

5
THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM YORK COUNTY

Court of Common Pleas

Case No. 2017-CP-46-01617

John C. Hayes, III, Special Circuit Court Judge

RECEIVED

JAN 22 2019

Appellate Case No. 2017-002616

SC Court of Appeals

Andrew Ryan Maupin,

Respondent,

v.

City of Rock Hill,

Appellant,

RECORD ON APPEAL

CHRISTOPHER E. BARTON

Senior City Solicitor

S.C. Bar No. 65261

201 E. Main Street, 3rd Floor

Rock Hill, SC 29730

(803) 329-5619

ATTORNEY FOR APPELLANT

MICHAEL L. BROWN, JR.

Law Offices of Michael L. Brown, Jr.

S.C. Bar No.

Post Office Box 1025

Rock Hill, SC 297302

(803) 328-8822

ATTORNEY FOR RESPONDENT

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2017 CP 4601617 ORIGINAL

NOTICE OF APPEAL FROM THE BENCH TRIAL ORDER ISSUED BY THE
CITY OF ROCK HILL MUNICIPAL COURT

THE STATE OF SOUTH CAROLINA
In the Court of Common Pleas for York County

APPEAL FROM ROCK HILL MUNICIPAL COURT
Peter Lenzi, Presiding Municipal Court Judge

Warrant/Ticket No.: 20162280054195

FILED-RECEIVED
2017 JUN -1 AM 11:48
DAVID H. BROWN
C.C. CP & SS
YORK COUNTY, SC.

Andrew Ryan Maupin,

Appellant,

v.

The City of Rock Hill,

Respondent.

NOTICE OF APPEAL

The Defendant Andrew Ryan Maupin, by and through counsel, MICHAEL L. BROWN, JR., hereby appeals the conviction and sentence for Driving Under the Influence First rendered by the Honorable Peter Lenzi on May 19, 2017.

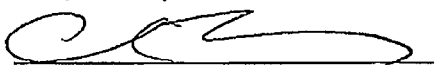
The grounds upon which this Appeal is based are as follows:

1. The lower court erred in failing to dismiss the charge against the Defendant; the error being that all field sobriety tests were not videotaped or recorded.

For the reason stated above, the Defendant request that his conviction for Driving Under the Influence First be dismissed.

(DATED this 30 day of May, 2017.

Respectively Submitted,



MICHAEL L. BROWN, JR.
Law Offices of Michael L. Brown, Jr.
P.O. Box 1025
Rock Hill, South Carolina 29731
(803) 328.8822
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2017CP4601617

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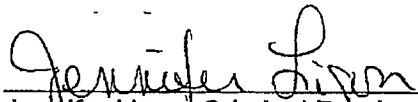
The City of Rock Hill,

Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby acknowledges that a true and correct copy of the
NOTICE OF APPEAL was hereby forwarded via regular mail, postage prepaid,
addressed to the following:

York County Court of Common Pleas Non Jury
Attn: Lynn Straight
Post Office Box 649
York, South Carolina 29745



Jennifer Ligon, Criminal Paralegal for
The Law Offices of Michael L. Brown, Jr.
P.O. Box 1025
Rock Hill, South Carolina 29731
(803) 328.8822
(803) 328.0523 (via facsimile)

May 30, 2017

FILED-RECEIVED
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DAVID D. MILLION
C.F. & S.S.
YORK COUNTY, SC

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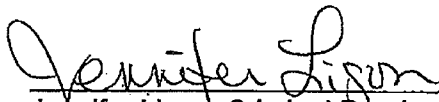
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City of Rock Hill Solicitor's Office
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Rock Hill, South Carolina 29730



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Rock Hill Municipal Court
120 E. Black Street
Rock Hill, South Carolina 29730

Jennifer Ligon

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C.C.P. & C.S.
YORK COUNTY, SC

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
IN YORK COUNTY

COUNTY OF YORK)

2017CP4601617

ANDREW RYAN MAUPIN)

RETURN TO APPEAL

APPELLANT,)

TICKET #: 20162280054195

VS.)

CITY OF ROCK HILL)

RESPONDENT.)

FILED-RECEIVED
2017 JUN 26 PM 3:03
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

APPEARANCES: Christopher Barton, Solicitor – City of Rock Hill
Michael L. Brown, Attorney for Defendant

PROCEEDINGS:

The Defendant was charged with Driving Under the Influence; less than .10; first offense on August 4, 2016. The Defendant did not appear for his initial trial date and was tried in his absence on August 22, 2016. Thereafter, Michael L. Brown, Jr., Esquire filed a Motion to Re-Open which was granted. Mr. Brown entered a Not Guilty plea on behalf of the Defendant and submitted various discovery motions. To the best of the Court's knowledge, discovery proceeded uneventfully.

Although the Defendant initially requested a Trial by Jury, that request was withdrawn and the case proceeded as a Non-Jury Trial on May 19, 2017. At the Bench Trial the City called two witnesses; Officer J. D. Rowland and Officer Sean M. Bailey who were at the time of the Defendant's arrest, employed by the Rock Hill Police Department.

Through the testimony of Officer Rowland the following were admitted into evidence: Officer Rowland's DUI Detection/SFST Practitioner Certificate (Exhibit 1A), Officer Rowland's Permit to perform Breath Alcohol Tests (Exhibit 1B), Road Side Video (Exhibit 2), Data Master Room Video (Exhibit 3), Advisement of Implied Consent (Exhibit 4A), and Breath Alcohol Analysis Test Report (Exhibit 4B). Officer Rowland testified as to the probable cause he had for initiating a traffic stop on the Defendant's vehicle, his observations of the Defendant during the traffic stop, his administration of Standardized Field Sobriety Tests and his conclusions concerning those test results.

The next witness called by the City was Officer Sean Bailey who was ultimately qualified as a Drug Recognition Expert. Officer Bailey identified a South Carolina Drug Influence Evaluation as well as a Drug Influence Evaluation Narrative (Exhibits 5A, 5B and 5C). Officer Bailey also identified a Rolling Log of Drug Influence Evaluations (Exhibit 6) which included his evaluation of the Defendant, Andrew R. Maupin.

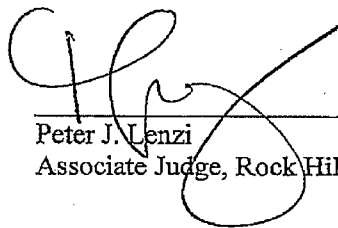
During the Defendant's cross examination of Officer Bailey, counsel for the defense reviewed with Officer Bailey how and where the various evaluations which were a part of the DRE were performed. Officer Bailey confirmed that a part of the DRE he administered the Romberg Modified Evaluation, as well as the Nine Step Walk and Turn and One Leg Stand, both left and right. Counsel for the defense asked whether or not any of these tests were video taped and Officer Bailey advised that they were not.

After both sides had rested, the City waived closing and the Defendant submitted several cases for the Court's consideration; to-wit: ROBERTS, GORDON and SUCHENSKI together with a copy of 56-5-2953 South Carolina Code of Laws. The defense argued that the Defendant was entitled to a dismissal of the charges on the grounds that the "Field Sobriety Tests" that were a part of the DRE were not video taped as required by the statute. The Court denied the defense Motion to Dismiss on these grounds, found the Defendant guilty of DUI 1st offense, imposed the sanction of thirty days suspended upon the payment of \$1,017.00 and permitted the tendered fine to act as an Appeal Bond in these proceedings.

EXHIBITS:

1. Copy of Appeal
2. Copy of Ticket
3. Officer Rowland's DUI Detection/SFST Practitioner Certificate
4. Officer Rowland's Permit to perform Breath Alcohol Tests
5. Road Side Video
6. Data Master Room Video
7. Advisement of Implied Consent
8. Breath Alcohol Analysis Test Report
9. Officer Bailey's Drug Recognition Expert
10. Officer Bailey's Drug Influence Evaluation
11. Officer Bailey's Drug Influence Narrative
12. Rolling Log of Drug Influence Evaluations

Respectfully submitted by:


Peter J. Lenzi
Associate Judge, Rock Hill Municipal Court

Dated: 6-7-17

Copy: Christopher Barton, Solicitor – City of Rock Hill
Michael L. Brown, Attorney for Defendant

EXHIBIT 1

COPY

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MAY 30 2017

BY: 

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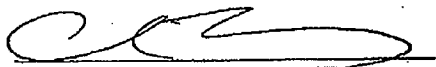
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DATED this 30 day of May, 2017.

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May 30, 2017

EXHIBIT 2

ORIGINAL

COPY

VOID ☐

NOTES BA 0.00; NO URINE GIVEN

Form 5-438 Rev. 05/2014		UNIFORM TRAFFIC TICKET									
STATE OF SOUTH CAROLINA											
VERSUS											
FIRST NAME ANDREW				MIDDLE NAME RYAN				LAST NAME MAUPIN			
STREET 724 ENZO CT #206											
CITY ROCK HILL				STATE SC				ZIP CODE 29730			
DL STATE SC		CLASS D						CDL ☐ YES ☒ NO			
RACE W	SEX M	BIRTH DATE		HGT. 5'7"	WGT. 135	HAIR BRO	EYES GRN				
VEH. UC NO. 8181HA	STATE SC	MAKE OF VEH. HOND	YEAR 2014	IS PSGL VEH. ☒	BICYCLE ☐	COMB. ☐	COMM. VEH. ☐				
VEHICLE OWNER FIRST NAME ANDREW				MIDDLE NAME RYAN				LAST NAME MAUPIN			
OWNER STREET 724 ENZO CT #206				CITY ROCK HILL				STATE SC			
								ZIP CODE 29730			
YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT											
NAME OF TRIAL COURT ROCK HILL MUNICIPAL COURT						STREET 120 E BLACK ST					
DATE OF TRIAL 08/22/2016		TIME OF TRIAL 0900		CITY ROCK HILL		STATE SC		ZIP CODE 29730			
VIOLATION SECTION NO. 56-05-2930(A)				VIOLATION - COURT APPEARANCE REQUIRED ☒ YES ☐ NO DRIVING UNDER THE INFLUENCE; LESS THAN .10; 1ST OFFENSE							
DATE OF VIOLATION 08/04/2016		TIME OF VIOL 0609		SC POINTS		B.A. LEVEL					
VIOLATION LOCATION US 21 ANDERSON RD N								COUNTY 46			
LAT 34.94092		LONG -80.9978		CITY ROCK HILL							
NAME AND RANK OF ARRESTING OFFICER ROWLAND J D POII						SCJA OFFICER NUMBER 9449-9959					
BAIL DEPOSITED NONE		DATE OF ARREST 08/04/2016		BOND AMOUNT REQUESTED \$992							
DATE BAIL REC'D.		BY									
CASE BEFORE: MAGISTRATE ☐ MUN. COURT ☒ CIRCUIT COURT ☐ FAMILY COURT ☐ FEDERAL COURT ☐											
NAME OF THE TRIAL COURT IF DIFFERENT FROM ABOVE											
TRIAL BY: TRIAL JUDGE ☒		JURY ☐		DEFENDANT: DID NOT APPEAR ☐ APPEARED ☒							
DISPOSITION DATE 8-22-16		DISPOSITION: NOLLE PROSSED ☐		GUILTY ☒		PLED: NOLLO CONTENDERE ☐					
FORFEITED BOND ☐		NOT GUILTY ☐									
CHARGE CONVICTED OF DUI								SC POINTS			
JAIL 30	SUSPEND 10/17	FINE	AMT. COLLECTED	AMT. SUSPENDED	COMMITTED TO: 5-19-17		Vehicle Searched NO				
CERTIFIED CORRECT						DATE 8-22-16		Arrest as Result of Collision NO			
Electronic Copy - Trial Officer / Driver's Record						TICKET # 20162280054195					

COUNTY OF ROCK HILL

INCIDENT NO. 1608040115

AGENCY/ROOM:

ROCK HILL POLICE DEPT

DUI 1st
10/17/30
BT = guilty
J Leng
5-19-17

fine to be applied on
appeal bond

SC Criminal Justice Academy

Hereby Certified

James D. Rowland Jr.

As a

DUI Detection/SFST Practitioner

Issued Date: 12/31/2012

Expiration Date: 12/31/2018

The above named officer has met the standards prescribed by the South Carolina Criminal Justice Academy. The authority to perform Standardized Field Sobriety Tests will expire on December 31st two years from the date listed above.

Lewis J. Swindler, Jr.
Lewis J. Swindler, Jr. - Director, SCCJA

EXHIBIT 3

State of South Carolina

SC Criminal Justice Academy



State Law Enforcement Division

PERMIT TO PERFORM BREATH ALCOHOL TEST

APPLICATION HAVING BEEN MADE, a permit is hereby granted, or a renewal of same, to:

James D. Rowland Jr.

Expiration Date: 09/21/2018 No.: 000768

To perform chemical analyses of the breath to determine blood alcohol level.

Evidence of qualifications has been examined, and it has been determined that the applicant herein has met the standards prescribed by law and regulations.

This permit is limited to the performance of chemical analyses of the breath under the authority of Sections 56-5-2950, 50-21-114, 55-1-100 and 56-1-286, of the South Carolina Code of Laws, 1976, as amended; and policies of the South Carolina Law Enforcement Division, utilizing any of the various models of the DataMaster DMT.

This permit is not transferable, and is issued under authority of Sections 56-5-2950, 50-21-114, 55-1-100, and 56-1-286 of the South Carolina Code of Laws, 1976, as amended; and the rules, regulations, and policies of the South Carolina Law Enforcement Division.

Lewis J. Swindler, Jr.
Lewis J. Swindler, Jr. - Director, SCCJA

Mark A. Keel
Mark A. Keel, Chief, SLED

EXHIBIT 4

ADVISEMENT OF IMPLIED CONSENT RIGHTS

Subject's Name (Print) Maupin, Andrew

Date of Birth 03-14-93

Driver's License Number [REDACTED]

State Licensed SC



DRIVING UNDER THE INFLUENCE ADVISEMENT

- (A) Will test be video recorded? If answer is Yes, start here-> - Inform subject of video recording.
If answer is No, start here-> - Inform subject of type samples requested (i.e. breath, blood, urine).
- (B) Provide subject with a written copy of the following advisement and read the advisement to the subject:
- You are under arrest for Driving Under the Influence (DUI), Section 56-5-2930, South Carolina Code of Laws 1976, as amended.
 - The arresting officer has directed that samples be taken for alcohol and/or drug testing.
 - The samples will be taken and tested according to Section 56-5-2950 and SLED policies.
 - You do not have to take the tests or give the samples, but if you refuse to submit to the tests, your privilege to drive in South Carolina must be suspended or denied for at least six (6) months, with the option of ending the suspension if you enroll in the Ignition Interlock Device Program, and your refusal may be used against you in court.
 - If you take the tests or give the samples and have an alcohol concentration of eight one-hundredths of one percent (0.08%) or more, you may instead be charged with Driving with an Unlawful Alcohol Concentration (DUAC), Section 56-5-2933.
 - If you have an alcohol concentration of fifteen one-hundredths of one percent (0.15%) or more, your privilege to drive in South Carolina must be suspended for at least one (1) month, with the option of ending the suspension if you enroll in the Ignition Interlock Device Program.
 - You have the right to have a qualified person of your own choosing conduct additional independent tests at your expense and the officer, upon request, shall provide you affirmative assistance.
 - You have the right to request a contested case hearing within thirty (30) days of the issuance of the notice of suspension.
 - If you do not request a contested case hearing or if your suspension is upheld at the contested case hearing, you shall enroll in an Alcohol and Drug Safety Action Program.
- If applicable, perform the following procedures:
- (C) Check subject's mouth and remove any foreign material. (Not required if a refusal has occurred.)
(D) Enter biographical data into DataMaster DMT. (Required for all tests, including refusals.)
(E) Observe subject for a minimum of twenty (20) minutes before collecting breath sample. (Not required if a refusal has occurred.)

