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 ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Thomas A. Russo, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

MATTHEW FRAZIER,

APPELLANT

RECORD ON APPEAL

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JURY TRIAL

held before the Honorable Thomas A. Russo
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Beaufort County Courthouse
Beaufort, South Carolina
on May 25, 2011, Commencing at 9:32 a.m.

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PROCEEDINGS

MR. SHIPLEY: This is the matter of the State vs. Matthew Frazier, Your Honor. This is indictment numbers -- there's a list of them, Your Honor -- 2010-GS-07-2189, 2190 2191, 2193, 2194, 2195, 2197 and 2198. That's trafficking cocaine, ten to twenty-eight grams; possession with intent to distribute marijuana; possession with intent to distribute crack; and there's a proximity charge for each one of those for half a mile from a school or a park; possession of a weapon during a violent crime; and possession of a stolen pistol.

We're here this morning for pretrial. I don't know what motions the defense is going to make but I assume it's going to be to validate my search warrant. So I thought maybe it would be more appropriate to address that first before we got to our motions, because mine are like Denno motions and my chain of -- mostly regarding my chain of custody. They're more geared towards the trial.

THE COURT: The proceedings. Yeah.

Is it Dychak [phonetic]?

MR. DEYSACH: Ian Deysach, Your Honor.

THE COURT: Deysach. Okay.

- - -

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MOTION TO SUPPRESS

1
2 THE COURT: Mr. Deysach, why don't we --
3 you've got a motion to suppress; is that correct?

4 MR. DEYSACH: I do, Your Honor.

5 THE COURT: Why don't we deal with that first,
6 I mean, because that could be dispositive of the case
7 and it makes sense to deal with that one first.

8 MR. DEYSACH: Sure.

9 I would ask that during this motion to
10 suppress that you would consider sequestering the
11 witnesses, who aren't the lead investigator, just
12 like you would during a normal trial. I mean, the
13 police officers are really the only witnesses in the
14 case and I think it's best if they're not hearing
15 each other's witnesses -- each other's testimony,
16 even during the suppression hearing.

17 THE COURT: All right.

18 MR. DEYSACH: Thank you, Your Honor.

19 THE COURT: I can do that.

20 Are your officers -- do you have all the
21 officers you need?

22 MR. SHIPLEY: I have all the officers I
23 anticipate I need, which would be the filing of the
24 search warrant for this motion to suppress, and the
25 other officer would be here for my Denno hearing.

1 THE COURT: Okay. Well, of course, your lead
2 investigator can remain if he or she is involved in
3 this at all.

4 But let's go ahead and sequester the --

5 MR. SHIPLEY: He will be seated at the table
6 with me during the trial, Your Honor. He's not here
7 at the moment.

8 THE COURT: Okay. That's fine.

9 All right. So let's have -- which one would
10 you call first?

11 MR. SHIPLEY: I would proffer testimony from
12 Corporal James Carmany from the Bluffton Police
13 Department.

14 THE COURT: Why don't we have the corporal
15 come up and then have the other officers sequestered
16 outside the courtroom.

17 [Off the record momentarily]

18 THE COURT: All right. If you would please
19 swear the witness.

20 THE CLERK OF COURT: Put your left hand on the
21 Bible and raise your right hand.

22 [Whereupon, Mr. Carmany is duly sworn by the
23 clerk of court as follows: do you solemnly swear or
24 affirm that the testimony you give in this matter
25 shall be the truth, so help you God]

1 THE WITNESS: Yes, ma'am.

2 THE CLERK OF COURT: Thank you. Please be
3 seated.

4 [Whereupon, the witness takes the witness
5 stand]

6
7 JAMES CARMANY,

8 Having Been First Duly Sworn,
9 was Examined and Testified as Follows:

10 DIRECT EXAMINATION

11 BY MR. SHIPLEY:

12 Q. Would you please give your name and rank for
13 the record and spell your last name, please.

14 A. I'm Corporal James Robert Carmany. That's
15 C-A-R-M-A-N-Y.

16 Q. And where are you employed?

17 A. Through the Town of Bluffton, the state of
18 South Carolina, Bluffton County.

19 Q. Back in October -- at the time period of
20 September/ October 2010, were you also working with the
21 drug task force?

22 A. Yes, I was.

23 I was with the Beaufort-Jasper multi-agency
24 drug task force.

25 Q. Were you involved in the case against Matthew

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1 Frazier?

2 A. Yes, I was.

3 Q. Did you, in fact, obtain a search warrant in
4 this case?

5 A. Yes, I did.

6 Q. Were you the swearing affidavit on -- the
7 affiant on it?

8 A. Yes, sir.

9 Q. What date did you swear the affidavit?

10 A. I believe it was October 2nd, 2010.

11 Q. And what date did you get assigned by a judge?

12 A. I believe it was -- I think it was October
13 2nd.

14 Q. Do you know which judge signed it?

15 A. Judge Tupper.

16 Q. Is he a magistrate judge?

17 A. Yes.

18 He's -- I had him sign it after the bond
19 hearing.

20 Q. Is he a magistrate judge in Beaufort County?

21 A. Yes, he is.

22 Q. What was the object of this warrant? What
23 were y'all seeking to search

24 A. A vehicle.

25 Q. What vehicle is that? Can you describe it?

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1 A. Yeah.

2 It was a burgundy Dodge Intrepid. I have the
3 plate number here. Let me just refer to my records.

4 [Whereupon, the witness reviews documents]

5 A. It was a 1999 burgundy four-door Dodge
6 Intrepid with South Carolina registration GJU-683.

7 Q. [Mr. Shipley] And where is that -- where was
8 that vehicle located?

9 A. It was located on [REDACTED] within
10 the town of Bluffton.

11 Q. Also in Beaufort County?

12 A. Yes, sir.

13 Q. When was this search warrant executed?

14 A. The search warrant was executed on I believe
15 it was -- was it the 10th?

16 [Whereupon, the witness reviews documents]

17 A. On October 11th, 2010.

18 Q. [Mr. Shipley] And where was this Burgundy
19 Dodge Intrepid with license plate GJU-683 actually
20 located when you executed the warrant?

21 A. On Martha Brown Circle.

22 Q. Okay. Once it was all done, was there an
23 inventory made of the items seized?

24 A. Yes, there was.

25 Q. Was a copy of that -- of the inventory and a

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1 copy of the search warrant, you know, left at the scene
2 or given to the registered owner of the vehicle?

3 A. Yes.

4 It was left actually on the dashboard of the
5 vehicle by Corporal Rodriguez. He left it there. It
6 was -- and it was also given to Derrick Fields, which
7 was the registered owner of the vehicle, which he
8 retrieved it from the dashboard.

