.

10 So from that point, Your Honor, I think what we're
11 looking at is a hunch, that she's in a high crime area and
12 that it's late at night. But simply riding in a car in a
13 high crime area, I don't think, performs a particularized
14 basis that Terry requires, Your Honor.

15 Thank you.

16 THE COURT: You're welcome.

17 Considering the evidence as it has been presented to
18 the Court, the applicable case law, which would be, of
19 course, Terry v. Ohio, State v. Taylor, and State v.
20 Banda, as well as State v. Williams, and without
21 reiterating what's already been said, because I think an
22 accurate statement of the law has already been placed on
23 the record regarding the validity of the stop and the
24 search. And the law is very clear. And I think there
25 could be no contradiction that the stop was reasonable.

1 There was a reasonable and articulable suspicion that they
2 committed a criminal offence, that being a violation of
3 the traffic law. So he, clearly, had the right to stop
4 the vehicle.

5 And, under the circumstances, he arguably had the
6 right to do a Terry frisk, based on several factors. One
7 of which was the absence of an identification or a South
8 Carolina driver's license, which severely impacted his
9 ability to determine who was, in fact, in the car, and to
10 evaluate what danger he faced, or lack of danger. In
11 other words, in terms of his safety.

12 The other was that it is a high drug area. Of
13 course, that in and of itself is not -- would not be
14 sufficient. But you have to look at all the
15 circumstances. And our case law is very clear that you
16 should not ignore -- while you can't rely solely on a
17 hunch, our case law has said that you cannot ignore the
18 reasonable experience of an officer and years of
19 experience, and what we would classically look to as a
20 hunch regarding certain activity.

21 The other factor to be considered is the bad
22 lighting. And all of that contributes to issues of
23 officer safety and that of others. But what is really
24 pivotal in this case is the consent issue, which really
25 eliminates the rest of the analysis. Because the only

1 evidence that I have -- credible evidence regarding that
2 is that he had her step out to the fingerprint machine.
3 She's doing that. While they're waiting, he said, Do you
4 mind -- I'm going to look back and see exactly what he
5 said.

6 He said he was in a high drug area and that based on
7 his experience, high drug usage was coupled with weapons.
8 And his question to her was, Do you mind if I search you
9 for weapons?

10 And she said, No, I don't mind, or, yes, you can
11 search.

12 So she gave consent to search. So, really, that
13 eliminates the entire issue on the suppression. The only
14 credible evidence I have -- and I find the deputies
15 testimony credible, whether he left it out of his report
16 or not, that happens all the time. I can't probably count
17 as many criminal cases as I've tried over the years where
18 some things are left out of reports, some things are left
19 in reports. With the volume of cases that officers deal
20 with, I don't know that they ever make a complete verbatim
21 report of what's happened.

22 But State v. Williams is very clear that where there
23 is consent to search and the officer perceives pursuant to
24 that consent that as long as the Defendant has not imposed
25 limits on the scope of the search and there's a

1 generalized consent, then, basically, they've -- they have
2 authorized the traditional Terry frisk. And so by her own
3 consent, she authorized her body to be frisked.

4 There's no testimony that she had to be manipulated
5 in any way to determine what the substance was. In other
6 words, he said it was readily apparent what he was
7 feeling. He didn't have to go in her pockets and feel
8 around, you know, manipulate the area to see what was in
9 her pockets. And once he determined upon plain touch
10 those first substances, he, certainly, then had the right,
11 as he testified, to place her in investigative custody and
12 to continue the search, and then to issue the warrants.

13 So based on State v. Taylor, State v. Banda, Terry v.
14 Ohio, and State v. Mattison, the motion to suppress is
15 denied.

16 And I assume then that we would then move to the fact
17 that the Court adjudicates her guilty of both indictments,
18 unless y'all wanted to give me some more -- I don't think
19 there would be any more argument regarding --

20 MR. CRANGLE: I don't --

21 THE COURT: So then that leaves us with sentencing.

22 Is that where we are?

23 MR. CRANGLE: Yes, Judge.

24 THE COURT: Who wants to go first?

25 MR. CRANGLE: I believe we can go ahead, Your Honor.

WITNESSES

J Lanford

Greenville County Sheriffs Office

6/22/2012

51

DOCKET NO. 2012-GS-23-
KBS

009569

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April

TERM 2012

2013

THE STATE

vs.

WREN S HINTON

ARREST WARRANT NUMBER
N201767

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty - Bench
Trial

0179

Indictment for

POSSESSION OF A CONTROLLED
SUBSTANCE

VIOLATION § 44-53-0370

RECEIVED

NOV 29 2012

Clerk of Court
Greenville County

Judge Andrea Jaffe
Foreperson of Petit Jury
Date: 5/16/13

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF A CONTROLLED SUBSTANCE

At a Court of General Sessions, convened on

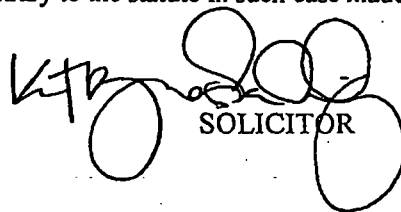
APR 23 2013

the Grand Jurors of Greenville

County present upon their oath:

That WREN S HINTON did in Greenville County, on or about the 22nd day of June, 2012, willfully and unlawfully have in her possession and under her control a quantity of a schedule III controlled substance, Hydrocodone. This is in violation of § 44-53-370 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR

WITNESSES

J Lanford

Greenville County Sheriffs Office

6/22/2012

JL

DOCKET NO. 2012-GS-23-
KBS 009570

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April

TERM 2012 ²⁰¹³

THE STATE

vs.

WREN S HINTON

ARREST WARRANT NUMBER
N201768

ACTION OF GRAND JURY

TRUE BILL

[Signature]

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

*Guilty - Bench
Trial*

0179

Indictment for

POSSESSION OF A CONTROLLED
SUBSTANCE

VIOLATION § 44-53-0370

Judge Debra J. [Signature]
Foreperson of Petit Jury 2128
Date: 5/16/13

RECEIVED

NOV 29 2012

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF A CONTROLLED SUBSTANCE

At a Court of General Sessions, convened on **APR 23 2013** the Grand Jurors of Greenville

County present upon their oath:

That WREN S HINTON did in Greenville County, on or about the 22nd day of June, 2012, willfully and unlawfully have in her possession and under her control a quantity of a schedule III controlled substance, Phendimetrazine. This is in violation of § 44-53-370 of the South Carolina Code of Laws (1976) as amended.

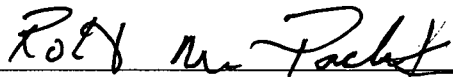
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 9, 2014



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED

APR 09 2014

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County
Deadra L. Jefferson, Circuit Court Judge

 ORIGINAL

RECEIVED
APR 09 2014
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

WREN ROBINSON HINTON,

APPELLANT

APPELLATE CASE NO. 2013-001140

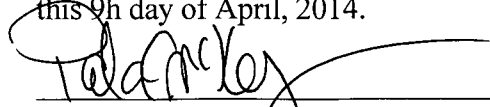
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Tracy A. Meyers, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 9th day of April, 2014.



Brandon Hall
Administrative Specialist

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



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