ADVERTENCIA Y LECTURA DE DERECHOS POR MANEJAR BAJOS LOS EFECTOS DE ALCOHOL O DROGAS (DUI)

- (A) ¿Se grabará el análisis en video? Si la respuesta es Si, empiece aquí-> - Informe a la persona que va a ser grabada en video.
Si la respuesta es No, empiece aquí-> - Informe a la persona de las muestras que se requieren (ejemplos: soplar, sangre, orina).
- (A) Dele a la persona una copia escrita de la advertencia siguiente y lea la advertencia al sujeto:
(B) Dele a la persona una copia escrita de la advertencia siguiente y léasela a la persona:
- Usted está arrestado por Manejar Bajo los Efectos de Alcohol o Drogas (DUI), Sección 56-5-2930, del Código Legal de Carolina del Sur de 1976, según su enmienda.
 - El policía que efectuó el arresto dispuso que le sacaran muestras de alcohol y/o drogas para ser analizadas(s).
 - Se obtendrán y analizarán las muestras según la Sección 56-5-2950 y las normas del SLED.
 - Usted no está obligado a hacerse los análisis ni a proporcionar muestras, pero si se niega a someterse a estos análisis, se le tendrá que suspender o negar su privilegio de manejar en Carolina del Sur por lo menos durante seis (6) meses con la opción de terminar la suspensión si se inscribe en el Programa del Dispositivo de Bloqueo del Arranque. Negarse a ello podrá usarse en su contra en un tribunal.
 - Si usted se somete a los análisis o proporciona las muestras y tiene una concentración de alcohol de ocho centésimos del uno por ciento (0.08%) o más, podría ser acusado en vez de Manejar con una Concentración Ilegal de Alcohol (DUAC), según la Sección 56-5-2933.
 - Si usted tiene una concentración de alcohol de quince centésimos del uno por ciento (0.15%) o más, su privilegio de manejar en Carolina del Sur debe ser suspendido por lo menos durante un (1) mes con la opción de terminar la suspensión si se inscribe en el Programa del Dispositivo de Bloqueo del Arranque.
 - Usted tiene el derecho de que una persona que usted elija y que esté capacitada para hacerlo, realice por su cuenta los análisis adicionales que usted tendrá que pagar y en ese caso, el agente debe brindarle ayuda si usted la solicita.
 - Usted tiene el derecho de solicitar una audiencia para disputar el caso dentro de los treinta (30) días a partir de la fecha en que se emitió la notificación de la suspensión.
 - Si usted no solicita una audiencia para disputar el caso o si se le confirma la suspensión en la audiencia para disputar el caso, usted tiene que inscribirse en un Programa de Medidas de Seguridad para el Consumo Responsable del Alcohol y las Drogas.
- Si es pertinente, haga lo siguiente:
- (C) Inspeccione la boca de la persona y quite todo material extraño de la boca. (No se requiere si se niega la persona.)
(D) Ingrese los datos biográficos en el DataMaster DMT. (Obligatorio para todos los análisis aunque se niegue la persona.)
(E) Observe a la persona un mínimo de (20) minutos antes de obtener una muestra de su aliento. (No se requiere si se niega la persona.)

Subject's Signature

Firma de la Persona (recibió una copia)

Officer's Signature
Firma del Agente

date/time
fecha/hora

SLED Forensics Form # ICS 016, October 1, 2014



SOUTH CAROLINA LAW ENFORCEMENT DIVISION
BREATH ALCOHOL ANALYSIS TEST REPORT
DRIVING UNDER THE INFLUENCE



SUBJECT BIOGRAPHICAL INFORMATION

SUBJECT NAME: ANDREW R MAUPIN
RACE: WHITE
SEX: M
DOB: [REDACTED]

DL NUMBER: [REDACTED]
DRIVER'S LICENSE: SC
SUBJECT ADDRESS: 724 ENZO CT #206
ROCK HILL SC 29730

ARREST INFORMATION

OFFICER NAME: JAMES D ROWLAND
TICKET NUMBER: 1
ARREST DATE: 08/04/2016

AGENCY ORI: SC0460300
COUNTY OF ARREST: 46 - YORK
ARREST TIME: 03:25

OPERATOR INFORMATION

TEST OPERATOR: JAMES D ROWLAND
CERTIFICATION #: DMT000768
SOLUTION LOT #: 15801

BREATH TEST VIDEO RECORDED? YES
SUBJECT'S MOUTH CHECKED AND
ANY FOREIGN MATERIAL REMOVED? YES
SUBJECT ADVISED OF APPLICABLE RIGHTS? YES

AGENCY ORI: SC0460300
EXPIRATION DATE: 04/27/2017
BOTTLE: 0006
SUBJECT INFORMED OF VIDEO RECORDING? YES
SUBJECT INFORMED OF TYPE SAMPLE REQUESTED? YES
SUBJECT OBSERVED FOR A MINIMUM OF (20)
TWENTY MINUTES? YES

SUBJECT'S BREATH ALCOHOL TEST RESULTS

DATAMASTER DMT SERIAL # 106907

TEST DATE		08/04/2016
OBSERVATION START TIME:		04:01:32
BLANK TEST	0.00	04:24:31
INTERNAL STANDARD	VERIFIED	04:24:38
0.08% SIMULATOR TEMPERATURE	34.00°C	04:25:01
0.08% SIMULATOR VERIFICATION	0.077	04:25:01
BLANK TEST	0.00	04:25:53
SUBJECT SAMPLE	0.00	04:26:18
BLANK TEST	0.00	04:27:08
INTERNAL STANDARD	VERIFIED	04:27:15

Subject's Signature

08-04-16 / 0430
(Received Copy) Date/Time

Arresting Officer's Signature

Test Operator's Signature

VISIT WWW.SLED.SC.GOV AND CLICK ON IMPLIED CONSENT. THEN CLICK ON BREATH SITE VIDEO RECORDINGS. ENTER THE REQUESTED INFORMATION FROM THE BOX BELOW TO ACCESS THE VIDEO RECORDING OF THIS BREATH TEST:

SUBJECT ID: 0040468BFB DATE/TIME: 08/04/2016 04:23:33
SUBJECT PASSWORD: 1144F DMT SERIAL NUMBER: 106907

IMPORTANT NOTICE
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SLED Forensics Form # ICS 018, April 2010



The International Association of Chiefs of Police

This is to certify that

Sean Bailey

*has successfully completed all requirements
of the Drug Evaluation and Classification Program
and is hereby recognized as a*

Drug Recognition Expert

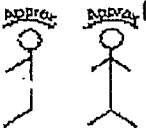
Presented on 2/1/2015

Vincent Talucci
Executive Director
International Association of Chiefs of Police

Carolyn Cockroft
DEC Program Manager
International Association of Chiefs of Police

EXHIBIT 10

SOUTH CAROLINA DRUG INFLUENCE EVALUATION

DRE CASE#		ARRESTING CASE# 160804015		ROLLING LOG# 16-10-42	
TYPE OF EVALUATION	☒ ENFORCEMENT	☐ RECERTIFICATION	☐ INSTRUCTOR OBSERVED		
	☐ TRAINING	☐ OTHER	NAME		
DRE#					
ADMINISTRATIVE DETAILS					
DRE Name Sean M. Bailey		DRE AGENCY Rock Hill PD		ARREST DATE 08/04/2016	
				TIME DRE NOTIFIED 0507	
DRE Number 23967		County of Arrest York		ARREST TIME 0325	
		Location of Evaluation Rock Hill PD		TIME EVAL STARTED 0610	
DRE Number		County of Arrest		Witness / Scribe J. Rowland	
Miranda Warning given by: J. Rowland		Collision: ☒ None ☐ Injury ☐ Property ☐ Fatality ☐ CMV ☐ PCS		☐ DRE ☐ INST	
SUSPECT INFORMATION					
Suspect's Name (Last, First M) Maurice Andrew Lynch		DOB [REDACTED]		License # [REDACTED]	
		SEX M		State SC	
1. BREATH TEST					
Breath test results 0.00%		Instrument serial # 106907		Time 0926	
☐ MIP					
2. INTERVIEW OF ARRESTING OFFICER					
Name James Rowland		☐ DRE Agency Rock Hill PD		☐ A.R.I.D.E. TRAINED	
3. PRELIMINARY EXAMINATION					
First Pulse 94		(beats per minute) 0613		Hours (transfer to section 6)	
What time is it? / actual 5 something / 0614		What date is it? Aug 3, 2016		What have you eaten today? When? Kizzz 7:30 PM	
				What have you had to drink today? When? Dr. Pepper 7:30 PM	
When did you last sleep Night before last		Are you sick/injured/physical disabilities? Anxiety No disabilities Dehydrated Sept 2015 Arthritis in hands Back pain from work L5/S1 disk hydrocele			
For how long? 30 min approx		Taking medication? Only before 10-48 Klonopin 2mg/dx 2x Ambien 125mg Aldicarb 2-5mg/day Xanax 2mg/PRN			
Are you under the care of a doctor / dentist? Psychiatrist					
Attitude Cooperative		Coordination Poor - Calculated		Speech Stutter / Rambling	
Breath Stale Smoke		Face Color Flushed			
Corrective Lenses ☐ Hard contacts ☐ Soft Contacts ☒ Glasses - myopia ☐ None		Blindness ☒ None ☐ Left ☐ Right		Eyes ☐ Near Normal ☒ Bloodshot ☒ Watery ☐ Red Conjunctiva	
Eyelids ☐ Normal ☒ Droopy ☐ Retracted		Pupils ☒ Equal ☐ Unequal		Are you diabetic? ☒ Y ☐ N	
				Do you take insulin? ☒ Y ☐ N	
				Are you epileptic? ☒ Y ☐ N	
				Able to Track stimulus? ☒ Y ☐ N	
				Equal Tracking? ☒ Y ☐ N	
4. EYE EXAMINATIONS					
HGN		Left		Right	
Lack of Smooth Pursuit		☐ Yes ☒ No		☐ Yes ☒ No	
Distinct and Sustained Nystagmus at maximum Deviation		☐ Yes ☒ No		☐ Yes ☒ No	
Angle of Onset Prior to 45 degrees		N/A		N/A	
				Vertical Gaze Nystagmus ☐ Yes ☒ No	
				Lack of Convergence ☒ Yes ☐ No	
					
5. DIVIDED ATTENTION TESTS (ASK SUSPECT)					
Modified Romberg Balance 2 ADDITIONAL APPROX 1		Eyelid Tremors ☐ Yes ☒ No		How many seconds did you estimate? 37 sec	
		30 seconds estimated in 4 seconds.		How did you estimate time? 1-1000, 2-1000 etc	
Notes and observations Dry mouth - can't articulate Rambling Exaggerated movements Asks for 2x - got Aug 3 - Cats off topic easily Constricted pupils HSA - Sunny Rowland - but Leg functions					

V.0423.12

WALK AND TURN				Can Not Do Test ☐		Rolling Log # 16-10-42	
				Steps Out Starts Too Soon		(04/42/2)	
				Steps Walking		UP BACK	
				Misses Heel to Toe		5 2	
				Steps Off Line		3 3	
				Raises Arms		(04/42/2)	
				Annual Steps		8 8	
				Improper Turn		X	
				Left		Right	
				Sways			
				Uses Arms to Balance			
				Hopping			
				Put Foot			
FINGER TO NOSE ☐ Eyelid Tremors ☒ Body Tremors ☐ Sway ☐ Brought Head Forward							
6. VITAL SIGNS AND 2nd PULSE							
3 PULSES		Pulse		Time		Blood Pressure	
First		44		0613		108 174 mmHg	
Second		88		0645		Body Temperature	
Third		94		0701		97.6 ° F	
7. DARK ROOM CHECKS OF PUPILS SIZE AND INGESTION EXAMINATION							
PUPIL SIZE		Room Light		Near Total Darkness		Direct Light	
Left Eye		3.0		4.0		2.5	
Right Eye		3.0		4.0		2.5	
Rebound Dilation		☐ Yes		☒ No		Nasal Area	
Pupillary Unrest		☐ Yes		☒ No		Oral Cavity	
Reaction to Light		☐ Normal		☐ Slow		☒ Little to None	
8. CHECK FOR MUSCLE TONE ☐ Near Normal ☐ Flaccid ☒ Rigid Notes:							
9. CHECK FOR INJECTION SITES AND 3rd				10. INTERROGATION, STATEMENTS AND OBSERVATIONS			
3rd Pulse 44 at 0701 hours (transfer to section 6)				WHAT MEDICATIONS OR DRUGS HAVE YOU BEEN USING?			
				WHAT TYPE OF DRUG?			
RIGHT LEFT				HOW MUCH/DOSAGE?			
INJECTION SITES				TIME OF USE?			
Notes, Statements and Other Observations				Where were the drugs used? Home			
11. OPINION OF EVALUATOR							
☐ CNS DEPRESSANTS ☒ NARCOTIC ANALGESIC ☐ INHALANT ☐ CANNABIS ☐ NOT IMPAIRED							
☒ CNS STIMULANT ☐ DISSOCIATIVE ANESTHETIC ☐ HALLUCINOGEN ☐ ALCOHOL ☐ MEDICAL RULE OUT							
12. TOXICOLOGICAL EXAM							
☐ BLOOD WARRANT OBTAINED ☐ URINE ☒ REFUSED ☐ UNABLE TO OBTAIN							
TIME COMPLETED PIA							
EXAMINING OFFICER: [Signature] Badge # 5586 REVIEWED BY DRE S.C. OR INSTRUCTOR (SIGN/DATE) Charges:							



South Carolina Drug Evaluation and Classification Program

Interview of Arresting Officer

1. Is the suspect under arrest for DUI? No Yes Citation # 2062280054185 Time of Arrest: 0325
2. What was the suspect's B.A.C.? 0.00 Time of Test: 0430 DMT #: 106908 Case #: 1608040115
3. Was the suspect driving a motor vehicle? Yes
4. What actions, maneuvers, etc. were observed? slow speed on interstate, signal w/out lane change, lane change w/out signal, nearly struck a disabled vehicle
5. Was there a crash involved? No Yes # injured? Is this F/DUI? No Yes
6. Was the suspect observed smoking, eating, or drinking? No Yes
7. Was the suspect observed inhaling anything? No
8. How did the suspect respond to the "stop command"? pulled over quickly but nearly struck a disabled vehicle in doing so
9. Did the suspect conceal or try to dispose of any items? No
10. What has their attitude and demeanor been? mostly cooperative w/some argument
11. Has the suspect complained of illness or injury? No Yes
12. Has the suspect used any drug related street names or slang? No
13. How has the suspect responded to questions? Mostly appropriately & honestly though some information on drug use was withheld
14. What has the suspect's speech been like? slurred, sometimes rambling
15. Specifically, what has the suspect stated? Admitted taking Adderall, Clonoxin, Xanax, & Ambien over course of day leading up to arrest
16. What items or materials were found on the suspect and/or in vehicle? 3 Xanax bars in pocket along w/ one unused syringe
17. Was any smoking paraphernalia found? No
18. Were there any injection materials found? one syringe
(Needles, syringes, straps, tubes, spoons, bottle caps, etc.)
19. Were there any foil wrappers, balloons, baggies, etc found? No
(use back for additional info/comments)

OBSERVATIONS

SUSPECT'S BREATH

- ☐ Odor of alcohol
- ☐ Chemical odor
- ☐ Cannabis odor

OBSERVATION OF FACE

- ☐ Normal
- ☒ Flushed
- ☐ Pale
- ☒ Other (describe) *right eyelid droopy*

GENERAL APPEARANCE

- ☐ Clean
- ☐ Orderly
- ☒ Disarranged
- ☐ Bloody
- ☐ Vomit
- ☐ Urine

EYES

- ☐ Normal
- ☐ Watery
- ☒ Bloodshot
- ☒ Pink/Red

ATTITUDE

- ☒ Anxious
- ☒ Restless
- ☐ Agitated
- ☐ Excited
- ☐ Combative
- ☐ Disinterested
- ☐ Uninhibited
- ☐ Disoriented
- ☒ Drowsy
- ☒ Confused
- ☐ Hallucinating
- ☐ Loss of Memory
- ☒ Cyclic mood swings
- ☒ Polite
- ☒ Antagonistic
- ☐ Stuporous
- ☒ Cooperative/indifferent
- ☒ Laughing
- ☒ Insulting
- ☒ Argumentative
- ☒ Fumbling

SPEECH

- ☒ Talkative
- ☒ Thick, slurred
- ☒ Incoherent
- ☒ Rapid
- ☐ Slow
- ☐ Non-communicative
- ☒ Repetitive

PHYSICAL ACTIONS

- ☐ Facial itching
- ☒ Dry mouth
- ☐ Nodding
- ☒ Droopy eyelids
- ☐ Low, raspy voice
- ☐ Body tremors
- ☐ Muscle tone - rigid
- ☒ Muscle tone - flaccid
- ☐ Muscle tone - normal
- ☐ Grinding of teeth

OTHER

- ☐ Nasal redness
- ☐ Runny nose
- ☐ Track marks
- ☐ Perspiring
- ☐ Warm to touch
- ☐ Intense headaches
- ☐ Residue of paint on person
- ☐ Debris
- ☒ Pills
- ☐ Vials
- ☒ Syringes
- ☐ Drug Paraphernalia

SUBJECT STATEMENTS

*Admitted to taking Advil, Clonopin, Xanax,
& Ambien over day leading up to
arrest.*

J. Rawlins

Reporting Officer: *[Signature]*

ID#: *5385*

Case #: *1608040115*

Date: *08-04-16*



SOUTH CAROLINA LAW ENFORCEMENT DIVISION
BREATH ALCOHOL ANALYSIS TEST REPORT
DRIVING UNDER THE INFLUENCE



SUBJECT BIOGRAPHICAL INFORMATION

SUBJECT NAME: ANDREW R MAUPIN
RACE: WHITE
SEX: M
DOB: [REDACTED]

DL NUMBER: [REDACTED]
DRIVER'S LICENSE: SC
SUBJECT ADDRESS: 724 ENZO CT #206
ROCK HILL SC 29730

ARREST INFORMATION

OFFICER NAME: JAMES D ROWLAND
TICKET NUMBER: 1
ARREST DATE: 08/04/2016

AGENCY ORI: SC0460300
COUNTY OF ARREST: 46 - YORK
ARREST TIME: 0325

OPERATOR INFORMATION

TEST OPERATOR: JAMES D ROWLAND
CERTIFICATION #: DMT000768
SOLUTION LOT #: 15801

AGENCY ORI: SC0460300
EXPIRATION DATE: 04/27/2017
BOTTLE: 0006

BREATH TEST VIDEO RECORDED? YES
SUBJECT'S MOUTH CHECKED AND
ANY FOREIGN MATERIAL REMOVED? YES
SUBJECT ADVISED OF APPLICABLE RIGHTS? YES

SUBJECT INFORMED OF VIDEO RECORDING? YES
SUBJECT INFORMED OF TYPE SAMPLE REQUESTED? YES
SUBJECT OBSERVED FOR A MINIMUM OF (20)
TWENTY MINUTES? YES

SUBJECT'S BREATH ALCOHOL TEST RESULTS

DATAMASTER DMT SERIAL # 106907

TEST DATE		08/04/2016
OBSERVATION START TIME:		04:01:32
BLANK TEST	0.00	04:24:31
INTERNAL STANDARD	VERIFIED	04:24:38
0.08% SIMULATOR TEMPERATURE	34.00°C	04:25:01
0.08% SIMULATOR VERIFICATION	0.077	04:25:01
BLANK TEST	0.00	04:25:53
SUBJECT SAMPLE	0.004	04:26:28
BLANK TEST	0.00	04:27:08
INTERNAL STANDARD	VERIFIED	04:27:15

Subject's Signature

08-04-16 / 0430
(Received Copy) Date/Time

Arresting Officer's Signature

Test Operator's Signature

VISIT WWW.SLED.SC.GOV AND CLICK ON IMPLIED CONSENT. THEN CLICK ON BREATH SITE VIDEO RECORDINGS. ENTER THE REQUESTED INFORMATION FROM THE BOX BELOW TO ACCESS THE VIDEO RECORDING OF THIS BREATH TEST.