9 Q. Was a copy of the search warrant and the
10 inventory also returned to the judge?

11 A. Yes, it was.

12 Q. And on what date was that return made?

13 A. October 12th, 2010.

14 Q. Would you please give us just a brief factual
15 basis of what's in the affidavit, the supporting
16 probable cause for the search warrant?

17 A. During the month of September, 2010, I was
18 working with the Beaufort-Jasper County multi-agency
19 drug task force and I received information from a
20 confidential informant, reliable source, of drug
21 activity coming from Martha Brown Circle from within a
22 burgundy Dodge Intrepid.

23 Using that, we made multiple control purchases
24 from that vehicle, at which time the subject was
25 identified as the defendant. Using that information, I

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1 obtained a search warrant.

2 Q. How did these -- how did the -- you had
3 reports of drug activity -- is that what you testified
4 to -- and you had controlled purchases?

5 A. We --

6 Q. With whom were these control purchases made?
7 How did the informants and the tipsters or whatever
8 identify him?

9 A. They identified him by making controlled
10 purchases from the vehicle, from the defendant, at which
11 time he identified them through a picture that we
12 provided and who we believed that person was and he
13 identified him that way.

14 Q. Were these controlled purchases monitored by
15 law enforcement?

16 A. Yes, they were. Audio and video.

17 Q. And out of what vehicle were these control
18 purchases made out of?

19 A. A 1999 Dodge Intrepid, four door, bearing the
20 South Carolina registration I gave you earlier, GJU-683.

21 Q. Was one of these control purchases done within
22 seventy-two hours of y'all obtaining the search warrant?

23 A. Yes, it was.

24 Q. What date was that on? Do you remember?

25 A. I believe that one was on October 2nd. I

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1 don't recall here. Let me see if it's in the search
2 warrant.

3 [Whereupon, the witness reviews documents]

4 A. I do know it was within the seventy-two hours.

5 Q. [Mr. Shipley] Was that one monitored by law
6 enforcement?

7 A. Yes, it was.

8 Q. Was there also surveillance of the area during
9 which -- was there also other surveillance of the area
10 other than the controlled purchases?

11 A. Yes, there was.

12 Prior to us executing the search warrant we
13 did pre-surveillance of the area, confirming.

14 Q. What did y'all witness there? Did y'all
15 witness --

16 A. We -- on multiple occasions we did video
17 surveillance of the area and I personally observed
18 multiple subjects going to that vehicle, getting in that
19 vehicle, making hand-to-hand motions consistent with
20 drug activity, and then immediately leaving the scene.

21 Q. And then the last purchase, the one within
22 seventy-two hours, was the informant also -- identified
23 a photograph of the defendant as the person from whom he
24 bought those controlled substances?

25 A. Yes, sir.

1 MR. SHIPLEY: May I approach the witness, Your
2 Honor?

3 THE COURT: Yes, sir.

4 Q. [Mr. Shipley] Show you a copy of a search
5 warrant. Is that the one that you signed? Is that a
6 copy of the one that you signed?

7 A. Yes, sir, it is.

8 Q. Is it a copy of the one you executed?

9 A. Yes, sir, it is.

10 Q. Is it also a copy of the one that you returned
11 with the inventory list and everything included?

12 A. The inventory list is included and it is the
13 one that was returned. Yes, sir.

14 MR. SHIPLEY: May I approach again, Your
15 Honor?

16 THE COURT: Yes, sir.

17 MR. SHIPLEY: I would like to enter this
18 search warrant as a Court's Exhibit.

19 THE COURT: Have you seen that?

20 MR. DEYSACH: I have, Your Honor.

21 THE COURT: Any objection?

22 MR. DEYSACH: No, Your Honor.

23 THE COURT: All right.

24 [Whereupon, Court's Exhibit Number 1 is marked
25 by the court reporter]

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1 MR. SHIPLEY: No further questions, Your
2 Honor.

3 THE COURT: All right.

4 MR. DEYSACH: Thank you, Your Honor.

5 Your Honor, do you mind if I just set up right
6 up here? Is this okay?

7 THE COURT: That or -- there was a podium in
8 here yesterday.

9 THE BAILIFF: They must have taken it back to
10 one, Judge.

11 THE COURT: But please go ahead and --

12 MR. DEYSACH: Is that okay?

13 THE COURT: -- and make yourself -- yeah.

14 MR. DEYSACH: Thank you, Your Honor.

15 Good morning. You know, I didn't hear your
16 rank.

17 THE WITNESS: It's corporal.

18 MR. DEYSACH: Corporal Carmany.

19 CROSS-EXAMINATION

20 BY MR. DEYSACH:

21 Q. Okay. You are the person who submitted the
22 affidavit to Judge Tucker for the signature -- for his
23 signature on a search warrant; correct?

24 A. Yes, sir.

25 Q. You testified that you did that on October

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1 2nd; is that correct?

2 A. I believe so, yes, sir.

3 Q. Did you say something about signing it --
4 having him sign it at a bond hearing? Is that what you
5 said?

6 A. Yeah. I was -- yes, I did say that.

7 Q. Okay. Can you explain? Whose bond hearing?

8 A. Sure.

9 It was another arrest that I made of somebody
10 else. I was at that bond hearing. That was the best
11 time to meet with the judge because he was already
12 conducting bond hearings.

13 Q. All right. But it was not a bond hearing that
14 had anything to do with this case?

15 A. Nothing to do with this case, no, sir.

16 Q. Okay. So that occurred in the morning, then?

17 A. Yes, it did.

18 Q. Because they have those bond hearings about
19 9:00 in the morning or so?

20 A. [Indicates affirmatively]

21 Q. Okay. Yes? Or no?

22 A. Yes. Yes.

23 Q. Okay. You testified a little bit about the
24 car that you got the search warrant for. When you were
25 surveilling the car, it was located at [REDACTED]

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1 [REDACTED] -- I think it's 28 Martha Brown Circle -- is that
2 correct?

3 A. In that general area, yes.

4 I believe it was -- not a lot of addresses
5 used in there. They also use Martha Brown Circle and
6 Builty Road as the same address. It's actually on
7 Martha Brown Circle. But, yes, it's in the -- it's a
8 small dirt road in that area, yes.

9 Q. Are you saying that the -- let me ask you
10 this. When you were doing your surveillance, did you
11 ever see the car move?

12 A. No.

13 Q. Was the car always in the same place? Was the
14 car in the same place when you saw it before the search
15 warrant as it was when you saw it upon the service of
16 the search warrant?

17 A. When we did pre-surveillance of the day before
18 we served the search warrant, yes, it was in the same
19 spot.

20 Q. So you're saying that you did surveillance on
21 the vehicle before October 2nd, when the search warrant
22 is applied for --

23 A. Yes.

24 Q. -- correct?

25 And you do surveillance on the vehicle on

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1 October 10th, the day before the search warrant is
2 executed?