SUBJECT ID: 0040468BEB
SUBJECT PASSWORD: 1144F

DATE/TIME: 08/04/2016 04:23:33
DMT SERIAL NUMBER: 106907

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SLED Forensics Form # ICS 018, April 2010

ADVISEMENT OF IMPLIED CONSENT RIGHTS

Maupin, Andrew
Subject's Name (Print)

0374-93
Date of Birth

Driver's License Number



SC
State Licensed

DRIVING UNDER THE INFLUENCE ADVISEMENT

- (A) Will test be video recorded? If answer is Yes, start here-> - Inform subject of video recording.
If answer is No, start here-> - Inform subject of type samples requested (i.e. breath, blood, urine).
- (B) Provide subject with a written copy of the following advisement and read the advisement to the subject:
- You are under arrest for Driving Under the Influence (DUI), Section 56-5-2930, South Carolina Code of Laws 1976, as amended.
 - The arresting officer has directed that samples be taken for alcohol and/or drug testing.
 - The samples will be taken and tested according to Section 56-5-2950 and SLED policies.
 - You do not have to take the tests or give the samples, but if you refuse to submit to the tests, your privilege to drive in South Carolina must be suspended or denied for at least six (6) months, with the option of ending the suspension if you enroll in the Ignition Interlock Device Program, and your refusal may be used against you in court.
 - If you take the tests or give the samples and have an alcohol concentration of eight one-hundredths of one percent (0.08%) or more, you may instead be charged with Driving with an Unlawful Alcohol Concentration (DUAC), Section 56-5-2933.
 - If you have an alcohol concentration of fifteen one-hundredths of one percent (0.15%) or more, your privilege to drive in South Carolina must be suspended for at least one (1) month, with the option of ending the suspension if you enroll in the Ignition Interlock Device Program.
 - You have the right to have a qualified person of your own choosing conduct additional independent tests at your expense and the officer, upon request, shall provide you affirmative assistance.
 - You have the right to request a contested case hearing within thirty (30) days of the issuance of the notice of suspension.
 - If you do not request a contested case hearing or if your suspension is upheld at the contested case hearing, you shall enroll in an Alcohol and Drug Safety Action Program.

If applicable, perform the following procedures:

- (C) Check subject's mouth and remove any foreign material. (Not required if a refusal has occurred.)
(D) Enter biographical data into DataMaster DMT. (Required for all tests, including refusals.)
(E) Observe subject for a minimum of twenty (20) minutes before collecting breath sample. (Not required if a refusal has occurred.)

ADVERTENCIA Y LECTURA DE DERECHOS POR MANEJAR BAJOS LOS EFECTOS DE ALCOHOL O DROGAS (DUI)

- (A) ¿Se grabará el análisis en video? Si la respuesta es Si, empiece aquí-> - Informe a la persona que va a ser grabada en video.
Si la respuesta es No, empiece aquí-> - Informe a la persona de las muestras que se requieren (ejemplos: soplar, sangre, orina).

(A) Dele a la persona una copia escrita de la advertencia siguiente y lea la advertencia al sujeto:
(B) Dele a la persona una copia escrita de la advertencia siguiente y léasela a la persona:

- Usted está arrestado por Manejar Bajo los Efectos de Alcohol o Drogas (DUI), Sección 56-5-2930, del Código Legal de Carolina del Sur de 1976, según su enmienda.
- El policía que efectuó el arresto dispuso que le sacaran muestras de alcohol y/o drogas para ser analizadas(s).
- Se obtendrán y analizarán las muestras según la Sección 56-5-2950 y las normas del SLED.
- Usted no está obligado a hacerse los análisis ni a proporcionar muestras, pero si se niega a someterse a estos análisis, se le tendrá que suspender o negar su privilegio de manejar en Carolina del Sur por lo menos durante seis (6) meses con la opción de terminar la suspensión si se inscribe en el Programa del Dispositivo de Bloqueo del Arranque. Negarse a ello podrá usarse en su contra en un tribunal.
- Si usted se somete a los análisis o proporciona las muestras y tiene una concentración de alcohol de ocho centésimos del uno por ciento (0.08%) o más, podría ser acusado en vez de Manejar con una Concentración Ilegal de Alcohol (DUAC), según la Sección 56-5-2933.
- Si usted tiene una concentración de alcohol de quince centésimos del uno por ciento (0.15%) o más, su privilegio de manejar en Carolina del Sur debe ser suspendido por lo menos durante un (1) mes con la opción de terminar la suspensión si se inscribe en el Programa del Dispositivo de Bloqueo del Arranque.
- Usted tiene el derecho de que una persona que usted elija y que esté capacitada para hacerlo, realice por su cuenta los análisis adicionales que usted tendrá que pagar y en ese caso, el agente debe brindarle ayuda si usted la solicita.
- Usted tiene el derecho de solicitar una audiencia para disputar el caso dentro de los treinta (30) días a partir de la fecha en que se emitió la notificación de la suspensión.
- Si usted no solicita una audiencia para disputar el caso o si se le confirma la suspensión en la audiencia para disputar el caso, usted tiene que inscribirse en un Programa de Medidas de Seguridad para el Consumo Responsable del Alcohol y las Drogas.

Si es pertinente, haga lo siguiente:

- (C) Inspeccione la boca de la persona y quite todo material extraño de la boca. (No se requiere si se niega la persona.)
(D) Ingrese los datos biográficos en el DataMaster DMT. (Obligatorio para todos los análisis aunque se niegue la persona.)
(E) Observe a la persona un mínimo de (20) minutos antes de obtener una muestra de su aliento. (No se requiere si se niega la persona.)

Subject's Signature
Firma de la Persona (recibió una copia)

Officer's Signature
Firma del Agente

08-04-16
date/time
fecha/hora

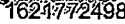
MAJOR INDICATORS	CNS DEPRESSANTS	CNS STIMULANTS	HALLUCINOGENS	DISSOCIATIVE ANESTHETICS	NARCOTIC ANALGESICS	INHALANTS	CANNABIS
HGN	PRESENT	NONE	NONE	PRESENT	NONE	PRESENT	NONE
VERTICAL GAZE NYSTAGMUS	PRESENT *HIGH DOSE	NONE	NONE	PRESENT	NONE	PRESENT *HIGH DOSE	NONE
LACK OF CONVERGENCE	PRESENT	NONE	NONE	PRESENT	NONE	PRESENT	PRESENT
PUPIL SIZE	NORMAL (1)	DILATED	DILATED	NORMAL	CONSTRICTED	NORMAL (4)	DILATED (6)
REACTION TO LIGHT	SLOW	SLOW	NORMAL (3)	NORMAL	LITTLE OR NONE VISIBLE	SLOW	NORMAL
PULSE RATE	DOWN (2)	UP	UP	UP	DOWN	UP	UP
BLOOD PRESSURE	DOWN	UP	UP	UP	DOWN	UP/DOWN (5)	UP
BODY TEMPERATURE	NORMAL	UP	UP	UP	DOWN	UP/DOWN/ NORMAL	NORMAL
MUSCLE TONE	FLACCID	RIGID	RIGID	RIGID	FLACCID	NORMAL/ FLACCID	NORMAL
GENERAL INDICATORS	DRUNK-LIKE BEHAVIOR DISORIENTED DROOPY EYES (PTOSIS) DROWSINESS GAIT ATAXIA UNCOORDINATED THICK, SLURRED SPEECH SLOW, SLUGGISH REACTIONS FUMBLING *NOTE: WITH METHAQUALONE, PULSE WILL BE ELEVATED AND BODY TREMORS WILL BE EVIDENT. ALCOHOL AND QUAAALUDES ELEVATE PULSE. SOMA AND QUAAALUDES DILATE PUPILS	INSOMNIA INCREASED ALERTNESS IRRITABILITY RESTLESSNESS REDNESS TO NASAL AREA RUNNY NOSE EXCITED EXAGGERATED REFLEXES EUPHORIA GRINDING TEETH (BRUXISM) LOSS OF APPETITE ANXIETY DRY MOUTH TALKATIVE BODY TREMORS	DAZED APPEARANCE DISORIENTED DIFFICULTY W/ SPEECH DISORIENTATION PARANOIA PERSPIRING POOR PERCEPTION OF TIME & DISTANCE MEMORY LOSS UNCOORDINATED FLASHBACKS HALLUCINATIONS NAUSEA SYNESTHESIA BODY TREMORS *NOTE: WITH LSD, PULOERECTOR MAY BE OBSERVED (GOOSE BUMPS, HAIR STANDING ON END)	PERSPIRING CHEMICAL ODOR POSSIBLY VIOLENT & COMBATIVE CYCLIC BEHAVIOR INCOMPLETE VERBAL RESPONSES CONFUSED INCREASED PAIN THRESHOLD BLANK STARE VERY EARLY ONSET ANGLE OF HGN DIFFICULTY W/ SPEECH "MOON WALKING" WARM TO TOUCH REPETITIVE SPEECH HALLUCINATIONS AGITATED	DROOPY EYELIDS (PTOSIS) DRY MOUTH DROWSINESS DEPRESSED REFLEXES LOW, SLOW, RASPY SPEECH EUPHORIA FACIAL ITCHING FRESH PUNCTURE MARKS TRACK MARKS "ON THE NOD" NAUSEA SLOWED BREATHING *NOTE: TOLERANT USERS EXHIBIT RELATIVELY LITTLE PSYCHO-MOTOR IMPAIRMENT	CONFUSION RESIDUE OF SUBSTANCE INTENSE HEADACHES POSSIBLE NAUSEA BLOODSHOT, WATERY EYES LACK OF MUSCLE CONTROL ODOR OF SUBSTANCE NON-COMMUNICATIVE DISORIENTED SLOW, THICK, SLURRED SPEECH FLUSHED FACE **NOTE: ANESTHETIC GASES CAUSE BELOW NORMAL BLOOD PRESSURE; VOLATILE SOLVENTS AND AEROSOLS CAUSE ABOVE NORMAL BLOOD PRESSURE	MARKED REDDENING OF CONJUNCTIVA ODOR OF MARIJUANA MARIJUANA DEBRIS IN MOUTH BODY TREMORS INCREASED APPETITE RELAXED INHIBITIONS DISORIENTED POSSIBLE PARANOIA IMPAIRED PERCEPTION OF TIME & DISTANCE EYELID TREMORS REBOUND DILATION (PUPILS PULSATE IN SIZE; GROWING LARGER WITH EXPANDING PULSATIONS)
DURATION OF EFFECTS	BARBITURATES: 1-16 HOURS TRANQUILIZERS 4-8 HOURS METHAQUALONE 4-8 HOURS CHLORAL HYDRATE 5-8 HOURS	COCAINE: 5-90 MINUTES AMPHETAMINES 4-8 HOURS METHAMPHETAMINES: 12 HOURS	DURATION VARIES WIDELY FROM ONE HALLUCINOGEN TO ANOTHER LSD: 4-6 HOURS PSILOCYBIN: 2-3 HOURS	PCP ONSET: 1-5 MINUTES PEAK EFFECTS: 15-30 MINUTES EXHIBITS EFFECTS UP TO 4-6 HOURS DXM ONSET 15-30 MIN. EFFECTS: 3-6 HRS	HEROIN: 4-6 HOURS METHADONE UP TO 24 HRS Others: Vary	6-8 HOURS FOR MOST VOLATILE SOLVENTS ANESTHETIC GASES AND AEROSOLS: VERY SHORT DURATION	2-3 HOURS EXHIBITS EFFECTS - IMPAIRMENT MAY LAST UP TO 24 HOURS WITHOUT AWARENESS OF EFFECT.
USUAL METHODS OF ADMINISTRATION	ORAL INJECTED (OCCASIONALLY)	INSUFFLATION (SNORTING) SMOKED INJECTED ORAL	ORAL INSUFFLATION SMOKED INJECTED TRANSDERMAL	SMOKED (PCP) ORAL INSUFFLATED (PCP) INJECTED EYE DROPS	INJECTED ORAL SMOKED INSUFFLATION	INSUFFLATED (HISTORICALLY, INGESTED BY INHALATION)	SMOKED ORAL
OVERDOSE SIGNS	SHALLOW BREATHING, COLD CLAMMY SKIN, PUPILS DILATED RAPID, WEAK PULSE, COMA	AGITATION INCREASED BODY TEMP, HALLUCINATIONS, CONVULSIONS	LONG INTENSE "TRIP"	LONG INTENSE "TRIP"	SLOW, SHALLOW BREATHING CLAMMY SKIN COMA CONVULSIONS	COMA	FATIGUE PARANOIA
FOOTNOTE: THESE INDICATORS ARE THE MOST CONSISTENT WITH THE CATEGORY. KEEP IN MIND THAT THERE MAY BE VARIATIONS DUE TO INDIVIDUAL REACTION, DOSE TAKEN AND DRUG INTERACTIONS.							
1. SOMA, QUAAALUDES AND POSSIBLY SOME ANTI-DEPRESSANTS USUALLY DILATE PUPILS. 2. QUAAALUDES, ETOH AND POSSIBLY SOME ANTI-DEPRESSANTS MAY ELEVATE. 3. CERTAIN PSYCHEDELIC AMPHETAMINES MAY CAUSE SLOWING. 4. NORMAL, BUT MAY BE DILATED. 5. DOWN WITH ANESTHETIC GASES, UP WITH VOLATILE SOLVENTS AND AEROSOLS. 6. PUPIL SIZE POSSIBLY NORMAL.							
NORMAL RANGES PULSE: 60 - 90 BEATS PER MINUTE PUPIL SIZE: ROOM LIGHT AVG: 4.0mm Range: 2.5-5.0mm NEAR TOTAL DARKNESS AVG: 6.5mm Range: 5.0-8.5mm DIRECT LIGHT AVG: 3.0mm Range: 2.0-4.5mm BLOOD PRESSURE: 120 - 140 SYSTOLIC 70 - 90 DIASTOLIC BODY TEMPERATURE: 98.6 +/- 1.0 DEGREE							
Revised April 2013							



South Carolina
Drug Evaluation and Classification Program (DECP)
and Drug Recognition Expert (DRE)

- What is DECP?
 - An international program managed in SC by the SC Criminal Justice Academy through funding provided by NHTSA and SC Office of Highway Safety that provides training and records management for drug impaired driving enforcement.
- What is a Drug Recognition Expert?
 - A DRE is a police officer who has received specialized training in recognizing subjects who are impaired by substances, i.e. drugs, alcohol, chemicals, or even medical problems. Through thorough evaluation, the DRE is able to classify what category of drugs a person is impaired by or determine if the subject is medically impaired or that there is no impairment.
- How does a DRE make this determination?
 - A DRE conducts a systematic and standardized evaluation which includes many clinical and psychophysical examinations to determine if the subject is impaired by drugs or some other factor. The DRE checks the subjects pulse rate, blood pressure, pupil size and reaction to light, temperature, evaluates the subject's performance on divided attention tests and observes other indicators to make the decision about what is causing the subject's impairment.
- What is a drug?
 - A drug is: "**any substance** that, when taken into the human body, can impair the ability of the person to operate a vehicle safely." It does not have to be only illegal "drugs." Gasoline and "dust-off" are not typically thought of as drugs, but for the purposes of this definition, they are both drugs.
- Why is this a "drug categorization" program?
 - Every impairing substance is classified under one of seven drug categories. Each of these categories has very distinct indicators that separate them from the others. For example, CNS Depressants, Inhalants and Dissociative Anesthetics all affect Gaze Nystagmus. The other four categories do not affect Nystagmus. If Nystagmus is observed, then one or more of those three categories is most likely present.
- When would I call for a DRE to assist me?
 - Anytime you make a DUI case and the subject registers LESS THAN 0.08% BAC or you believe that someone is under the influence of drugs, you SHOULD contact a DRE.
- What if the subject admits they are using some kind of drug?
 - All the more reason to contact a DRE. A subject's statement is not enough for you to prosecute a DUI case. A DRE will be able to render an opinion in court regarding the subject's impairment. Case law holds that a low BAC is not sufficient by itself to request a toxicology sample and you will most likely lose your case.
- Who can be a DRE?
 - Any officer who is certified and proficient at SFST's AND has the proper motivation to apply themselves. This is a very stringent course of study.
- **Additional questions should be directed to Mike Brantley, SCCJA (803) 896 7791**

This document created by LT. Mark Mims, Florence Police Department mmims@cityofflorence.com



Customer No: [REDACTED] Driver License No: [REDACTED]
 Name: MAUPIN, ANDREW RYAN
 Address: 724 ENZO CT APT 106
 City: ROCK HILL State: SC Zip: 297300088
 County: YORK
 DOB: [REDACTED] Sex: M Driver Training: N
 Height: 5'04 Weight: 128 Race: WHITE
 Status - DL: NO SUSPENSION CDL: NO DISQUALIFICATION

License Information

Type	Class	Function	Issued	Expires	First Issued	Restr.	Endor.	ACN
Current								
DL	D	Modify	07/25/2016	03/14/2024	02/10/2010	N	N	1011605500045014
Prior								
DL	D	Duplicate	12/19/2014	03/14/2024	02/10/2010	N	N	1011325900061202
DL	D	Re-exam	10/01/2014	03/14/2024	02/10/2010	N	N	1011330400015223
BP	D	Returned	09/30/2014	09/30/2015	03/05/2009	N	N	N/A
BP	D	Original	09/30/2014	09/30/2015	03/05/2009	N	N	1011330400014800
BP	M	Renewal	04/17/2012	04/17/2013	03/05/2009	N	N	1011131200008828
BP	M	Original	03/29/2011	03/29/2012	03/05/2009	N	N	N/A
SR	D	Returned	02/10/2010	03/14/2015	02/10/2010	Y	N	1011315600016158
SR	D	Modify	10/22/2013	03/14/2015	02/10/2010	Y	N	1011315600016158
SR	D	BP to DL	02/10/2010	03/14/2015	02/10/2010	Y	N	N/A
BP	D	Original	03/05/2009	03/05/2010	03/05/2009	N	N	N/A
BP	D	Returned	03/05/2009	03/05/2010	03/05/2009	N	N	N/A

Address Change -

Address: 3420 HARMONY RD
City: CATAWBA

Date Changed: 03/23/2011

State: SC **Zip:** 297049477

Address Change -

Address: 1069 PARRIS RD
City: ROCK HILL

Date Changed: 03/12/2012

State: SC Zip: 297329746

Address Change -

Address: 3420 HARMONY RD
City: CATAWBA

Date Changed: 10/22/2013

State: SC Zip: 297049477

8/4/2016 5:56:48 AM

Document obtained from DMV web site:
www.scdmvonline.com

Page 1 of 3

10 YEAR DRIVER RECORD

Customer No: [REDACTED]
Name: MAUPIN, ANDREW RYAN

Driver License No: [REDACTED]

Address Change -

Address: 3218 BRATTON DR
City: ROCK HILL

Date Changed: 07/25/2016

State: SC

Zip: 297329001

Point Summary

Total Current Points: 1
Driver Credit: -0
Adjusted Current Points: 1

SR22 - Future Proof of Financial Responsibility (Insurance)

Effective: 05/31/2016 Filing: 05/31/2016 Posted: 05/31/2016
Type: NON-OWNERS LIABILITY Policy Number: NO20391422
Company Code: 11128 Company Name: GREENVILLE CASUALTY INSURANCE COMPANY, INC.

VIOL: 424 - Driving too fast for conditions - 10MPH or less Ticket#: H103170
Violation: 03/18/2015 Conviction: 04/01/2015 Recd: 04/21/2015 Post: 04/29/2015
ACD: S94 Conviction Loc Ref: Conviction Reference:
Conviction State: SC Court Type: MAG
Violation Points: 2 Current Points: 1

ACC: REPORTABLE

Accident: 03/18/2015 Posted: 03/24/2015
Accident Case Number: 15524528 FR-10 Audit Number: E-892667
Accident Jurisdiction: SC Acc Loc Ref: SCHDPT History: N
Contributed: Y Bodily Injury: N Property Damage: >= \$1000

SUSP: 004 - Reckless Driving

Special Driving Privilege: NONE
Suspension Beg: 06/28/2014 Suspension End: 09/28/2014
Causal: 11/19/2013 Post: 06/13/2014
Reinstatement Requirements Met: 09/29/2014 Reinstatement Fee Paid: Y
ACD: M84 Withdrawal Loc Ref: Withdrawal Reason Ref:

VIOL: 461 - Reckless driving Ticket#: G693597
Violation: 11/19/2013 Conviction: 05/30/2014 Recd: 06/10/2014 Post: 06/13/2014
ACD: M84 Conviction Loc Ref: Conviction Reference:
Conviction State: SC Court Type: MAG
Violation Points: 6 Current Points: 0

VIOL: 421 - Speeding 10-mph or less Ticket#: F391268
Violation: 01/25/2012 Conviction: 03/27/2012 Recd: 04/24/2012 Post: 05/14/2012
ACD: S51 Conviction Loc Ref: Conviction Reference:
Conviction State: SC Court Type: MAG
Violation Points: 2 Current Points: 0

VIOL: 461 - Reckless driving Ticket#: F391269
Violation: 01/25/2012 Conviction: 03/27/2012 Recd: 04/24/2012 Post: 05/02/2012
ACD: M84 Conviction Loc Ref: Conviction Reference:
Conviction State: SC Court Type: MAG
Violation Points: 6 Current Points: 0

VIOL: 475 - Careless or negligent driving Ticket#: 39240FL
Violation: 12/11/2011 Conviction: 02/22/2012 Recd: 03/16/2012 Post: 04/17/2012
ACD: M81 Conviction Loc Ref: Conviction Reference:
Conviction State: SC Court Type: MUN

Ex SC f n ID

Maupin

5-19-17

10 YEAR DRIVER RECORD

Customer No: [REDACTED]
Name: MAUPIN, ANDREW RYAN

Driver License No: [REDACTED]

ACC: REPORTABLE

Accident: 01/25/2012
Accident Case Number: 12010691
Accident Jurisdiction: SC Acc Loc Ref: SCHDPT
Contributed: Y Bodily Injury: N

Posted: 03/09/2012
FR-10 Audit Number: E-111923
History: N
Property Damage: >= \$1000

VIOL: 421 - Speeding 10-mph or less
Violation: 09/30/2010 Conviction: 12/15/2010
ACD: S51 Conviction Loc Ref:
Conviction State: SC

Ticket#: 32680FL
Recd: 12/22/2010 Post: 02/04/2011
Conviction Reference:
Court Type: MUN
Violation Points: 2 Current Points: 0

End of Report



South Carolina Drug Recognition Expert Drug Influence Evaluation Narrative



Arrest Information:

Arrest Date: 08/04/2016 Arrest Time: 0325 Case #: 1608040115 Citation #: 20162280054125

Officer Name: James Rowland Unit #: 5385 Rolling Log #: 16-10-42

Suspect Name: Andrew Ryan Maupin DOB: [REDACTED] DL #: [REDACTED] DL State: SC

Evaluation Information:

Evaluation Date: 08/04/2016 Evaluation Time: 0610 Evaluation Location: Rock Hill Police Dept

Breath Testing Information

Test Time: 0426 Instrument Number: 106907 Test Results: 0.00

Toxicology Information

Time of Sample: N/A Sample Taken By: Refused Medical Facility: Refused

1. Location:

On 08/04/2016 at 0610 hours, a drug influence evaluation was conducted on Andrew Ryan Maupin while at Rock Hill Police

2. Witnesses:

Evaluating D.R.E.: Sean M. Bailey IACP Number: 23967

Scribe: [REDACTED] IACP Number: [REDACTED]

Observer: James Rowland IACP Number: [REDACTED]

3. Breath Test:

A breath test was conducted at 0426 hours, on instrument # 106907 with a result of 0.00%.

4. Notification and Interview of Arresting Officer:

I was contacted by Officer Rowland of the recent arrest of Andrew Maupin for Driving Under the Influence. Officer Rowland reports he stopped Maupin for driving erratically while attempting to enter I-77. Officer Rowland reports Maupin was driving slowly on the interstate, used his turn signal without changing lanes, and changing lanes without using a turn signal. Officer Rowland reports that when Maupin yielded, he nearly struck a disabled vehicle on the side of the interstate.

Officer Rowland reports he noticed Maupin's face was flushed, with a droopy right eyelid. Officer Rowland reports Maupin's eyes were bloodshot and red. Officer Rowland reports Maupin was anxious, restless, drowsy, confused, and displayed several cyclic moods. Officer Rowland reports Maupin would be polite and cooperative, but was also antagonistic. Officer Rowland reports Maupin was also

DRE Review: _____ IACP Number: _____ Date: _____



South Carolina Drug Recognition Expert Drug Influence Evaluation Narrative



laughing, but also insulting and argumentative. Officer Rowland reports Maupin was talkative, with thick, slurred, incoherent, repetitive, and rapid speech. Officer Rowland reports Maupin had a dry mouth and flaccid muscle tone. Officer Rowland reports he later located three Xanax pills and a syringe on Maupin's person.

Officer Rowland reports Maupin admitted to using Ambien, Klonopin, Xanax, and Adderall, prior to driving. Officer Rowland reports Maupin appeared honest enough; however, Officer Rowland believes Maupin failed to tell the whole truth about the various drugs he had consumed. Officer Rowland reports he conducted the full battery of standardized field sobriety tests, to which Maupin performed poorly. Officer Rowland then conducted the DataMaster DMT test which revealed Maupin had a blood alcohol concentration of 0.00%. Officer Rowland reports Maupin agreed to provide a urine sample for toxicological analysis; however, Maupin failed to provide the sample while at a licensed medical facility. Because of these facts, Officer Rowland requested a Drug Influence Evaluation.

5. Initial Observation of Suspect:

I first saw Maupin as Officer Rowland escorted him to the Report Writing area of the Law Center. I immediately noticed Maupin had an exaggerated gait. Maupin's pupils were readily constricted. His speech was thick, slurred, and raspy. He would speak rapidly and ramble. Maupin would repeat himself on a regular basis. When I asked Maupin to sit in the gray chair, he responded – in a joking manner – that he wasn't allowed to pick his own color.

Just as I was preparing to explain the Drug Evaluation and Classification Program, Maupin advised he needed to use the bathroom. When I asked which type of facility he needed, Maupin advised he needed to urinate. I escorted Maupin into the bathroom and directed him to the urinal. Maupin then began to explain he had "stage fright". After a few minutes, Maupin advised he was finished urinating, but now needed to defecate. I escorted Maupin to the appropriate place. After several minutes, Maupin was stated he was ready for the evaluation. I then explained the DECP, and Maupin agreed to participate.

Maupin advised he believed the current time was "five something...AM" when the actual time was 0614 hours. When asked for the day of the week, Maupin stated, "August 3rd". I reminded Maupin that I was asking for the day, not the date. Maupin then stated the current day was Tuesday, when the actual day was Thursday. Maupin stated the current date was "August 3, 2016, as of 12" when the actual date was August 4, 2016. When I asked Maupin for the last time he ate, he replied that he doesn't eat much because of the Adderall. Maupin stated he had to force himself to eat. Maupin then stated he last ate pizza at 7:36 PM last night. Maupin then stated he recalled the exact time because it was the time he took the pizza out of the oven. Maupin states he last drank a Dr. Pepper at the same time as eating pizza. Maupin states he does not sleep much because of his three children. Maupin states he last slept "maybe last night" for approximately 30 minutes.

Maupin states he is supposed to wear glasses; however, they are missing. Maupin states he does not suffer from any blindness. Maupin states he is not diabetic, does not take insulin, and is not epileptic. Maupin's pupils were equal in size, he was able to track the stimulus, and he displayed equal tracking. Maupin's eyes were watery and bloodshot. His eyelids were droopy.

Throughout the evaluation, Maupin was anxious, restless, and slightly paranoid. Maupin continuously spoke about matters not relating to any questions asked. When Maupin responded to the question about the last time he slept, he got onto a topic about his toddler son hitting the dogs and cats. Each of Maupin's movements were exaggerated. Maupin was cooperative. His coordination was poor and calculated. His breath had a stale smoke odor and his face was flushed.

During each of the psychophysical tests, Maupin had to repeat back the instructions. Maupin would regularly forget the instructions in the middle of each test, and request additional instructions. Maupin asked for water several times during the test. I stopped the evaluation on several occasions after the body temperature measurement for Maupin to get water.

6. Medical Problems and Treatment:

Maupin states he is under the care of Psychiatrist for anxiety. Maupin then told me that he had to recently change doctors because the doctor he was seeing dropped him as a patient for missing too many appointments. Maupin states he has a deviated septum, which will require surgery. Maupin states his septum became deviated because a broken nose did not heal correctly. Maupin was unable to state when he nose was broken. Maupin did not have any indication of a recently broken nose. Maupin states his back is sore because of work. Maupin states his hands are also sore because of boxing. Maupin would not state that he had arthritis, but

DRE Review: _____ IACP Number: _____ Date: _____

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South Carolina
Drug Recognition Expert
Drug Influence Evaluation Narrative



hinted at the possibility. Maupin states he does not have any physical disabilities.

Maupin states he used to take hydrocodone, but he no longer does. Maupin states he is prescribed the following medications at the respective dosages:

Ambien, 12.5 mg, once a day
Adderall, 2-15 mg pills, once a day
Klonopin, 2 mg, twice a day

Maupin states he was formerly prescribed Xanax 2mg; however, his doctor stopped prescribing the medication. Maupin states he still has some Xanax pills leftover. Maupin states he will take these Xanax pills as needed to help him sleep.

7. Psychophysical Tests:

A) Romberg Modified	Maupin advised he understood the instructions and did not have any questions. Maupin attempted to begin the test before being instructed to do so. During the test, Maupin had a two inch front to back sway and a one inch side to side sway. Maupin estimated the 30 second time frame in 47 seconds by counting 1-1000, 2-1000, 3-1000, etc. Maupin stated he estimated 37 seconds. Maupin then stated he could not recall if he was instructed to estimate 27 or 37 seconds, so he decided to estimate 37 seconds. Maupin displayed leg tremors during this test.
B) Walk and Turn:	Maupin stated he understood all of the instructions and did not have any questions. Maupin elected to take his boots off and take this test in his socks. Maupin was unable to maintain the starting position for the duration of the instruction phase. Maupin continuously stepped out of the starting position with both feet. During the first nine steps, Maupin only took eight steps. Maupin failed to touch heel to toe within one half of an inch on steps two, three, and five. Maupin stopped while walking on steps three, five, six, seven, and eight. Maupin stepped off of the line on steps four and six. When Maupin turned, he stopped and just turned around while talking about taking a series of small steps. After turning, Maupin stopped and calculated his next move. Maupin then re-entered the starting position and began the second set of steps. Maupin again only took eight steps. Maupin failed to touch heel to toe within one half of an inch on steps two and six. He stopped while walking on steps three, five, and seven. He stepped off of the line on steps two and six. Maupin kept his arms raised more than six inches away from his body throughout the test. Maupin displayed body tremors during this test.
C) One leg stand (left)	Maupin stated he understood all of the instructions and did not have any questions. When Maupin repeated the directions back, he stated he was supposed to raise his left foot. I had to remind Maupin which leg to raise. Maupin elected to put his boots back on for this test. When Maupin raised his foot, he immediately put his back down. Maupin put his foot down four times during the test. Maupin would not count until he was reminded to do so. Maupin used his arms for balance twice and was only able to count to three during the 30 second time frame. Maupin displayed leg tremors during this test.
D) One leg stand (right)	Maupin stated he understood all of the instructions and did not have any questions. Maupin attempted to start the test before being instructed to do so. Maupin immediately put his foot down when he raised it. Maupin put his foot down on the counts of 1, 2, and 3. Maupin swayed twice, hopped three times, and used his arms for balance three times. Each time Maupin put his foot down, it would start with a hop and a near fall. Maupin was able to count to four before I stopped the test for safety reasons. Maupin displayed leg tremors during this test.