3 A. The day of.

4 Q. The day of the execution of the search
5 warrant.

6 Okay. So that would be October 11th?

7 A. Yes, sir.

8 Q. And those two times -- now, did you ever see
9 the car in between those two dates, October -- whatever
10 happened before October 2nd and October the 11th?

11 MR. SHIPLEY: Your Honor, I'm a little unclear
12 of where we're going because my understanding is
13 probable cause is what's presented to the magistrate
14 at the time of the issuing. He's testifying to the
15 probable cause and what -- what he swore to in front
16 of Judge Tupper to swear the warrant. So we kind of
17 feel like we're getting out of bounds.

18 THE COURT: Well, if I'm following his line of
19 questioning, it's dealing with that probable cause
20 from the time of the affidavit to the time of the
21 search warrant.

22 Now, having said that, I understand your
23 objection is the issue -- is the probable cause to
24 seek the warrant at that time on October the 2nd.

25 MR. SHIPLEY: That's correct, Your Honor.

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1 THE COURT: And so I guess you're -- again,
2 I'm trying to follow -- your objection is that has
3 nothing to do with the time frame from the time the
4 search warrant was received until it was executed for
5 this -- purposes of this hearing. Is that -- would
6 that be correct?

7 In other words, the purpose of this hearing is
8 to determine whether or not there was probable cause
9 for this warrant to be issued; correct?

10 MR. DEYSACH: That's one of the issues. I
11 think there's other issues that are in play here.

12 THE COURT: That go toward suppression?

13 MR. DEYSACH: Correct.

14 Your Honor, I think that whether there's
15 probable cause for the signature on the warrant is
16 one issue, whether or not there -- the search itself,
17 even with the warrant, was unreasonable.

18 And I think that when we're talking about a
19 car, not a residence, a moveable object, we're
20 talking about -- I'm trying to figure out the days
21 that they've seen it. I'm thinking ten days in
22 between signing, or nine days, or within ten days of
23 signing of the search warrant there is whether or not
24 that probable cause still would have existed on the
25 11th, nine days of a car after --

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1 You know, and so I'm trying to figure out
2 what's the probable cause that they're basing the
3 warrant on and how old is that information before
4 they get to the judge, then how much time passes
5 before they serve and execute the warrant and whether
6 or not -- you know, if we're talking about twelve
7 days or two weeks, whether or not probable cause
8 would still exist on a car.

9 THE COURT: Well, he testified that the
10 warrant was obtained on October the 2nd, the search
11 was executed on October the 11th. So we're talking
12 about nine days.

13 MR. DEYSACH: Right. Right.

14 But and he also said that the return came back
15 to --

16 THE COURT: The 12th.

17 MR. DEYSACH: -- the magistrate on the 12th.

18 THE COURT: Correct.

19 MR. DEYSACH: So that's ten days between
20 return and issuance.

21 THE COURT: Correct.

22 MR. DEYSACH: Now, we don't have -- I don't
23 think I've cleared up exactly when he -- he has said
24 within seventy-two hours that he does the
25 surveillance on the car, but he wasn't able to

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1 testify -- so far I haven't gotten to that point yet
2 -- when seventy-two hours before he actually did some
3 surveillance or when this buy was. We don't know if
4 it was one hour before or seventy-two hours before.
5 I actually think I do know when it was.

6 THE COURT: Well, I'll let you go down that
7 road.

8 MR. DEYSACH: All right. Thank you, Your
9 Honor.

10 All right. I think the question -- one
11 moment. And I do want to do it in an organized
12 fashion, Your Honor, so if I could just have a
13 moment.

14 Q. [Mr. Deysach] Okay. I think what I left off
15 with was that you told the judge that between whatever
16 surveillance you did that resulted in application of the
17 warrant and the pre-surveillance that you did on the car
18 the day of execution, that you hadn't seen that car at
19 all in that interim; is that correct?

20 A. We checked multiple times throughout the week.
21 That was the delay in serving the warrant.

22 Q. So you checked and the car was not there?

23 A. Yes.. That's correct..

24 Q. Did you ever see anybody driving the car? I
25 think I may have asked that already.

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1 A. No, I have not.

2 Q. So you never saw the car in motion?

3 A. Never saw the car in motion, no, sir.

4 Q. You knew that the car was registered to
5 Derrick Fields when you applied for the warrant;
6 correct?

7 A. Yes, sir.

8 Q. All right. I was going to ask -- I indicated
9 to the judge I would ask the time and the nature of the
10 surveillance that you conducted. You said within the
11 last seventy-two hours before applying for the warrant.

12 Have you got a copy of the warrant up there?

13 A. Yes, sir, I do.

14 Q. I'm looking in number three: that within the
15 last seventy-two hours, the reliable and confidential
16 informant did conduct the control purchase of suspected
17 marijuana from B.J. within the burgundy Dodge Intrepid.

18 That's part of your affidavit; correct?

19 A. Yes.

20 Q. What was it about the informant that made him
21 reliable? Why did you -- why did you tell the judge
22 that he was reliable?

23 A. Because he cooperated with us; he --
24 everything that -- based on what he told us was true and
25 accurate; based on our own experiences and our own

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1 knowledge.

2 Q. What did he tell you that turned out to be --
3 that you were able to verify through an independent
4 source?

5 A. Reference his --

6 Q. Well, I guess anything that you know about him
7 that would make him reliable. You swore out that he's
8 reliable. I just want to make sure that he is. That's
9 really why I'm asking the question.

10 A. Well, this actually goes back -- I've actually
11 worked for the town of Bluffton for five years. Martha
12 Brown Circle -- I've made numerous arrests in those last
13 five years, all related to drug activity.

14 Q. Did they have to do with this particular CI,
15 confidential informant?

16 A. Not that particular CI, no, if that's what
17 you're asking me.

18 Q. Yeah. I'm asking about his reliability.

19 A. Yes, based on what he told us.

20 He was reliable on what I already -- had
21 already known.

22 Q. Okay. So you have information that you
23 already know?

24 A. Through my experience, yes.

25 Q. Right. And he verifies that information?

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1 A. Yes, he does.

2 Q. What information are you talking about?

3 A. Information regarding the defendant.

4 Q. Can you be specific?

5 A. That he's -- prior to meeting the CI, I had
6 already had knowledge of the defendant in possession of
7 a burgundy Dodge Intrepid selling narcotics.

8 Q. How did you -- how did you get that knowledge?
9 Is that personal knowledge, or knowledge that you got
10 from somebody else?

11 A. Through somebody else. Personal, through
12 somebody else, from other traffic stops where people
13 have -- where I've arrested them with drugs asking them
14 and they told me, yeah, I got it from --

15 Q. Were those people reliable?

16 A. I -- apparently.

17 Q. All right. So you told the judge about the
18 surveillance and the controlled buy and I want to make
19 sure that he understands exactly how that took place.

20 The -- you said that there is an audio and
21 video recording device; correct?

22 A. Yes.

23 Q. And I have a report that is from one of
24 your -- another member of the drug task force, from
25 September 29th, that says that that is when the CI was

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1 outfitted with the surveillance and is supposed to have
2 done the controlled buy. Do you think that's the date
3 that you're referencing as the seventy-two hours?

4 A. I believe that is, yes.

5 Q. All right. And so the audio that he has is on
6 his person; correct?

7 A. Correct.

8 Q. The video that he has is in his car; correct?

9 A. I believe so.

10 Q. And when he goes to do the controlled buy, the
11 controlled buy takes place outside of his car; correct?

12 A. Yes.

13 Q. And that the video that is in the car does not
14 capture the controlled buy at all; correct?

15 A. On that date I don't recall, but I don't
16 believe so.

17 Q. Okay. Do you know of any date where the
18 controlled buy is captured on the video?

19 A. The buy with the confidential informant, no.

20 Q. And then that leaves I guess an audio
21 recording device?

22 A. Yes.

23 Q. Now, are you or somebody else with the drug
24 task force monitoring that audio device in real time or
25 do you have to listen to it later?

1 A. No. We monitor it in real times, yes, sir.

2 Q. And so you can hear a transaction taking
3 place; correct?

4 A. Yes.

5 Q. But you can't tell whether it's happening in
6 the Dodge Intrepid, or if it's with this defendant or
7 somebody else, because you don't have a visual
8 confirmation; correct?

9 A. Correct.

10 Q. And so you have to rely on what the
11 confidential informant tells you about the Dodge
12 Intrepid; correct? The only way you know that this
13 would have happened at the Dodge Intrepid is by what the
14 confidential informant tells you?

15 A. Yes. And there's -- yes.

16 Q. You know, I'm not trying to keep you from
17 answering a question.

18 It's true, also, that there were times when
19 you or somebody from the drug task force -- was it you
20 in the woods -- would sit in the woods and watch the
21 Dodge Intrepid?

22 A. Yes.

23 There was times I was actually on surveillance
24 in the woods, yes.

25 Q. And, in fact, that happened on September 29th?

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1 A. Yes, it did.

2 Q. But during that time that you are in the woods
3 is not the same time that the confidential informant
4 goes up to the car, is it?

5 A. It's prior to it.

6 Q. Okay. So you don't see the confidential
7 informant yourself, with your own eyes, go up to the
8 car?

9 A. On that date, no, I did not.

10 Q. And from that vantage point, you can't --
11 you're too far away to see the face of the person who's
12 sitting in the car; isn't that correct?

13 A. Yes.

14 Q. And the only way that you would know that the
15 -- the identity of the seller of the marijuana in that
16 case would be from what the informant tells you;
17 correct? The only way --

18 A. Yes. To -- yes.

19 Q. But the warrant itself is for the car, not for
20 the person; correct?

21 A. Yes.

22 Q. How many times did you check back to see
23 whether or not the car was located at [REDACTED]

24 [REDACTED] before you actually served the search warrant?

25 A. I don't recall the exact number, but multiple

1 times. Multiple times throughout that week.

2 Q. Separate days?

3 A. Yes.

4 Q. Okay. Now, the car is registered to an owner;
5 correct?

6 A. Yes.

7 Q. And it also has an address connected to that
8 owner? The registration has an address; correct?

9 A. Yes, it does.

10 Q. Did you ever check that address for the car?

11 A. Yes, I have.

12 Q. Okay. In the interim?

13 A. During that --

14 Q. Yes. While you had the --

15 A. During the --

16 Q. -- search warrant in hand and waiting to
17 execute it, did you check that address?

18 A. Yes, I did.

19 Q. Did you ever make a note of it?

20 A. No, I did not.

21 Q. Do you know what date you checked the address?

22 A. Sometime during that week. I don't --

23 Q. Do you know --

24 A. -- recall exactly.

25 Q. -- how many times?

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- 1 A. At least once. Maybe twice.
- 2 Q. Once or twice?
- 3 A. Yes.
- 4 Q. And I see that you -- you take the return back
- 5 to the magistrate on October 12th. Is that true? I
- 6 think the return is probably the back page.
- 7 A. [Whereupon, the witness reviews documents]
- 8 Q. [Mr. Deysach] Do you see the document I'm
- 9 referring to?
- 10 A. Yes, I do.
- 11 Q. And it's part of the search warrant that has
- 12 been -- that has been marked as State's Exhibit -- or
- 13 Court's Exhibit Number 1. And it's titled return. And
- 14 do you see that -- it says signature of officer
- 15 executing warrant. Is that your signature down there?
- 16 A. No, it's not. I did not return this warrant.
- 17 Q. Did you -- do you see the date of the
- 18 notarization there?
- 19 A. Yes.
- 20 Q. Do you know -- can you tell the judge what
- 21 date that is?
- 22 A. It looks like October 12th, 2010.
- 23 Q. Do you have any idea what time on October 12th
- 24 this would have gotten back to the judge?
- 25 A. I did not return the warrant, so I don't know.

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1 Q. But you know that when the judge signed the
2 warrant that it was in the morning of October 2nd?

3 A. Yes.

4 MR. DEYSACH: Begging the Court's indulgence.

5 THE COURT: Yes, sir.

6 [Whereupon, Mr. Deysach and Mr. Frazier
7 confer]

8 MR. DEYSACH: I don't have anymore questions
9 for this witness, Your Honor. If this is the only
10 witness --

11 I would have some argument, though.

12 THE COURT: Mr. Shipley, anything further for
13 this witness?

14 MR. SHIPLEY: Very, very briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. SHIPLEY:

17 Q. You testified that through your experience you
18 learned of him dealing controlled substance out of his
19 vehicle. How many times do you think you heard that?

20 A. At this time I was with the Town of Bluffton
21 for five years. I heard it on at least a monthly basis.

22 Q. Were they all -- were they all describing a
23 Dodge Intrepid, a burgundy Dodge Intrepid?

24 A. Originally it started off with just the name.
25 And then towards then, getting to this, we learned that

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1 he -- it was a Dodge Intrepid, prior to me even going to
2 the drug task force.

3 Q. For these controlled purchases, was the CI --
4 when y'all were doing this, is the CI searched
5 beforehand?

6 A. Yes, he was.

7 Q. Were they searched to make sure they didn't
8 have any contraband on them?

9 A. Yes, they were.

10 Q. Were they issued funds with which to make the
11 purchase?

12 A. Yes, they were, and the funds were documented.

13 Q. Were they observed going to the location?

14 A. Yes.

15 Q. When they came back, were they also searched?

16 A. Yes, they were.

17 Q. At that time would the confidential informants
18 have narcotics on them --

19 A. Yes, they would, from what they purchases.

20 Q. Would there be an absence of some of the money
21 that you issued them?

22 A. Yes, there would.

23 Q. On these buys, where did the confidential
24 informant say that he bought the legal substances from
25 the defendant?