DRE Review: _____ IACP Number: _____ Date: _____

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South Carolina Drug Recognition Expert Drug Influence Evaluation Narrative



7. Psychophysical Tests:

E) Finger to nose:	Maupin stated he understood all of the instructions and did not have any questions. I had to explain to Maupin several times about the way to hold his hands before he understood how to point to the ground then rotate his wrists. When we prepared to start the test, I had to immediately stop the test to give Maupin remedial instructions. On step one, Maupin touched the top right of the bridge of his nose then dragged his finger to the tip. On step two, Maupin opened his eye as he was bring his finger up. I reminded Maupin that his eyes needed to remain closed. Maupin then joked that he had cheated. Maupin then closed his eyes and continued to test. Maupin touched his left nostril then dragged his finger to the top of his nose. On step three, Maupin touched the bottom of his nose. On step four, Maupin touched his left nostril then dragged his finger to the top of his nose. On step five, Maupin touched his upper lip. On step six, Maupin touched the tip of his nose. On all six steps, Maupin used the pad of his finger and held his finger to his nose until being instructed to remove it. Maupin would raise his finger toward his face quickly, but would slow down to search for his nose as his finger moved closer. Maupin also displayed body tremors.
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8. Clinical Indicators:

HGN:	None	Maupin did not display any validated clues of Horizontal Gaze Nystagmus. Maupin did display a marked sway during this test.
Vertical Nystagmus:	None	Maupin did not display Vertical Gaze Nystagmus.
Lack of Convergence:	Present	Maupin stated his eyes would naturally cross. Both of Maupin's eyes remained looking straight ahead. Neither eye would attempt to move towards convergence.
Body Temperature:	Normal	Maupin's body temperature was 97.6 degrees F, which is within the DRE average range. It is on the low side of the range.
Blood Pressure:	Below Normal	Maupin's blood pressure was 108/74 mmHg. His systolic blood pressure is below the DRE average range. His diastolic blood pressure is within the DRE average range, but on the low side of the range.
Pulse:	Above Normal	Maupin's pulse rate checks were 94 beats per minute at 0613 hours, 88 beats per minute at 0645 hours, and 94 beats per minute at 0701 hours. Two of the three checks were outside of the DRE average range. The third was within the range, but near the high side of the range.
Pupil Size:	Constricted	Maupin's pupil size measurements were 3.0 mm in both eyes in Room Light, 4.0 mm in Near Total Darkness, and 2.5 mm in direct light. His Near Total Darkness measurement was outside of the DRE average range.
Reaction to Light:	Little to None	Maupin's pupils barely reacted to light.
Rebound Dilation:	None	Maupin did not display Rebound Dilation or Pupillary Unrest.

9. Signs of Ingestion:

Maupin's nasal cavity was clear. His oral cavity was very dry. His tongue had a thick, dry, white film on it. Maupin had two injection sites - one on the inside of each elbow. Maupin stated he donates plasma on a regular basis. These injection sites appeared to be medically related. Maupin had several tattoos on his arms. The tattoos were on both upper arms, on the inside of both forearms, and on the bottom of his right forearm. Maupin's muscle tone was rigid.

10. Suspect's Statements:

When confronted, Maupin admitted to taking two 15 mg Adderall pills and one half of a Suboxone strip just prior to being pulled over. Maupin also admitted to smoking marijuana yesterday. Maupin states he used these drugs at home.

11. DRE's Opinion:

DRE Review: _____ IACP Number: _____ Date: _____

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**South Carolina
Drug Recognition Expert
Drug Influence Evaluation Narrative**



It is my opinion as a certified DRE, that Andrew Ryan Maupin is under the influence of Narcotic Analgesics and CNS Stimulants, and is not able to operate a vehicle safely.

12. Toxicological Sample:

samples were collected at N/A hours by Refused at Refused.

13. Misc.

DRE Review: _____ IACP Number: _____ Date: _____

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SOUTH CAROLINA DRUG RECOGNITION EXPERT PROGRAM

ROLLING LOG OF DRUG INFLUENCE EVALUATIONS

Drug Recognition Expert: Sean M. Bailey Agency: Rock Hill Police Department IACP Certificate Number: 23967

Rolling Log Number	Suspect's Name (Last, First M)	Sex	Race	Age	Case Number	Date	Opinion of DRE	Tox Type	Tox Results	Role **	DRE Trk
15-01-01	Harbison, Tiffany A	F	W	19	1501030122	01/03/2015	Cannabis	U	Pending	S	Y
15-02-02	"Blue"	M	W			01/20/2015	Narcotic Analgesics	R	Refused	E/S	Y
15-03-03	"Frank"	M	W			01/20/2015	CNS Stimulant	U	Amphetamines / Methamphetamines	E/S	Y
15-04-04	"Jose"	M	H			01/20/2015	Cannabis	U	THC	E/S	Y
15-05-05	"Sam"	F	H			01/20/2015	Narcotic Analgesic	U	Amphetamines / Methamphetamines / Oxycontin / Opiates	E/S	Y
15-06-06	"Fred"	M	W			01/20/2015	CNS Stimulant	U	Amphetamines / Methamphetamines / THC	E/S	Y
15-07-07	"Oscar"	M	W			01/20/2015	Narcotic Analgesic	U	Amphetamines / Methamphetamines / Oxycontin / THC / Opiates	E/S	Y
15-08-08	"Tarly"	F	B			01/20/2015	CNS Stimulant / Cannabis	U	THC / Cocaine	S	Y
15-09-09	"Karen"	F	B			01/20/2015	Narcotic Analgesic / Cannabis	U	THC / Cocaine / Opiates	S	Y
15-10-10	"Frankie"	M	W			01/22/2015	CNS Depressants / CNS Stimulant / Cannabis	U	THC	E/S	Y
15-11-11	"America"	F	B			01/22/2015	Narcotic Analgesic	U	Narcotics / Methamphetamine	E/S	Y
15-12-12	"Cindy"	F	W			01/22/2015	CNS Stimulant / Cannabis	U	THC / Narcotics	E/S	Y
15-13-13	"Ashley"	F	W			01/22/2015	CNS Stimulant / Cannabis	U	THC / Amphetamines / Methamphetamines	E/S	Y

ROLE** (LIST ALL THAT APPLY): E = Evaluator, S = Scribe, W = Witness, I = Instructor

SOUTH CAROLINA DRUG RECOGNITION EXPERT PROGRAM

ROLLING LOG OF DRUG INFLUENCE EVALUATIONS

Drug Recognition Expert: Sean M. Bailey Agency: Rock Hill Police Department IACP Certificate Number: 23967

Rolling Log Number	Suspect's Name (Last, First M)	Sex	Race	Age	Case Number	Date	Opinion of DRE	Tox Type	Tox Results	Role **	DRE Trk
15-14-14	Beachel, Raquel	F	W	39	1502010019	02/01/2015	CNS Depressants / CNS Stimulants	U	Pending	E/S	Y
15-15-15	Weems, Charmaine M	F	W	56	1502040150	02/04/2015	CNS Depressants	N	Unable to Obtain	W	Y
15-16-16	Nguyen, Hoang T	M	A	33	1503050201	03/05/2015	CNS Depressants	U	Hydrocodone, Hydromorphone, Dihydrocodeine, Acetaminophen, Carisoprodol, Meprobamate, Buprenorphine	E/S	Y
15-17-17	Aiken, Edina C	F	B	18	1504291382	04/29/2015	Medical Rule Out	B	Negative	E/S	Y
15-18-18	Robinson, Lynsey N	F	W	26	1505050231	05/05/2015	CNS Depressants / Cannabis	B&U	Methadone, Methamphetamine, Amphetamine, Cocaine, Oxycodone, THC Metabolite, Alprazolam, Clonazepam,	E/S	Y
15-19-19	Crowder, Kelly D	F	W	36	1505060293	05/06/2015	CNS Depressants	U	Hydrocodone, Topiramate, Bupropion Metabolite, Acetaminophen, Fluoxetine, Sertraline, Citalopram, Norquetiapine, Clonazepam, Diazepam, Oxazepam	E/S	Y
15-20-20	Fincher, Benjamin H	M	W	45	1050261260	05/26/2015	Cannabis	R	Refused	E/S	Y
15-21-21	Jones, Mather K	M	W	41	1506100541	06/10/2015	CNS Depressants / CNS Stimulants	U	Cocaine, Methamphetamine, Amphetamine, THC	E/S	Y

ROLE** (LIST ALL THAT APPLY): E = Evaluator, S = Scribe, W = Witness, I = Instructor

SOUTH CAROLINA DRUG RECOGNITION EXPERT PROGRAM

ROLLING LOG OF DRUG INFLUENCE EVALUATIONS

Drug Recognition Expert: Sean M. Bailey Agency: Rock Hill Police Department IACP Certificate Number: 23967

Rolling Log Number	Suspect's Name (Last, First M)	Sex	Race	Age	Case Number	Date	Opinion of DRE	Tox Type	Tox Results	Role **	DRE Trk
									Metabolite, Alprazolam		
15-22-22	Burton, Cynthia S	F	W	33	1506170918	06/17/2015	Narcotic Analgesics / Cannabis	U	THC Metabolite, Cocaine, Methamphetamine, Amphetamine, Phentermine, Morphine	E/S	Y
15-23-23	Moss, Laurie R	F	W	26	1507311578	07/31/2015	CNS Depressants	N	Refused	E/S	Y
15-24-24	Broach, Ryan L	M	W	25	1508070263	08/07/2015	CNS Depressants / CNS Stimulants	U	Gabapentin, Acetaminophen, Butalbital, Bupropion Metabolite, Cyclobenzaprine, Carbamazepine, Lorazepam	E	Y
15-25-25	Peeler, Rosa S	F	W	36	1508080321	08/08/2015	CNS Depressants	U	Alprazolam	E/S	Y
15-26-26	Gulton, Christopher D	M	W	21	1508220740	08/22/2015	CNS Depressants	U	THC Metabolite, Hydrocodone, Oxycodone, Oxymorphone, Alprazolam	E/S	Y
15-27-27	Hooper, Clyde R	M	W	57	1509220670	09/22/2015	Cannabis	U	THC Metabolite	E/S	Y
15-28-28	Contreras, Gavino	M	H	21	1509270818	09/27/2015	CNS Depressants / Cannabis	U	Pending	S	Y
15-29-29	Henson, Calvin R	M	H	59	1510210639	10/21/2015	CNS Depressants / Narcotic Analgesics	B/U	Pending	E/S	Y
15-30-30	Bailey, Sandra J	F	W	57	1511250711	11/25/2015	CNS Depressants	U	Pending	E/S	Y
15-31-31	Tollefson, Collyn J	M	W	19	1512070186	12/07/2015	CNS Depressants / Cannabis	U	Pending	E	Y

ROLE** (LIST ALL THAT APPLY): E = Evaluator, S = Scribe, W = Witness, I = Instructor

SOUTH CAROLINA DRUG RECOGNITION EXPERT PROGRAM

ROLLING LOG OF DRUG INFLUENCE EVALUATIONS

Drug Recognition Expert: Sean M. Bailey Agency: Rock Hill Police Department IACP Certificate Number: 23967

Rolling Log Number	Suspect's Name (Last, First M)	Sex	Race	Age	Case Number	Date	Opinion of DRE	Tox Type	Tox Results	Role **	DRE Trk
15-32-32	Brawley, Dyquaon K	M	B	26	1512290848	12/29/2015	Unknown – Unable to Complete Evaluation	N	Unable to Obtain	E/S	Y
16-1-33	Collins, Jack B	M	W	46	1601150462	01/15/2016	CNS Depressants	N	Refused	E/S	Y
16-2-34	Fulmer, Kimberly R	F	W	40	1601160491	01/16/2016	CNS Depressants	U	Pending	E/S	Y
16-3-35	Thornhill, Danny R	M	W	25	1602040091	02/04/2016	CNS Stimulants / Cannabis	U	Pending	E/S	Y
16-4-36	Childers, Skyler L	M	W	22	FM: 201602084	02/14/2016	CNS Stimulants / Narcotic Analgesics	U	Pending	E/S	Y
16-5-37	Comer, Rachel L	F	W	22	1603100314	03/10/2016	CNS Depressants / Cannabis	U	Pending	E/S	Y
16-6-38	Esskew, Matthue J R	M	W	27	CFS: 2016021279	03/29/2016	Medical Rule Out	N	Refused	E	Y
16-7-39	Dusing, Sean P	M	W	45	1606250839	06/25/2016	CNS Depressants	U	Pending	E/S	Y
16-8-40	Bailey, Colton J	M	W	26	1607080269	07/08/2016	CNS Depressants / Narcotic Analgesics	U	Pending	E	Y
16-9-41	Sellers, Danny F	M	W	55	1607180551	07/18/2016	CNS Depressants / CNS Stimulants	U	Pending	E/S	Y
16-10-42	Maupin, Andrew R	M	W	23	1608040115	08/04/2016	CNS Stimulants / Narcotic Analgesics	N	Refused	E/S	Y
16-11-43	McManus, Kristian L	F	W	25	1608260792	08/26/2016	CNS Depressants / CNS Stimulants / Narcotic Analgesics	U	Pending	E/S	Y
16-12-44	Thomas, Erik A	M	W	32	1609180558	09/18/2016	CNS Depressants / Narcotic Analgesics	U	Pending	E/S	Y
16-13-45	Chandler, Charles J	M	W	55	1609270840	09/27/2016	CNS Stimulant	U	Pending	E/S	
17-1-46	Maynard, April N	F	W	36	1702160546	02/16/2017	CNS Stimulant / Cannabis	B/U	Pending	E/S	

ROLE** (LIST ALL THAT APPLY): E = Evaluator, S = Scribe, W = Witness, I = Instructor

SOUTH CAROLINA DRUG RECOGNITION EXPERT PROGRAM
ROLLING LOG OF DRUG INFLUENCE EVALUATIONS

Drug Recognition Expert: Sean M. Bailey Agency: Rock Hill Police Department IACP Certificate Number: 23967

[illegible]

ROLE** (LIST ALL THAT APPLY): E = Evaluator, S = Scribe, W = Witness, I = Instructor

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2017CP4601617

Andrew Ryan Maupin		Rock Hill City Of	
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PLAINTIFF(S)

DEFENDANT(S)

Submitted by: The Court

Attorney for: ☐ Plaintiff ☐ Defendant☐ Self-Represented Litigant

DISPOSITION TYPE (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. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **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; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

S/John C. Hayes, III

Circuit Court Judge

2049

Judge Code

11/17/2017

Date

For Clerk of Court Office Use Only

This judgment was entered on November 20, 2017, and a copy mailed first class or placed in the appropriate attorney's box on November 20, 2017, to attorneys of record or to parties (when appearing pro se) as follows:

Michael Langford Brown Jr. The Law Offices Of Michael
L. Brown Jr. PO Box 1025 Rock Hill, SC 29730

Christopher Edward Barton 201 East Main Street 3Rd Floor
Rock Hill, SC 29730
Paula Knox Brown 201 E. Main Street Third Floor Rock Hill,
SC 29730

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter

David Hamilton - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

Andrew Ryan Maupin,

Appellant,

vs.

City of Rock Hill,

Respondent.

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

C.A. No.: 2017-CP-46-01617

ORDER

FILED-RECEIVED
2017 NOV 20 PM 4:05
DAVID HAMILTON
CLERK OF COURT
S.C.P. & C.S.
YORK COUNTY, SC

This is an Appeal by Appellant from his conviction in the Rock Hill Municipal Court of Driving Under the Influence; less than .10; first offense. Appellant was tried in his absence on August 22, 2016, however, the case was reopened and Appellant was tried and found guilty at a bench trial on May 19, 2017.

This Appeal was heard by the undersigned on November 7, 2017. Appellant was represented by Michael Brown, Esq., The City by Christopher Barton, Esq.

The issue on appeal is set forth on the Notice of Appeal as "[t]he lower court erred in failing to dismiss the charge against the Defendant; the error being that all field sobriety tests were not videotaped or recorded." The nub of this ground is a second field type sobriety test was administered to Appellant at the Rock Hill Law Enforcement Center after Appellant had been administered a field sobriety test at the incident site and a breath test at the Law Enforcement Center.

Appellant argues that since the third test (second field type test termed a drug recognition test) was not video recorded, he is entitled to dismissal of the driving under the influence charge.



The City bases its argument on the requirement that courts give strict construction to a statute absent an ambiguity in the statute (*See State v. Gordon*, 414 S.C. 94, 777 S.E.2d 376 (S. Ct. 2005)). The City argues that since the statute, at issue, states that videotaping must take place solely at two places, the incident site and the breath test site, the third test, conducted at the Rock Hill Law Enforcement Center was not required to be videotaped. Understanding that a statute's "words must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or export the statute's operator," (*Gordon*, 414 S.C. at page 98), the Court does not believe it is restricted to giving a statute a tortured interpretation. By that, I mean that the legislative's intention is that subsequent to one being stopped by law enforcement, the driver is subject to two tests to determine whether or not his or her facilities to operate a motor vehicle is materially and appreciable impaired, subject to a urine test as set forth herein below.