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1 A. He said he bought them from the defendant,
2 from a burgundy Dodge Intrepid, on Martha Brown Circle.

3 Q. Did the CI ever indicate to you that the drugs
4 were located themselves in the burgundy Dodge Intrepid?

5 A. Yes, he did.

6 MR. SHIPLEY: No further questions, Your
7 Honor.

8 THE COURT: All right. Thank you very much,
9 sir. You may step down.

10 THE WITNESS: Thank you, sir.

11 THE COURT: Anything further, Mr. Shipley?

12 MR. SHIPLEY: Nothing from the State, Your
13 Honor.

14 THE COURT: All right. Mr. Deysach, I'll be
15 happy to hear from you, sir.

16 MR. DEYSACH: Thank you very much, Your Honor.

17 As we discussed while I was starting my
18 questioning, I would like to flesh out what I think
19 the issues are that are to be decided, before I start
20 arguing one way or the other, to be honest with you,
21 Your Honor.

22 I think there are more than one -- there is
23 more than one issue. Whether or not the search
24 warrant itself is based upon probable cause is one
25 issue. Whether or not it was properly executed and

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1 whether or not the search itself, even with the
2 warrant, was unreasonable for any reason I think is
3 an issue.

4 And that would be a constitutional -- a
5 federal and state constitutional unreasonableness
6 that could be I think analyzed for -- although I
7 think mainly I would be relying on the federal
8 constitution.

9 And so I think I will start with a discussion
10 of -- or an argument for why the search warrant
11 itself is not based upon probable cause. And while
12 the -- the problem with the search warrant, as I see
13 it, is that the information -- when the police
14 officer says that the confidential informant is
15 reliable, that that is not completely accurate to say
16 that somebody is reliable because they have told you
17 the same thing that somebody who is unreliable has
18 told you. And I believe that was what the testimony
19 was, that he told us something we already knew. The
20 officer said something to -- I'm paraphrasing.

21 THE COURT: Okay.

22 MR. DEYSACH: He told us something we already
23 knew so we believe that he was reliable. How did you
24 know. What was it that he told you. You know, that
25 somebody, or possibly Matthew Frazier, is selling

1 drugs out of the Intrepid. How did you know that.
2 Because people we had pulled over before had told us.
3 But those people he admitted were not reliable.

4 So the only way that the reliability of this
5 confidential informant has been validated is by
6 unreliable people. And so there is not a quality to
7 the quantity of people telling -- unreliable people
8 can tell you a lot of the same things but it doesn't
9 make what they said reliable, that quantity does not
10 make -- just because two people have told you the
11 same thing, if neither one of them are really
12 reliable you haven't just made them both reliable.

13 And so the reliability of the person who makes
14 the purchase from the car is not -- it wasn't
15 testified to. And I see that if a magistrate is
16 signing the warrant, that he may not have gone
17 through the stern questioning or the type of back-
18 and-forth that I went through with Officer Carmany.
19 But he reads like, oh, well, Officer Carmany says
20 he's reliable, and goes ahead and signs the warrant.

21 That September 29th period where they see --
22 that September 29th period, that is really the only,
23 as I see it, non-stale information that is the basis
24 of the warrant. You know, during the redirect the
25 solicitor brought out, well, we kind of already knew,

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1 we've had information about the car in the past and
2 we kind of already knew. All that --

3 We don't have any time frame connected with
4 that and all of that information is stale. There's
5 nothing -- especially when we're talking about a car,
6 Your Honor, because cars are highly moveable, and
7 we're talking about drugs, and they're highly
8 consumable. And I have found case law that makes a
9 distinction between reasonableness of a search based
10 on what is being searched for. If it's something --
11 I think they make a distinction between evidence of
12 maybe an armed robbery, a gun, or clothing or
13 something like that, versus drugs which are highly
14 consumable and highly moveable. Which what they were
15 looking for was highly moveable.

16 And so for that reason, I don't believe that
17 the search warrant is based on probable cause, and
18 anything found as a result of the execution of that
19 search warrant should be suppressed.

20 I do have another argument that goes to the
21 execution of the search warrant but I don't know if I
22 want to start talking about that right now or -- I'll
23 let you direct me as to whether you want to handle
24 these arguments one at a time or if you want me to
25 continue consecutively.

1 THE COURT: Well, let me go -- Mr. Shipley, if
2 you'll just listen carefully and take any notes you
3 need to take -- let me hear from the defense, let you
4 go through your arguments -- and then I'll let you
5 address them. All right?

6 MR. DEYSACH: So keep going, Your Honor?

7 THE COURT: Keep going.

8 MR. DEYSACH: All right. The question to be
9 answered, as I was saying, as far as the execution is
10 concerned, is not just whether or not there is a
11 search warrant in hand but still whether or not the
12 search is reasonable or unreasonable when it takes
13 place. Just because there is a search warrant does
14 not mean that a search is reasonable.

15 And the main problem with the search, as I see
16 it, is staleness; that they waited too long to serve
17 the warrant. Because we're not just talking about
18 the ten days. I mean, and they get -- you know, a
19 warrant says it must be served within ten days and an
20 inventory returned to the issuing magistrate.

21 Now, whether or not the return gets back to
22 the magistrate within ten days is not clear. And I
23 don't believe it actually was, because we know that
24 the warrant was applied for and signed on the morning
25 of the 2nd and that the --

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1 THE COURT: I'm going to stop you right there.

2 MR. DEYSACH: Okay.

3 THE COURT: You're not going to seriously sit
4 there and argue to me that the return was returned
5 later that afternoon so because it wasn't within the
6 morning time, it was outside the ten days?

7 MR. DEYSACH: I mean, I'm counting ten days as
8 on a calendar --

9 THE COURT: I'm counting ten days from October
10 the 2nd to October the 12th.

11 So if that's your position, it's noted. That
12 carries no weight with me.

13 MR. DEYSACH: All right.

14 I think that you can agree -- obviously -- I
15 think reasonable minds can differ on that --

16 THE COURT: Sure. I agree.

17 MR. DEYSACH: -- Your Honor, and I know that
18 you understood my argument on that.

19 But I think at the very least we can agree
20 that that return seems to get back, at best, under
21 the wire. And that's I think seeing it as you see
22 it, that it comes very close to the deadline. At
23 least -- I mean, because we don't know what time it
24 gets back on the 12th. You know what I mean? If it
25 came -- I think what you're saying, if it comes back

1 midnight on the 12th, we're still within the ten days
2 and that it looks like it's under the wire.

3 THE COURT: If you could show me case law that
4 -- I don't think you're going to find any case law
5 that says if a return comes in outside that ten-day
6 period, the warrant is invalid. That ten-day period
7 is a guide. It's not etched in stone. I've seen
8 cases where the return came back thirteen, fourteen
9 days afterwards and it's upheld. So I think you
10 might be -- you might be mistaken. But you might
11 find some case law that would support that. I don't
12 know. But my understanding is is what I just shared
13 with you.

14 However, but I'm -- even going back and
15 looking at it in a more restrictive way, I don't know
16 that it means -- that ten days means ten days to the
17 minute so that if the warrant was issued at 11:58 and
18 you brought the warrant -- you brought the return
19 back at one o'clock in the afternoon, you've missed
20 it.

21 MR. DEYSACH: Right.

22 I think there's two issues. One is the one
23 that we've already covered about it being the day,
24 and the other is so what if it is a little bit late.
25 I don't know if I understand what you're saying. So

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1 what if it is a little bit past the ten days, what is
2 -- it doesn't matter.

3 THE COURT: No. No, no. Here's what I'm
4 saying. In this case we have a return that was
5 returned on the tenth day. I was hearing your
6 argument was that we know the warrant was issued in
7 the morning but we don't know when the return was and
8 the return could have been returned later that
9 evening so therefore it's outside the ten days.

10 Is that correct?

11 MR. DEYSACH: I am making that argument.

12 THE COURT: Okay.

13 MR. DEYSACH: And I think that I do want to go
14 ahead and maybe state my case. You know, you've
15 already told me which way you're ruling --

16 THE COURT: No, no. I --

17 MR. DEYSACH: -- but I need to say for the
18 record what --

19 THE COURT: Yeah. I don't want you to --

20 MR. DEYSACH: -- what the result -- what the
21 remedy would be if it were outside the ten days.

22 THE COURT: I don't -- what I just shared with
23 you -- I didn't intend to cut you off. I do want you
24 to go ahead and make your argument.

25 MR. DEYSACH: Thank you very much, Your Honor.

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1 And I appreciate that.

2 I think that we -- the discussion did veer to,
3 okay, so even if it were after ten days, is this --
4 it's not a constitutional ten days, there's nothing
5 in the constitution that says ten days and so would
6 the exclusionary rule apply, because even if the ten
7 days weren't complied with to the minute -- and I do
8 believe that if it were -- if it were to be seen my
9 way, that any type of presumption would tip in the
10 favor of my client that it did happen; if they can't
11 tell me what time of day it would have happened, that
12 that presumption would be in favor of my client. But
13 I don't want to spend too much time on that, Your
14 Honor.

15 But if it were outside the ten days, that it
16 is a ministerial duty that I would have to show some
17 prejudice to my client that resulted. And I think
18 there are -- I mean, there is prejudice because, you
19 know, we're talking about a car that -- because of
20 the -- because of the movability of the car, the
21 highly consumable nature of what's being searched
22 for, that --

23 And by the same token, Your Honor, I don't
24 think just because a warrant is served within ten
25 days that it's automatically reasonable.

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1 THE COURT: Yeah. Correct.

2 MR. DEYSACH: So, you know, the ten days is
3 the ten days. And, in fact, you know, I found case
4 law not within -- not mandatory case law, which at
5 least gives us the rule. And I have found --

6 Let me grab my file.

7 [Whereupon, Mr. Deysach reviews documents]

8 MR. DEYSACH: The way the -- the way the
9 research went was to find a South Carolina case that
10 cited a Fourth Circuit case that cited some other
11 cases from another circuit, not the Fourth and that
12 even a Fourth Circuit case would be mandatory upon
13 Your Honor. But that's really the only cases that I
14 had to really -- you know, there's not a lot of case
15 law to guide us and so that I did go outside of
16 mandatory case law.

17 And I found U.S. v. -- I put Lemons. I put
18 Lemon but I thought I remember it being Lemons, at
19 527 F2nd 662, which is a 6th circuit case from '75.
20 And that's basically the case that's cited -- a case
21 that's cited in South Carolina where there's a five-
22 day delay. Okay? There's a five-day delay and they
23 do allow the search -- the stuff to come in, the
24 items to come in. But it does say that: the Court
25 does not condone a delay in the magnitude of what

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1 occurred here and that the only reason they allowed
2 the delay in that case was because the police wanted
3 to conceal the identity of the CI.

4 And so I think what that case stands for is
5 the fact that five days is a long time between
6 getting probable cause and executing the warrant. I
7 think that we wouldn't have the ten-day rule if there
8 wasn't some acknowledgment by the people who make
9 that rule that ten days is a long time between
10 issuance of a warrant and execution of a warrant.
11 Because probable cause is time sensitive. And so the
12 argument, I've already kind of stated it, is that
13 this probable cause is particularly time sensitive
14 because it's a car and it is highly consumable
15 objects that are easily moved, you know, easily --
16 small, easily concealed, easily moved.

17 And so for that reason, I believe that the
18 execution of the warrant was stale, and without
19 probable cause, and unreasonable.

20 THE COURT: All right, sir. Thank you very
21 much.

22 Mr. Shipley.

23 MR. SHIPLEY: Just to address the ten-day
24 return, Your Honor, at first.

25 I mean, here could be a showing of prejudice

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1 for any delay to invalidate a warrant and there
2 hasn't been any showing that by being a few hours
3 late the defendant has been prejudiced in any way.
4 And even if he were, there's a good-faith exception
5 recognized in the Supreme Court, United States v.
6 Leon.

7 As to probable cause, Your Honor, I've got
8 several cases in my notes.

9 May I approach?

10 THE COURT: Yes.

11 [Whereupon, Mr. Shipley proffers documents to
12 the Court]

13 THE COURT: Thank you.

14 MR. SHIPLEY: But State v. Dupree appears more
15 than anything. That pretty much covers everything:
16 probable cause, addressing the reliability of the
17 confidential informant, on down. And the facts are
18 very similar to this case and the search warrant is
19 based on a controlled buy. You know, it goes through
20 standard probable cause that it's not -- that it
21 needs to be sufficient to support a conviction or a
22 verdict of guilty. It's just enough to induce an
23 officer, a prudent officer, that a crime has been
24 committed and that probable cause is not --
25 absolutely certainty, search warrant based on -- the

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1 search warrant is based on -- searches based on
2 warrants are given judicial deference where sometimes
3 a marginal search is -- meets a realistic standard of
4 probable cause will be justified.