A reading of Chapter 5 of Title 56 reveals that the legislation has provided for the two tests set forth in Section 56-5-2953. A breath test (Section 56-5-2946) and a field sobriety test (Section 56-5-2948). Additionally, Section 56-5-2950 provides the sole option for further testing if a law enforcement officer believes a person is "under the influence" of drugs other than alcohol. The statute specifically provides that, at this point in the investigation of a driving under the influence of drugs or alcohol arrest, an officer may order a urine sample. The plain language of Section 56-5-2950, directs that the officer in this case's only option, was to order a urine sample, not a second field type sobriety test. Once the officer invoked the provision of the implied consent statute (Section 56-5-2950), all subsequent events were predicated on the result of the breath test.

Under the City's theory, a driver could be given a field sobriety test at the incident site, which is videoed and then take the driver to a Walmart parking lot and administer a second field

sobriety test which would not need to be videoed. The parking lot would not be the incident site nor would it be the breath test site. Counsel for the City acknowledged at the hearing that under the City's theory, the Walmart test would be admissible even though not videoed because it was not conducted at the incident site or the breath test site. This is, in the Court's opinion, a tortured application of Section 56-5-2953, as the Chapter 5 Sections must be read in pari materia.

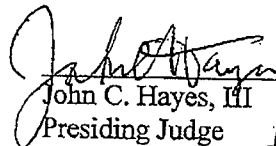
The Court has not been directed to any statutory authority for a drug recognition test of the type administered to Appellant.

Based on the above, the undersigned finds the court below erred in considering the results of Officer Sean Barley's drug influences evaluation.

I find that Appellant's remedy is not dismissal as here the State did comply with Section 56-5-2953. Therefore, City of Rock Hill v. Suchenski, 374 S.C. 12, 646 S.E.2d 879 (S.C. 2007) does not apply. Appellant's remedy is a remand for a new trial in keeping with the holdings herein above.

This case is remanded to the Rock Hill Municipal Court.

IT IS SO ORDERED.


John C. Hayes, III
Presiding Judge H3

November 17th, 2017
York, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF YORK

IN THE COURT OF COMMON PLEAS

16th JUDICIAL CIRCUIT

FILED-RECEIVED

2017 DEC -4 PM 2:25 NO.: 2017-CP-46-01617

City of Rock Hill

DAVID HAMILTON

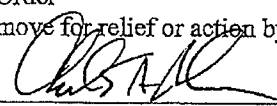
Plaintiff
City of Rock Hill & G.S.
YORK COUNTY, SC

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

vs.

Andrew Ryan Maupin

Defendant.

Plaintiff's Attorney: Christopher Barton, Bar No. 65261 Address: 201 E. Main Street, 3rd Floor Rock Hill, SC 29730 Phone: 803-329-5619 Fax 803-326-3865 E-mail: chris.barton@cityofrockhill.com		Defendant's Attorney: Michael L. Brown, Jr., Bar No. _____ Address: Post Office Box 1045 Rock Hill, SC 29730 Phone: 803-328-8822 Fax 803 328-0523 E-mail: jennie@michaellbrownlaw.com	
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: Rule 59 Motion to Reconsider Estimated Time Needed: 30 minutes Court Reporter Needed: ☒ YES / ☐ NO			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.  Signature of Attorney for ☒ Plaintiff / ☐ Defendant 30 November 2017 Date submitted			
SECTION III: Motion Fee			
☐ PAID - AMOUNT: \$ _____ ☒ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☒ Other: Municipal Court Appeal			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____	
CLERK'S VERIFICATION			
Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____			

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
The City of Rock Hill)
Plaintiff/ Respondent)
v.)
Andrew Ryan Maupin,)
Defendant/ Appellant)

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

C.A. No.: 2017-CP-46-01617

MOTION TO ALTER
OR AMEND JUDGMENT

FILED-RECEIVED
2017 DEC -4 PM 4:25
DAVID HAMILTON
C.C.J. & G.S.
YORK COUNTY, SC

This matter involves the Defendant's appeal from his conviction for Driving Under the Influence 1st offense in the City of Rock Hill Municipal Court on May 19, 2017 and this Court's subsequent order reversing the conviction. The City is requesting that this Court alter or amend the judgment and issue a more definitive ruling specifically addressing the issues outlined below pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure. The hearing before this Court was held on November 7, 2017 and the order from this Court was signed on November 17, 2017, filed with the Clerk of Court on November 20, 2017, mailed by the Clerk of Court on November 21, 2017 and subsequently received by the City of Rock Hill Solicitor's Office on November 27, 2017.

I. SC Code of Laws Section 56-5-2930 Explicitly Permits the Introduction of Any Evidence that Corroborates the Validity of the Breath or Bodily Fluids Test Result.

The order of this Court posits the concept that the South Carolina Legislature has limited law enforcement to collecting only two types of evidence for a violation of the driving under the influence statute (56-5-2930). "A breath test (Section 56-5-2946) and a field sobriety test (Section 56-5-2948)." Order of Circuit Court, page 2, paragraph 2.

This proposition is not supported by Section 56-5-2930 which provides in part that:

“(J) Nothing contained in this section prohibits the introduction of:

(1) the results of any additional tests of the person's breath or other bodily fluids;

(2) any evidence that may corroborate or question the validity of the breath or bodily fluid test result including, but not limited to: (a) evidence of field sobriety tests; (b) evidence of the amount of alcohol consumed by the person; and (c) evidence of the person's driving;”

S.C. Code Ann. § 56-5-2930 (Supp. 2017).

In this case a trained and certified drug recognition expert conducted additional sobriety tests at the Rock Hill Lawcenter following the Defendant's refusal to submit a urine sample at Piedmont Medical Center. Previously while being administered the breath test, the Defendant stated that he had recently ingested Adderall, Klonopin, Xanax and Ambien to the breath test operator. Further, the officer who administered the breath test noted that the Defendant had become noticeably lethargic and was having difficulty staying awake. The testimony of the drug recognition expert in this case directly corroborated the statements of the Defendant and the observations of the breath test operator. The testimony of the drug recognition expert also corroborated the evidence of the field sobriety tests administered at the incident site by the arresting officer and the poor driving of the Defendant prior to the traffic stop.

Neither Sections 56-5-2946 nor Section 56-5-2948 provides the peg on which to hang the coat that Chapter 5 of Title 56 only permits law enforcement in South Carolina to conduct field sobriety tests and breath tests in connection with collecting evidence for

driving under the influence cases. Sections 56-5-2946 and Section 56-5-2948 by their express terms apply only to felony driving under the influence cases. Section 56-5-2946 mandates individuals charged with felony driving under the influence to submit to breath, blood or urine testing and Section 56-5-2948 requires an individual suspected of causing a motor vehicle incident resulting in death to submit to field sobriety testing.

II. The Implied Consent Statute Does Not Limit the Ability of Law Enforcement to Collect Additional Evidence of Impairment Following Submission to a Breath Test

This Court found that "[t]he plain language of Section 56-5-2950, directs that the officer in this case's only option, was to order a urine sample, not a second field type sobriety test." Order of Circuit Court, page 2, paragraph 2.

The implied consent statute does not support the above proposition. Section 56-5-2950 provides that "[t]he provisions of this section must not be construed as limiting the introduction of any other evidence bearing upon the question of whether or not the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs." S.C. Code Ann. § 56-5-2950 (Supp. 2017).

In this case the testimony of the drug recognition expert provided other additional evidence to support a finding that the Defendant was impaired and under the influence of drugs. The implied consent statute is not to be construed as limiting this evidence, however, that is exactly what the order of the Court does.

III. The Video Recording Statute Does Not Limit the Ability of Law Enforcement to Collect Additional Evidence of Impairment

The video recording statute, Section 56-5-2953 provides that an individual charged with driving under the influence (Section 56-5-2930) must have his conduct at the incident site and breath test site video recorded. The video recording statute establishes a minimum threshold for what must be video recorded by law enforcement at the incident site and the breath test site.

At the incident site the video recording must "(i) not begin later than the activation of the officer's blue lights; (ii) include any field sobriety tests administered; and (iii) include the arrest of a person for a violation of Section 56-5-2930, . . . and show the person being advised of his Miranda rights." S.C. Code Ann. § 56-5-2953(A)(1)(a) (Supp. 2017).

It is undisputed that the video recording submitted into evidence by the City in this case from the incident site complied with Section 56-5-2953.

At the breath test site the video recording must "(a) include the entire breath test procedure, the person being informed that he is being video recorded, and that he has the right to refuse the test; (b) include the person taking or refusing the breath test and the actions of the breath test operator while conducting the test; and (c) also include the person's conduct during the required twenty-minute pre-test waiting period, unless the officer submits a sworn affidavit certifying that it was physically impossible to video record this waiting period." S.C. Code Ann. § 56-5-2953(A)(2) (Supp. 2017).

It is undisputed that the video recording submitted into evidence by the City in this case from the breath test site complied with Section 56-5-2953.

Following the Defendant's submission of a breath sample which indicated that he had no alcohol present in his blood stream, the arresting officer requested that the Defendant submit to an additional urine test due to the statements the Defendant made regarding his consumption of Adderall, Klonopin, Xanax and Ambien to the breath test operator. The breath test operator also observed that the Defendant was lethargic and was having difficulty staying awake during the breath testing process. The Defendant was transported to Piedmont Medical Center where after an hour passed he failed to submit a urine sample and was treated as having refused the additional testing.

Upon the Defendant's return to the Rock Hill Lawcenter the Defendant was examined by a trained and certified drug recognition expert. The drug recognition expert testified to the series of tests that he administered and the Defendant's performance on each test. The drug recognition expert also testified that in his opinion that the Defendant was under the influence of narcotic analgesics and central nervous system stimulants and was not able to safely operate a motor vehicle. The drug recognition expert was found qualified to testify based on his training and experience as an expert by the trial court and that determination is not challenged on appeal and is the law of the case.

The video recording statute does not limit law enforcement in South Carolina from collecting additional evidence that is relevant to the determination of whether an individual was driving a vehicle while under the influence in violation of S.C. Code 56-5-2930. Contrary to this Court's order indicating that only two tests (incident site field sobriety tests and a breath test) are permitted by the video recording statute, the statute states that **"[n]othing in this section may be construed as prohibiting the introduction of other**

relevant evidence in the trial of a violation of *Section 56-5-2930, 56-5-2933, or 56-5-2945.*" S.C. Code Ann. § 56-5-2953(B) (Supp. 2017).

This Court's order renders meaningless the provision of the video recording statute that explicitly permits the introduction of any other relevant evidence in a driving under the influence trial. There is no support for the proposition that law enforcement in South Carolina is limited to incident site field sobriety tests and a breath test given the plain language of Section 56-5-2930 which is not to be construed as limiting the introduction of relevant evidence of whether an individual is impaired as a result of the ingestion of alcohol and/or drugs and operating a vehicle in South Carolina.

The video recording statute mandates that certain events be video recorded at the incident site and the breath test site. The statute is silent as to any other actions by law enforcement that must be video recorded. Silence in the statute cannot be read as an affirmative prohibition on law enforcement from conducting further investigation either in the scope or type of evidence collected.

IV. S.C. Code Ann. § 56-5-2953 Only Requires Video Recording of Specific Events at the Incident Site and the Breath Test Site.

The legislature in crafting the video recording statute used the singular term site versus the plural sites. Had the legislature wished, they could have used the plural sites to emphasize that law enforcement in South Carolina must video record additional interaction with a suspect. The legislature could also have chosen to broadly define "incident site" to require that additional interaction between law enforcement and a defendant must be video recorded. The legislature did not choose to do either. Imposition

of an affirmative duty or an affirmative restriction on how law enforcement may conduct a criminal investigation requires more than mere silence on the part the legislature.

The video recording statute was initially enacted in 1998 and has since been amended three times, most recently in 2008. There is nothing in the legislative history of Section 56-5-2933 that indicates that the South Carolina Legislature seeks to impose a ban on what evidence law enforcement can collect or mandate that all investigatory interaction between law enforcement and a driving under the influence suspect be video recorded. To the contrary, the legislature has provided in multiple locations throughout the body of Chapter 5 of Title 56 that nothing in these sections should be construed as prohibiting other relevant evidence of whether an individual was under the influence and operating a motor vehicle.

"The cardinal rule of statutory construction is to ascertain and effectuate the legislative intent whenever possible. Joint Legislative Comm. v. Huff, et al., 320 S.C. 241, 464 S.E.2d 324 (1995). See also Glover by Cauthen v. Suitt Constr. Co., 318 S.C. 465, 458 S.E.2d 535 (1995) (primary rule of statutory construction requires that legislative intent prevail if it can reasonably be discovered in language used construed in light of intended purpose). All rules of statutory construction are subservient to the one that legislative intent must prevail if it reasonably can be discovered in the language used, and that language must be construed in the light of the intended purpose of the statute. Kiriakides v. United Artists Communications, Inc., 312 S.C. 271, 440 S.E.2d 364 (1994). The determination of legislative intent is a matter of law. Charleston County Parks & Recreation Comm'n v. Somers, 319 S.C. 65, 459 S.E.2d 841 (1995)." City of Camden v. Brassell, 326 S.C. 556, 560, 486 S.E.2d 492 (Ct. App. 1997)

"Where the legislature elects not to define the term in the statute, courts will interpret the term in accord with its usual and customary meaning. Adoptive Parents v. Biological Parents, 315 S.C. 535, 446 S.E.2d 404 (1994). In construing a statute, the court looks to its language as a whole in light of its manifest purpose. Adams v. Textile Indus., 320 S.C. 213, 464 S.E.2d 109 (1995).

If a statute's language is plain and unambiguous, and conveys a clear and definite meaning, there is no occasion for employing rules of statutory interpretation and the court has no right to look for or impose another meaning. City of Columbia v. American Civil Liberties Union, 323 S.C. 384, 387, 475 S.E.2d 747 (1996). Where a statute is complete, plain, and unambiguous, legislative intent must be determined from the language of the statute itself. Whitner v. State, 1996 S.C. LEXIS 120, Op. No. 24468 (S.C. Sup. Ct. filed July 15, 1996) (Davis Adv. Sh. No. 19 at 22). In construing a statute, its words must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand the statute's operation. Adkins v. Comcar Indus., Inc., 323 S.C. 409, 411, 475 S.E.2d 762 (1996). Where the terms of a statute are clear, the court must apply those terms according to their literal meaning. Id. See also Parsons v. Georgetown Steel, 318 S.C. 63, 456 S.E.2d 366 (1995) (where terms of relevant statute are clear, there is no room for construction). Where the language of the statute is clear and explicit, the court cannot rewrite the statute and inject matters into it which are not [i]n the legislature's language. Timmons v. Tricentennial Comm'n, 254 S.C. 378, 175 S.E.2d 805 (1970).

The statute as a whole must receive practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers. Rosenbaum v. S-M-S 32, 311 S.C. 140, 427 S.E.2d 897 (1993). See also Whitner, supra (Court should consider

not merely [the] language of [the] particular clause being construed, but [the] word and its meaning in conjunction with [the] purpose of whole statute and [the] policy of [the] law. In interpreting a statute, the language of the statute must be read in a sense which harmonizes with its subject matter and accords with its general purpose. Koenig v. South Carolina Dep't of Pub. Safety, 325 S.C. 400, 404, 480 S.E.2d 98 (Ct. App. 1996). Any ambiguity in a statute should be resolved in favor of a just, equitable, and beneficial operation of the law. Bennett v. Sullivan's Island Bd. of Adjustment, 313 S.C. 455, 438 S.E.2d 273 (Ct. App. 1993).” City of Camden v. Brassell, 326 S.C. 556, 560-61, 486 S.E.2d 492 (Ct. App. 1997).

In this case the terms of Section 56-5-2953 are clear in that they permit the introduction of any other relevant evidence of a violation of the driving under the influence statute and the legislature only mandates video recording at the incident site (singular) and breath test site (singular).

V. Appellant is Limited to the Issue Raised in the Notice of Appeal

Appeals from municipal courts in South Carolina must state the grounds for the appeal. Section 14-25-95 states that “[a]ny party shall have the right to appeal from the sentence or judgment of the municipal court to the Court of Common Pleas of the county in which the trial is held. Notice of intention to appeal, setting forth the grounds for appeal, must be given in writing and served on the municipal judge or the clerk of the municipal court within ten days after sentence is passed or judgment rendered, or the appeal is considered waived.” S.C. Code Ann. § 14-25-95 (2017) (emphasis added).

The Defendant in his notice of appeal states that "[t]he lower court erred in failing to dismiss the charge against the Defendant; the error being that all field sobriety tests were not videotaped or recorded." Appellant's only ground on appeal is the failure of the City to video record the interaction between the drug recognition expert and the Defendant.