5 Here we had -- in this case we had -- the
6 officer testified through the month of December there
7 were controlled buys done at this location and
8 observed by law enforcement. That's an ongoing
9 course of conduct that was independently verified by
10 the officers. You had a controlled buy done within
11 seventy-two hours of obtaining the search warrant,
12 same -- you know, the same facts. They had been
13 searched beforehand, he buys from the defendant, BJ,
14 out of a burgundy Dodge Intrepid.

15 And this case, Dupree, cites tons of other
16 cases, other jurisdictions, as well, where a
17 controlled buy observed by law enforcement alone is
18 enough probable cause for a search warrant.

19 You know, a controlled buy is independent
20 verification of facts and evidence, credibility and
21 trustworthiness of the informant. An informant's buy
22 of drugs alone can constitute probable cause
23 sufficient for a magistrate to issue a search
24 warrant. And anywhere ever there's some physical
25 proximity and active participation by a law

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1 enforcement in the buy, then the police corroboration
2 is -- it's part of the informer's operation and the
3 risk of any falsehood has been sufficiently
4 diminished.

5 And another case that I did not hand up to you
6 is State v. Rutledge. It says only when a search
7 warrant is based solely on information provided by a
8 confidential informant may a search warrant be found
9 invalid. And that's not the case here. He testified
10 he had tips from random people he had met throughout
11 his experience as an officer that had been buying
12 from him.

13 They had multiple controlled buys from him
14 throughout the month of September. One was seventy-
15 two hours. He said that these were observed by law
16 enforcement, that they were in the bushes watching
17 them do these hand-to-hand transactions. These are
18 all things that the confidential informant had told
19 them. It was also independently verified by law
20 enforcement.

21 And I would just rest on the fact that this --
22 the Court of Appeals of South Carolina said in this
23 case that a controlled buy, which is the purchase of
24 drugs observed and controlled by law enforcement
25 alone, can cause -- can constitute probable cause.

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1 And we have more than that in this case. We have
2 independent observations of the defendant doing hand-
3 to-hand transactions and we also have tips from
4 citizens in the area also saying that he's dealing
5 drugs out of his vehicle.

6 THE COURT: All right.

7 MR. DEYSACH: Just briefly, Your Honor, if I
8 might.

9 THE COURT: All right.

10 MR. DEYSACH: I would disagree with some of
11 the characterizations of what the evidence before
12 Your Honor is, that the solicitor just made, as far
13 as I feel that I heard the solicitor indicate that
14 these controlled buys were controlled to a greater
15 degree than what the officer testified to; you know,
16 that they send a guy in there, he comes back out
17 with the marijuana and with the money gone.

18 But whether -- you know, I think the solicitor
19 indicated that the police were watching this take
20 place as it occurred. I don't think there is any
21 testimony of that. In fact, on the 29th that we're
22 talking about they said, we don't actually see the CI
23 go up to the car. I think the officer said, I don't
24 see the face of the person who's supposed to be
25 sitting in the car on that day of the 29th that we're

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1 basing that surveillance on. And while they see what
2 they call hand-to-hand transaction, they don't see
3 any drugs or any money from that vantage point.

4 And so the idea that you could -- it almost
5 sounds as though the solicitor was arguing that --

6 THE COURT: Well, correct me if I'm wrong.
7 We're talking about probable cause here, now. We're
8 not talking about proof beyond a reasonable doubt.
9 And from what I gathered from the testimony, the
10 officers observed folks going into the vehicle, there
11 being some motion and movement of exchange; correct?
12 Didn't see drugs, didn't see money, but numerous
13 times of people going in, there being some exchange
14 going on, and leaving, and based on their information
15 and based on their experience as law enforcement
16 officers and dealing with drugs and stuff.

17 You know, again, we're talking probable cause.
18 They're not -- the standard for them is not to prove
19 beyond a reasonable doubt that a transaction
20 occurred. This is probable cause.

21 So I'm going to deny your motion to suppress.
22 I believe there has been substantial evidence shown
23 -- or substantial testimony to support probable
24 cause. From what I gathered, that law enforcement
25 had information that drugs were being distributed out

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1 of this particular vehicle. But that -- they didn't
2 seek a warrant based on that. Based on that type of
3 information, they began their investigation. And
4 part of that was to set up through a confidential
5 informant to make buys to determine whether or not
6 there were, in fact, dealings occurring out of that
7 vehicle.

8 There were several buys. And I agree with
9 you, Mr. Deysach, regarding the -- I don't think the
10 officer's testimony was that they actually saw
11 visually the transactions hand-to-hand between their
12 informant and the defendant. But they did send them
13 in there. And the information gathered from that
14 informant matched the information, the intelligence,
15 they had been gathering, that the last buy that they
16 made was done within seventy-two hours of going to
17 seek the warrant.

18 The warrant was based on the affidavit of the
19 officer who was actually involved in the
20 transactions. This wasn't a situation where the
21 officer involved got another officer to go to the
22 magistrate and get a warrant. The officer that was
23 involved in these transactions was actually the one
24 who prepared the affidavit, went to the magistrate,
25 got the signature from the magistrate based on the

State v. Frazier
Jury Trial - Volume 1 of 2
May 25, 2011

1 probable cause that I believe was appropriate, and
2 then they set up on the area to find an opportunity
3 to execute the warrant.

4 They executed the warrant within ten days.
5 They executed the warrant on the ninth day after the
6 issuance of the warrant, found whatever it was that
7 they found, did an inventory, did a return, and the
8 next day, which would have been the tenth day, then
9 that return was returned to the magistrate.

10 And it just -- it does appear that all of that
11 was done properly within the scope of the -- and I'm
12 going to respectfully deny the motion to suppress.

13 All right. And certainly would note any
14 exception that the defense would have to that ruling,
15 obviously.

16 All right. What else do we need to take up,
17 then, before?

18 Let me ask y'all this. Other matters -- I
19 know we've got things we've got to take up. But is
20 it anything that needs to be done prior to jury
21 selection?

22 MR. DEYSACH: I did have one thing. I think
23 the Jackson v. Denno is probably something that
24 doesn't need to be done before then.

25 THE COURT: Right.

1 statements freely and voluntarily given?

2 A. Yes, sir.

3 Q. All right. What were his statements? What
4 did you ask and what did he say?

5 A. The first things I asked him was what his name
6 was. He replied to me Matthew.

7 Then when we got into -- I approached him, on
8 his lap -- I saw he had money, a cell phone, and a pill
9 bottle on his lap. When I took him out of the car, all
10 that stuff fell right there next to him. So I asked him
11 about what was inside the pill bottle and he responded,
12 you know what's inside that. And I asked him, well --
13 or he said it's -- he said, it's medicine. And I said,
14 well, what kind of medicine. And he said, you know what
15 kind of medicine.

16 Then I asked him if there was any illegal
17 drugs inside the vehicle and he said there might be a
18 dime bag, I believe it was. Then we got into I said,
19 well, who owns all that stuff that was on your lap and
20 on the ground and inside the vehicle, and he said
21 everything in the vehicle and on his person was his.