The Defendant's requested relief is "that his conviction for Driving Under the Influence First be dismissed." The Defendant did not request that the matter be remanded for a new trial and he cannot request a different type of relief on appeal.

Likewise, the Defendant cannot argue one ground on appeal and the appellate court grant relief on an alternate ground neither raised or ruled upon by the trial court nor raised in the Defendant's notice of appeal. "In criminal appeals from a municipal court, the circuit court does not conduct a de novo review; rather, it reviews the case for preserved errors raised to it by an appropriate exception." Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 341, 713 S.E.2d 278, 282 (2011).

"An appellate court may not, of course, reverse for any reason appearing in the record. The losing party must first try to convince the lower court it is has ruled wrongly and then, if that effort fails, convince the appellate court that the lower court erred. This principle underlies the long-established preservation requirement that the losing party generally must both present his issues and arguments to the lower court and obtain a ruling before an appellate court will review those issues and arguments. E.g., Smith v. Phillips, 318 S.C. 453, 458 S.E.2d 427 (1995) (appellate court generally will not address an issue unless the issue was raised to and ruled upon by the trial court). I'On, L.L.C. v.

Town of Mt. Pleasant, 338 S.C. 406, 421-22, 526 S.E.2d 716, 724 (2000) (emphasis in original).

In State v. Dickman, 341 S.C. 293, 534 S.E.2d 268 (2000) the appellant argued that the evidence did not support an accomplice liability charge. The South Carolina Supreme Court found that "[t]his argument is procedurally barred since it was not raised below. State v. Tucker, 319 S.C. 425, 462 S.E.2d 263 (1995); State v. Bailey, 298 S.C. 1, 377 S.E.2d 581 (1989) (a party cannot argue one ground below and then argue another ground on appeal). Id. at 295.

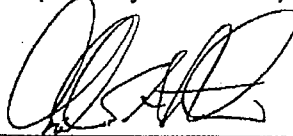
"There are four basic requirements to preserving issues at trial for appellate review. The issue must have been (1) raised to and ruled upon by the trial court, (2) raised by the appellant, (3) raised in a timely manner, and (4) raised to the trial court with sufficient specificity." Jean Hoefer Toal et al., *Appellate Practice in South Carolina* 57 (2d ed. 2002). S.C. DOT v. First Carolina Corp., 372 S.C. 295, 301-02, 641 S.E.2d 903, 907 (2007).

The Defendant did not raise or argue that Chapter 5 of Title 56 does not permit the use of a drug recognition expert to the trial court below. The return to the appeal from the City Of Rock Hill Municipal Court noted that the "defense argued that the Defendant was entitled to a dismissal of the charges on the grounds that the "Field Sobriety Tests" that were a part of the DRE were not video taped as required by the statute." Return to Appeal, page 2, paragraph 3. The Defendant's only argument was that that any sobriety testing performed by the drug recognition expert must be video recorded. The issue upon which this Court grants relief was never raised and ruled upon by the trial court below and cannot form the basis for granting relief on appeal.

Conclusion

The City of Rock Hill requests that the conviction of the Defendant be affirmed.

Respectfully submitted,

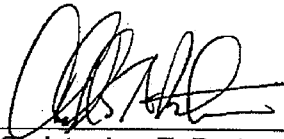


Christopher E. Barton
Senior City Solicitor
City of Rock Hill Solicitor's Office

This 30th day of November, 2017.
Rock Hill, South Carolina

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the City of Rock Hill's Motion to Alter or Amend Judgment was served on the Defendant/Appellant by placing a copy in the regular U.S. Mail to Michael L. Brown, Jr., Attorney for Defendant/Appellant Post Office Box 1025, Rock Hill, South Carolina 29731 on the 30th day of November, 2017.



Christopher E. Barton
Senior City Solicitor
201 E. Main Street, Suite 300
Rock Hill, South Carolina 29730
(803) 329-5619
Attorney for City/Respondent

FILED-RECEIVED
2017 DEC -4 PM 4:25
DAVID HAMILTON
C.C.P. & G.S.
YORK COUNTY, SC

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2017CP4601617

Andrew Ryan Maupin

Rock Hill City Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: The Court

Attorney for: ☐ Plaintiff ☐ Defendant

☐ Self-Represented Litigant

DISPOSITION TYPE (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. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **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; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

/s/ John C. Hayes, III

Circuit Court Judge

2049

Judge Code

12/7/2017

Date

For Clerk of Court Office Use Only

This judgment was entered on December 7, 2017, and a copy mailed first class or placed in the appropriate attorney's box on December 7, 2017, to attorneys of record or to parties (when appearing pro se) as follows:

Michael Langford Brown Jr. The Law Offices Of Michael
L. Brown Jr. PO Box 1025 Rock Hill, SC 29730

Christopher Edward Barton 201 East Main Street 3Rd Floor
Rock Hill, SC 29730
Paula Knox Brown 201 E. Main Street Third Floor Rock Hill,
SC 29730

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

David Hamilton -

David Hamilton - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)
)
City of Rock Hill,)
)
Plaintiff/Respondent)
)
v.)
)
Andrew Ryan Maupin,)
)
Defendant/Appellant)
)

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

C.A. No.: 2017-CP-46-01617

ORDER

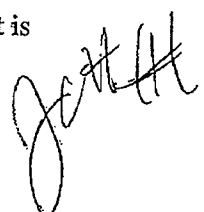
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DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

The City of Rock Hill has filed a Rule 59(e) motion asking the Court to alter or amend its Order of November 17, 2017.

The City's motion points out correctly that the Court went outside the grounds stated by Appellant in his Notice of Appeal. Therefore, the Court grants the City's Motion to Alter and Amend and does so herein below.

As noted in the November 17, 2017 Order, the legislature has established a statutory scheme in Chapter 5 of Title 46. As noted in the November 17, 2017 Order, the scheme provides for the video taping of certain statutory authorized test. As noted in the November 17, 2017 Order, the test at issue here (drug recognition test) is not addressed in Title 56 per se. A reading of Section 56-5-2953, S.C. Code, 1976, as amended, when read in light of the requirement that statutes are to be interpreted in pari materia leads to the conclusion that an arrestee's conduct during field sobriety tests must be videoed. Section 56-5-2953 provides, in the Court's view, videotaping of "any field sobriety test." (Section 56-5-2953(A)(c)(ii).

Attached to the Municipal Court's Return is a "South Carolina Drug Influence Evaluation," cataloging the test and test results of the drug recognition test. While the test is



broad than the test usually administered at the incident site, it includes some, if not all, of such test. Certainly the City cannot argue the test was not a field sobriety test simply because it was administered at the Law Enforcement Center and not at the incident site.

As noted in the November 17, 2017 Order, conducting a field sobriety test at a location other than at the incident site and thus avoiding the necessity of videotaping the test, could create a subterfuge¹ which ignores the statutory scheme and deprives the arrestee of the beneficial safeguard the legislature has offered him or her with the videotaping requirement.

I find the field sobriety test for drugs given post the breath analysis of Appellant, should have been videotaped. Since this was not done, the City has violated the clear intention of the legislature as set forth in Section 56-5-2953, S.C. Code of Laws, 1976, as amended.

The Court realizes that the holding below is contrary to its finding in the November 17, 2017 Order. However, the city has caused the undersigned to rethink the entire case and now finds, for reasons above, the City did not fully comply with Section 56-5-2953. A second field sobriety test, regardless of name or location, must be videotaped. That was not done in Appellant's case.

Therefore, pursuant to City of Rock Hill v. Suchenski, 374 S.C. 12, 646 S.E.2d 879 (S.C. 2007), the conviction of Appellant for driving under the influence is reversed, and the charge dismissed.

I find that Section 56-5-2953(B) is not implicated. Here, the City offers no valid reason for the officer's decision to not videotape the drug recognition test. Also, while Section B does allow for "other evidence," this does not, as the City seems to argue, negate the videotaping requirements of Section A.

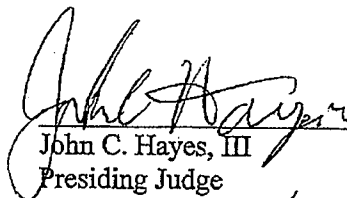
¹ The use of this word is not intended to imply any ulterior motive in the administration of a third test. The word is used to highlight the significance of law enforcement's use of a third test not recognized by statute.

Just #2

Therefore, the Driving Under the Influence of Appellant in the Municipal Court for the City of Rock Hill on May 19, 2017, is set aside and dismissed.

IT IS SO ORDRED.

December ²⁴, 2017
York, South Carolina


John C. Hayes, III
Presiding Judge

^{#3}

State of South Carolina.,) In the Court of Common
) Pleas of York
)
County of York.) Case No.: 2017-CP-46-01617

Andrew Ryan Maupin.,)
)
Appellant.,)
)
-vs-)
)
Rock Hill City of.,)
)
Respondent.)
_____)

Transcript of Record
Municipal Appeal

November 7, 2017
York, South Carolina

B E F O R E:

The Honorable John C. Hayes, III., judge.

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

Mr. Michael Langford Brown, Jr.
The Law Offices Of Michael L. Brown Jr.
PO Box 1025
Rock Hill, SC 29730
lynn@mlblaw.com
(803) 328-8822
Attorney for the Appellant

ORIGINAL

Mr. Christopher Edward Barton
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3rd Floor
Rock Hill, South Carolina 29730
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(803) 329-5692
Attorney for the Respondent

Wanda S. Nelson, CVR-M
Circuit Court Reporter
To the Honorable Daniel D. Hall
Sixteenth Judicial Circuit
Union and York Counties

I-N-D-E-X

E-X-A-M-I-N-A-T-I-O-N

WITNESS

BY:

PAGE NO.

No witnesses were called.

I-N-D-E-X

E-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD.</u>
------------	--------------------	-----------	-------------

No Exhibits were received into the record.

1 (COURT IN SESSION IN THE MATTER OF ANDREW MAUPIN
2 VERSUS ROCK HILL CITY OF, TUESDAY, NOVEMBER 7, 2017 AT
3 01:30 P.M.)

4 THE COURT: Good afternoon. I appreciate your
5 accommodating my schedule. This was the only thing I had
6 tomorrow, anyway, just this is the only thing we had
7 tomorrow so I appreciate your accommodating me.

8 This is an appeal Matt -- Andrew Maupin versus the
9 City of Rock Hill, an appeal by Mr. Maupin.

10 All right, Mr. Brown, you represent Mr. Maupin?

11 MR. BROWN: Yes, sir.

12 THE COURT: All right.

13 MR. BROWN: Your Honor, if it pleases the Court.

14 This case arose out of an arrest on August 4th, 2016
15 when the Defendant was stopped on I-77, taken down to the
16 Rock Hill Police Department after failing -- quote
17 allegedly failing several field sobriety test on the side
18 of the road -- taken down to the Rock Hill Police
19 Department and blew a point zero zero. After that then the
20 arresting agent -- the arresting officer called in Officer
21 Sean Bailey[sic] to do what's called a drug recognition
22 evaluation or a DRE.

23 Inherent in that DRE there's certain field sobriety
24 test that are given to this defendant. And in the report
25 are the -- from Judge Lindsey it says that he was given a

1 mon -- a barometer of modified evaluation where he tilts
2 his head back and touches his nose; the nine step walk and
3 turn, which I'm sure the Court's familiar with, and the one
4 leg stand on both legs. These are field sobriety test,
5 your Honor. These were not recorded.

6 Pursuant to 56-5-2953 Subsection A(1)(a) the video
7 recording of the incident site must, Subsection 2, include
8 any field sobriety test administered. This was not done.
9 The remedy is clear in *Suchenski* that dismissal for
10 noncompliance with the statute the remedy is dismissal.

11 In *Town of Mount Pleasant v. Roberts* the Court went on
12 to discuss the whole purpose behind the video taping
13 statute stating that the purpose of the statute was to
14 bring direct evidence of DUI arrest. No exceptions under
15 Subsection B of the statute apply, your Honor.

16 In this case there is no sworn affidavits submitted
17 that the video equipment was inoperable despite efforts to
18 maintain it; that the arresting officer said it was
19 impossible to do the video tape because A, medical --
20 emergency medical treatment was needed or exigent
21 circumstances existed. And Three, there was no road
22 blocks, traffic accident, or citizen arrest, or any other
23 valid reason. As a matter of fact, in this case no
24 affidavit was submitted at all.

25 The Court in *Roberts* went on to compound the

1 importance of the video taping statute by stating,
2 furthermore it is instructive that the legislature has not
3 demanded video taping in any other criminal context.
4 Despite the potential significance of video taping oral
5 confessions, the legislature has not required the state to
6 do so. By requiring a law enforcement agency to video tape
7 a DUI arrest, the legislature clearly intended strict
8 compliance with the provisions of Section 56-5-2953 and in
9 turn promulgated a severe sanction for noncompliance.

10 In my direct examination of Officer Bailey[sic],
11 asking him about the facilities available at the Rock Hill
12 Police Department, he quite candidly admitted there's video
13 taping assets in the sallyport and in the Data Master room
14 from which these field sobriety test have been recorded.

15 The whole purpose of the statute, even though it may
16 not be in strict compliance with it, it's stated in
17 Roberts. It's to bring video tape or direct evidence of
18 the test. The sole basis of this case is the drug
19 recognition expert. The field sobriety test was not
20 recorded, they're not subject to observation, they're not
21 subject for the defense to go in and see they were even
22 done properly. All we have is his testimony.

23 The City in anticipation tried at trial to call them
24 something else as a drug evaluation test.

25 Your Honor, that's duplicitous of all reasoning for

1 the simple fact it's like a Data Master test. If they give
2 you one on the side of the road which the law in this state
3 allows you not to do, we call it a free screen breath test.
4 They're still a Data Master test no matter how you twist it
5 around.

6 These are field sobriety test. They weren't recorded,
7 they violated the statute. They had the ability to record
8 it which makes it even more egregious.

9 Lastly, your Honor, I would point out I doubt this
10 case will be up again for the simple fact Rock Hill Police
11 Department is now equipped with body cams. That problem
12 will be solved in the future but in this case Officer
13 Bailey[sic] either did not have his body cam yet or did not
14 turn it on. And I submit to you the remedy is under
15 Suchenski is a dismissal. They were not recorded, they
16 have access to recording and to bring direct evidence of
17 those field sobriety test to the finder of fact and they
18 didn't do it.

19 THE COURT: All right. Mr. Barton.

20 MR. BROWN: Your Honor, if it please the court.

21 The first thing I'd like to hand up to the Court is a
22 copy of the current statute as written, along with copies
23 of the previous versions of the statute from when they
24 first came into being to where the current statute is.

25 And I'd ask that those be made a part of the record.

1 MR. BROWN: I don't object but what's the relevance?
2 The law --

3 MR. BROWN: Your Honor, he's arguing a situation of
4 what is the statutory construction of this Code Section so
5 to the extent that he's arguing the statutory construction
6 of the Code Section I think the prior Code Section --

7 THE COURT: I'll let him put 'em in.

8 (DOCUMENTS RECEIVED UP BY THE COURT.)

9 MR. BROWN: Judge, I think the first thing that's
10 important to point out is 56-5-2953. In this case there
11 was video recording at the incident site. When Mr. Maupin
12 was pulled over the officer's video recording activated
13 with the blue lights. All the roadside field sobriety
14 testing was in fact video recorded. Quite honestly there's
15 overwhelming evidence from the roadside video taping of Mr.
16 Maupin's state of sobriety or lack thereof. Subsequently
17 he was taken down to the police department. His
18 interactions in the Data Master room were all video
19 recorded.

20 Mr. Brown is correct in that subsequent to that, based
21 upon statements that Mr. Maupin made about having consumed
22 certain drugs which would not show up on a breath test for
23 alcohol, he was taken down to Piedmont Medical Center and
24 then he was later brought back to the police department for
25 the additional evaluation by a drug recognition expert.

1 Your Honor, what I think is important to note is under
2 56-5-2953 it uses the term incident site and breath test
3 site must be video recorded. There's no doubt in this case
4 the incident site, the site at the roadside, was properly
5 video recorded. There's no doubt that the breath site was
6 properly video recorded.

7 What Mr. Brown is asking the Court to do is to
8 construe this deterrent site into sites and make it a
9 plural. The legislature hasn't chosen to do that.

10 Your Honor, I would hand up to the court *State versus*
11 *Hercheck* as well as *State versus Elwell*.

12 (DOCUMENTS RECEIVED UP BY THE COURT.)

13 MR. BROWN: Your Honor, in both of those cases the
14 Supreme Court declined to take a more expansive view of
15 56-5-2953. And I think Mr. Brown's familiar with the
16 *Elwell* case because they declined to buy what he was trying
17 to sell in that case on appeal before the South Carolina
18 Supreme Court.

19 In that case it dealt with the issue of if you have a
20 refusal prior to a completion of the breath site testing,
21 that the breath site testing can be turned off at that
22 point in time because there is no test. And the Supreme
23 Court declined to expand the meaning of 56-5-2953 to
24 include language that simply just isn't in the statute.

25 Your Honor, from the matter of the statutory

1 construction I just want to start off with -- and I
2 apologize here -- this is not -- And I'll hand a copy of
3 this up. This is from the *City of Camden versus Brazell*,
4 it's a 1997 case, but it dealt with the DUI statute,
5 whether it applied to individuals and whether municipal
6 courts had jurisdiction over individuals who are seventeen,
7 and essentially what they held was that both Family Court
8 and Municipal Courts had kind of current jurisdiction.

9 But it says where the legislature enacts but does not,
10 define the term in statutes courts will interpret the term
11 in accordance with it's usual and customary meaning. In
12 construing the statutes courts look at the plain language
13 as a whole in light of it's manifest purpose. If the
14 statute's language is plain and unambiguous and can base
15 clear and definite meaning there is no occasion from
16 employing rules of statutory interpretation and the Court
17 has no right to look or impose another meaning.

18 And in construing the statute the words must be given
19 the plain and ordinary meaning without resorting to a
20 subtle or forced construction to limit or to expand the
21 statute's operation.

22 Lastly it talks about and interpreting the statute the
23 language of the statute must be read in such a sense as to
24 harmonize it with the subject matter and accords with it's
25 general purpose.

1 Your Honor, I'll hand up a copy of that to the Court
2 and I'll make copies to Mr. Brown.

3 (DOCUMENTS RECEIVED UP BY THE COURT.)

4 SOLICITOR BARTON: Your Honor, in this case again
5 56-5-2953 uses the singular incident site, not incident
6 sites. And essentially what Mr. Brown is asking the Court
7 is to construe this to expand it to include any additional
8 testing that's done by law enforcement has to be video
9 recorded and the statute simply doesn't require that.

10 The legislature has had a number of times over the
11 course of 56-5 when it first came into being in 1998 it's
12 been amended a total of four times to it's current form.
13 Had the legislature chosen to, or intended to, include that
14 any field sobriety testing done by law enforcement, or any
15 sobriety testing done back at a police station be video
16 recorded, they simply could have said that.

17 This is the only statute -- and I agree with Mr.
18 Brown, this is the only statute in the State of South
19 Carolina that requires as a precondition of being able to
20 engage in the prosecution of a criminal offense that
21 certain behavior be video recorded. As such it is the
22 exception not the norm.

23 In this case, again, what Mr. Brown is asking is to
24 basically turn incident site into incident sites. One of
25 the things that the City of Camden talks about is

1 harmonizing the statute with a subject matter and general
2 purpose. First of all I would start off with the
3 proposition that there's no ambiguity in the statute such
4 as we even need to employ rules of statutory construction.
5 The statute says incident site, it doesn't say incident
6 sites.

7 If you read incident sites into it, then you can get
8 to the result that Mr. Brown wants, but that's adding
9 language that the legislature chose not to include within
10 the statute.

11 Secondly, the initial version of the statute and
12 subsequent revisions there is no evidence that the
13 legislature intended to encompass all sobriety testing done
14 by law enforcement to be video recorded. There is simply
15 no evidence of that. The statute doesn't indicate that.
16 If anything the statute indicates to the contrary.

17 What it does is it sets out a statutory minimum for
18 video recording. The statutory minimum is video recording
19 at the roadside at the incident site and video recording in
20 the breath testing room absent certain exceptions.

21 If you can't meet those two base requirements, or an
22 exception applies, then you're forced with the remedy that
23 Suchenski provides. But it certainly doesn't prevent law
24 enforcement from capturing additional evidence.

25 And when I talk about harmonizing with the other

1 statutes, I'll hand up to the Court a copy of 56-9-50 and
2 56-9-53, the DUI and DUAC statutes. Respectfully I'll hand
3 copies to Mr. Brown as well.

4 (DOCUMENTS RECEIVED UP BY THE COURT.)

5 SOLICITOR BARTON: And what I would ask the Court to
6 look at is Section (J), and its on the back side here.
7 I'll cite to show why I believe the City's interpretation,
8 and ultimately more importantly, the Court's interpretation
9 in this case is the correct interpretation.

10 MR. BROWN: Your Honor, I'm gonna object. This is not
11 the statute the defendant was charged under. It's a whole
12 different section. He was charged under 56-5-2930 not
13 2933.

14 THE COURT: All right. Well, I'll allow it in subject
15 to objection, but Mr. Barton, you're telling me to be a
16 strict construer of a statute and then you're asking me to
17 refer to another statute to be a strict interpreter of
18 another statute.

19 SOLICITOR BARTON: Well, what I'm asking you to do is
20 the Courts talk about harmonizing the statutes. I think,
21 and give one of the reasons why --

22 THE COURT: Well you're telling me though there wasn't
23 any ambiguity so why would I have to harmonize?

24 SOLICITOR BARTON: I don't think there's ambiguity but
25 what I'm saying is it makes -- it harmonizes 56-29-53 with

1 both 2930 and 2933. Your Honor, in both of those statutes
2 provide that nothing in this section prohibits the
3 introduction of any evidence that may corroborate or
4 question the validity of the breath or bodily fluid test
5 resulting -- that result including but not limited to and
6 in the language it's identical in both 2930 and 2053 --
7 evidence of field sobriety test, evidence of the amount of
8 alcohol consumed by the person and evidence of a person's
9 driving.

10 The City's view on that is simply this, is the
11 legislature clearly intended that incident site video
12 recording and breath testing site video recording could be
13 supplemented by additional evidence of other test separate
14 and apart from those test that are given at the incident
15 site and at the breath test site. I think that harmonizes
16 2933, 2930 and 56-9-2953.

17 Your Honor, lastly I would just want to hand up a
18 couple of cases, from this year, where both the South
19 Carolina Court of Appeals and the South Carolina Supreme
20 Court have dealt with issues of statutory construction.

21 I'll hand copies to Mr. Brown as well.

22 (DOCUMENTS RECEIVED UP BY THE COURT.)

23 SOLICITOR BARTON: Your Honor, this is *State versus*
24 *Miles* and *State versus Tiffany* and these are just more
25 cases that deal with the general broad parameters of

1 legislative construction. But in the *Miles* case they dealt
2 with the issue of the term "knowingly" as it relates to the
3 trafficking statute. And I think one of the things that's
4 important is that it says when a statute can be read in
5 it's ordinary sense courts have wrote no right to engineer
6 an extra ordinary one. And it also talks about that the
7 rule of limity is not there and it's not a device to pray
8 ambiguity nor should a court invoke it when considering the
9 words of the statute in context, and that's from *State v.*
10 *Miles*.

11 Your Honor, in *State versus Tiffany*, again, they
12 talked about it's axiomatic that statutory interpretation
13 begins and often ends with the text of the statute in
14 question. If the statute is clear and explicit in its
15 language, then there's no need to resort to a statutory
16 interpretation, or its legislative intent to determine it's
17 meaning. The text of the statute is drafted by the
18 legislature is considered the best evidence of the
19 legislature's intent but will absent an ambiguity there is
20 nothing for a court to construe. That is a court should
21 not look beyond the statutory text to discern it's meaning.
22 There is no occasion from employing statutory rules of
23 interpretation and the court has no right to look or impose
24 another meaning unless the statutory provision is
25 ambiguous.

1 Your Honor, again, in this case Mr. Maupin's conduct
2 was recorded at the roadside at the incident site. It was
3 recorded in the Data Master room. Additional testing was
4 done --

5 THE COURT: It doesn't say it has to be in the Data --
6 It says and the breath test site video recorded. It's
7 conduct at the breath test site.

8 SOLICITOR BARTON: Site, correct.

9 THE COURT: It says conduct at the breath test site.

10 And then down, it does say the video recording must
11 include certain things. It doesn't say that the video
12 recording at the breath test should not include other
13 things.

14 SOLICITOR BARTON: Your Honor, I think the statute
15 sets out, again, the statutory minimum of what must be
16 video recorded. It said that clearly the incident site was
17 to be recorded.

18 THE COURT: Well I agree with that, the minimum, but
19 that doesn't mean that it excludes anything else done at
20 the breath site does it?

21 SOLICITOR BARTON: Well, this testing, that -- The
22 additional testing was not done at the breath site. The
23 breath site testing was done --

24 THE COURT: I understand that. I understand that.
25 This is a third test --

1 SOLICITOR BARTON: Yes, your Honor.

2 THE COURT: --- and it took place at the breath test
3 site, the Rock Hill PD. Am I wrong on those facts?

4 SOLICITOR BARTON: I don't believe that when -- The
5 breath test site, I don't believe the breath testing site
6 is that expansive as to encompass an entire building. I
7 think the breath testing site is speaking of when the
8 person is there in the Data Master room right at the --

9 THE COURT: Well why does the legislature -- You're
10 talking about strict interpretation, why doesn't the
11 legislature say the video recording in the Data Master room
12 must be recorded?

13 SOLICITOR BARTON: Well, --

14 THE COURT: Because they want the conduct at the
15 breath site, arguably the legislature wanted the conduct at
16 the breath test site recorded.

17 SOLICITOR BARTON: Well, the individual's conduct at
18 the breath test site has to include the breath test
19 procedure, which was done in this case, showing them taking
20 or refusing which was done in this place, and include the
21 twenty minute pretest waiting period which was done in this
22 case. The statute doesn't require anything in addition to
23 that.

24 THE COURT: But it doesn't exclude it either.

25 SOLICITOR BARTON: Well, again, --

1 THE COURT: In fact in this case there was a third
2 test.

3 SOLICITOR BARTON: There was additional testing done
4 separate and apart from the incident site breath --
5 incident site testing and breath site testing. There was
6 additional testing done separate and apart from that. It
7 was certainly was not breath site testing. In other words
8 --

9 THE COURT: Why not? A site is not necessarily a
10 room. A site is the area where an event takes place.

11 SOLICITOR BARTON: Well, even assuming that's the
12 case, the City met the requirements for the breath testing
13 site to be video recorded. Now it met --

14 THE COURT: But they didn't do his conduct.

15 SOLICITOR BARTON: It included -- -

16 THE COURT: You're leaving out the first sentence.
17 You're skipping down. I'm not arguing with you, but I'm
18 just trying to get my hands around this. A person who
19 violates this section must have his "conduct" at the breath
20 test site video recorded.

21 SOLICITOR BARTON: Correct. But it said that and it
22 goes on to qualify that and said the video recording at the
23 breath test site sets out the statutory minimum.

24 One: Include ---

25 THE COURT: Statutory minimum. I'll agree with that.

1 SOLICITOR BARTON: --- the entire breath test
2 procedure, include the person being informed that they're
3 being video recorded and that they've got the right to
4 refuse the test. Secondly: That if they take the test, or
5 refuse the test, that those actions are recorded. And then
6 lastly, if they have their conduct recorded during the
7 pretest waiting period.

8 But again I think if you look at *Elwell* and *Hercheck*
9 they have declined to give a more expansive reading to
10 breaths test site, so I don't know that the Court's
11 questions that either *Hercheck* or *Elwell* would support that
12 proposition that if law enforcement chooses to do some
13 additional testing separate and apart from breath test --
14 breath testing -- breath site testing but -- I'm sorry,
15 breath test site, if there's additional interaction between
16 law enforcement there's just simply no indication that the
17 statute requires that to be video recorded.

18 And again, had the legislature chosen to, they could
19 have easily said any sobriety testing done by law
20 enforcement must be video recorded. They have not chosen
21 to say that. They've chosen to make very specifically that
22 roadside incident site has to be video recorded. When a
23 breath test is offered that test has to be video recorded.
24 They haven't made oh, oh by the way we also meant if you do
25 additional testing at a police department it also happens

1 to have a breath test site that that has to be video
2 recorded as well. The statute simply doesn't say that.

3 THE COURT: So they can take an individual to the
4 Walmart parking lot and give 'em a test and it would be at
5 either site?

6 SOLICITOR BARTON: They can take -- -

7 THE COURT: And they could use that, and they wouldn't
8 have to video it?

9 SOLICITOR BARTON: They can take that test then they
10 could take the individual to some alternate location to do
11 additional testing and that would not have to be video
12 recorded -

13 THE COURT: So they could arrest somebody and get --

14 SOLICITOR BARTON: --- under 56-5-2953.

15 THE COURT: In the facts of this case they could have
16 taken this defendant from the arrest site where he was
17 video taped, on the way stop by the Walmart give him
18 another set of test and then take him to a breath test site
19 where he read zero and use that intermediate test in the
20 Walmart parking lot?

21 SOLICITOR BARTON: I think so, your Honor. The
22 statute doesn't preclude that.

23 THE COURT: Okay.

24 SOLICITOR BARTON: The statute sets out that the
25 incident site has to be video recorded. It sets out that

1 the breath test site has to be video recorded. It doesn't
2 indicate any of the requirements -- affirmative duties on
3 law enforcement to video record.

4 THE COURT: All right. Anything else Mr. -- I don't
5 want to cut you off but go ahead. I think I've got your
6 position well stated.

7 SOLICITOR BARTON: Your Honor, the only other thing,
8 again, I would note is that under the facts of this case,
9 that if there's an error with respect to a matter that
10 under *State versus Gordon* that suppression of the evidence
11 is possible versus outright dismissal. Outright dismissal
12 is only a final sanction where as *Gordon* would allow for
13 suppression of the evidence but that wasn't requested in
14 this case.

15 And secondly, I think the evidence from the incident
16 site and the breath test site statements made by the
17 defendant and his behavior that was video recorded is
18 overwhelming evidence he was under the influence of
19 intoxicants that he in the early morning hours when he was
20 taken into custody.

21 THE COURT: I'm not sure I can do a harmless error
22 analysis. I know the Court of Appeals and the Supreme
23 Court can. I'm not sure a Circuit Court can do a harmless
24 error analysis. Maybe we can. I've often thought about
25 that quite frankly but I never have applied it and I'm not

1 sure I can.

2 SOLICITOR BARTON: But, again, I think in looking at
3 *Hercheck*, in looking at *Elwell*, the Supreme Court has
4 clearly not looked to expand 56-5-2953 in the manner in
5 which Mr. Brown seeks to have it expanded.

6 THE COURT: Okay. Mr. Brown.

7 MR. BROWN: Very briefly. I'm very familiar with
8 *Elwell* and *Hercheck*, the same set of facts. They're not
9 even applicable here. Those cases arose over one issue,
10 whether you must have a twenty minute video taped
11 observation period in the breath test room if you have a
12 refusal. It has nothing to do with expanding 56-5-2953.

13 To follow his analogy, which the court picked up on,
14 you can have ten sets of field sobriety test. The statute
15 is clear and unambiguous. The video recording of the
16 incident site must include "any" any field sobriety test
17 administered, period.

18 It doesn't say field sobriety test administered at the
19 incident site. It doesn't say administered at Walmart. It
20 says "any administered". And they don't fulfill the
21 obligation here.

22 In the magistrate's return, your Honor, even on their
23 own qualification to be a DRE, who can be a DRE. Any
24 officer who is certified and proficient in standard field
25 sobriety testing. They knew when they started this program

1 that field sobriety testing would be a part of being a DRE.

2 They failed to encompass the video tape requirements
3 of 56-5-2953 when they started DRE's.

4 Lastly, your Honor, *State v. Gordon*, if you read that
5 opinion, your Honor, that deals with a flawed video. It's
6 a HGN test where part of the head is on camera. What the
7 Court says in that opinion is, if you have a flawed video
8 the remedy is suppression. In this case we have no video.
9 *Gordon* is not applicable in this specific set of facts. If
10 the Court doesn't have a copy of *Gordon* I will hand it up
11 to it right now.

12 (DOCUMENTS RECEIVED UP BY THE COURT.)

13 MR. BROWN: I've highlighted in red parts of *Gordon*,
14 your Honor, which deal with flawed video versus no video.

15 THE COURT: Anything else, Mr. Barton, in brief
16 response?

17 SOLICITOR BARTON: Judge, again the only thing I would
18 point out, the only way that the Court can make the statute
19 work for Mr. Brown is if you turn incident site into
20 incident sites. If you change the singular to a plural in
21 pronouncing. That's just not the court's job; that's a
22 legislature job.

23 THE COURT: Do we have anywhere - I'm gonna take it
24 under advisement.

25 MR. BROWN: Thank you, your Honor.

1 THE COURT: Unfortunately the last few of these I've
2 had I seem to always get reversed whichever way I rule, so
3 I'll rule one way and see what happens.

4 MR. BROWN: One's on service.

5 THE COURT: Other than Suchenski.

6 MR. BROWN: One's on service, the Supreme Court.

7 THE COURT: Thank you.

8 (COURT AT EASE AT 02:15 P.M.)

9 (END OF TRANSCRIPT OF RECORD.)

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CERTIFICATE OF REPORTER

State of South Carolina)
)
County of York)

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for York County, South Carolina, on November 7th, 2017.

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

Wanda S. Nelson
Wanda S. Nelson, CVR-M
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: January 29 / 2018