22 I asked him about the -- I asked him about the
23 vehicle, which I believe he said it belonged to his
24 uncle or his --

25 Let me try to find it.

State v. Frazier
Jury Trial - Volume 1 of 2
May 25, 2011

1 Q. Was it his -- was it his cousin?

2 A. Yes, sir. Yep. And he said that his cousin
3 let him use it for a couple of days to take a girl out.

4 Q. Did he give you the name of that cousin?

5 A. I believe I got -- Derrick. I can't see the
6 last name right here on me.

7 [Whereupon, the witness reviews documents]

8 Q. [Mr. Shipley] Did you ask him if there were
9 any other drugs in the area, other than --

10 A. My question was about if there was -- I asked
11 him if there was any drugs in the area. He said, no,
12 just maybe a little dime bag inside the car.

13 Q. Did you ask him about something that might be
14 near this location? A park, for instance?

15 A. Oh. Yes, sir. Yes, sir.

16 I did ask him about the park that was located
17 down the road and the defendant stated that he knew
18 about the park because he used to play ball at the park.
19 And I believe the park is Oscar Frazier Park and that's
20 located right down the road.

21 MR. SHIPLEY: No further questions, Your
22 Honor.

23 THE COURT: Mr. Deysach.

24 MR. DEYSACH: Thank you very much, Your Honor.

25 I'm going to take my same spot, if that's

State vs. Frazier
Jury Trial - Volume 2 of 2
May 26, 2011

1 THE CLERK OF COURT: In the State of South
2 Carolina versus Matthew Frazier, indictment 2010-GS-07-
3 02189, trafficking in cocaine, ten or more grams but
4 less than twenty-eight grams, we, the jury, find the
5 defendant, Matthew Frazier, guilty of trafficking in
6 cocaine.

7 Indictment 2010-GS-07-02190, possession with
8 intent to distribute marijuana, we, the jury, find the
9 defendant, Matthew Frazier, guilty of possession of
10 marijuana.

11 Indictment 2010-GS-07-02191, possession with
12 intent to distribute cocaine base, we, the jury, find
13 the defendant, Matthew Frazier, guilty of possession
14 with intent to distribute cocaine base.

15 In indictment number 2010-GS-07-02193,
16 possession with intent to distribute marijuana within
17 one-half mile radius of a park, we, the jury, find the
18 defendant, Matthew Frazier, not guilty of possession
19 with intent to distribute marijuana within one-half
20 mile radius of a park.

21 In indictment 2010-GS-07-02194, possession with
22 intent to distribute cocaine within one-half mile
23 radius of a park, we, the jury, find the defendant,
24 Matthew Frazier, not guilty of possession with intent
25 to distribute cocaine within one-half mile radius of a

State vs. Frazier
Jury Trial - Volume 2 of 2
May 26, 2011

1 park.

2 In indictment 2010-GS-07-02195, possession with
3 intent to distribute crack cocaine within one-half mile
4 radius of a park, we, the jury, find the defendant,
5 Matthew Frazier, not guilty of possession with intent
6 to distribute crack cocaine base within one-half mile
7 radius of a park.

8 Indictment 2010-GS-07-02197, possession of a
9 weapon during a violent crime, we, the jury, find the
10 defendant, Matthew Frazier, not guilty of possession of
11 a weapon during a violent crime.

12 THE COURT: Thank you very much, ma'am.

13 Ladies and gentlemen of the jury, you've heard
14 the clerk read out the verdict that appears on the
15 verdict form. If these verdicts are, in fact, your
16 verdicts, if you would please raise your right hand.

17 [Whereupon, the jury complies]

18 THE COURT: All right. Thank you very much,
19 ladies and gentlemen.

20 Anything further from the State?

21 MR. SHIPLEY: No, Your Honor.

22 THE COURT: Anything from the defense?

23 MR. DEYSACH: Not as to the jury, Your Honor.

24 THE COURT: All right. Ladies and gentlemen, I
25 want to thank you very much for your service this week.

State v. Frazier
Jury Trial - Volume 1 of 2
May 25, 2011

1 medicine --

2 MR. DEYSACH: Your Honor, I think it's
3 appropriate to renew my pretrial objection.

4 THE COURT: All right, sir. That certainly is
5 noted. Overruled.

6 Q. [Mr. Shipley] When he said it was medicine,
7 what did you -- what did you ask him next?

8 A. I asked him exactly what kind of medicine and
9 he said, you know what kind of medicine it is.

10 Then I asked him about if there was any drugs
11 inside the car and he said there might be only a dime
12 bag. Then I asked him who -- all the items that were in
13 his lap that fell out, and the items inside the car, I
14 asked him whose they are and he said everything on his
15 person was his and everything in the car was his.

16 Q. Did he say -- did you ask him or did he say
17 anything about the car, whose car it was, or --

18 A. He said the car belonged to his cousin Derrick
19 and he said that he let him use the car for a couple of
20 days to take a girl out.

21 Q. Did you ask him anything else?

22 A. Yes.

23 I asked him about -- I asked him about the
24 park that was down the road. The defendant said he knew
25 about the park because he used to play ball at the park.

State v. Frazier
Jury Trial - Volume 1 of 2
May 25, 2011

1 And it was Oscar Frazier Park.

2 Q. Did you have the opportunity to interview the
3 other people there?

4 A. Yes, sir, I did.

5 Q. Did any of them -- did any of them claim
6 ownership of anything in the vehicle or anything else?

7 A. No, sir, they didn't.

8 Q. This vehicle that you found him in -- you may
9 have done this already. Was it -- what was it? What
10 kind of car was it?

11 A. It was a burgundy Dodge Intrepid.

12 Q. Is this the vehicle that you had the search
13 warrant for?

14 A. Yes, sir, it is.

15 MR. SHIPLEY: I have no further questions.

16 Answer anything that Mr. Deysach has.

17 THE WITNESS: Okay. Yes, sir.

18 THE COURT: Mr. Deysach.

19 MR. DEYSACH: Thank you, Your Honor.

20 I think without the podium, Your Honor, I was
21 going to --

22 THE COURT: Sure.

23 MR. DEYSACH: -- set up right here.

24 Hopefully, all the jurors can hear me.

25 Good afternoon, Lance Corporal Squires.

State vs. Frazier
Jury Trial - Volume 2 of 2
May 26, 2011

1 makes sense on what they say.

2 That's why I kind of feel like I don't think Mr.
3 Frazier is an addict. And I'm not saying that he is
4 some huge drug lord, either. But I am saying that he's
5 active. He's very active. And it's -- it's a tragedy
6 because his children are going to be without their
7 daddy for some period of time. His mama is going to be
8 without her son for some period of time. And it's not
9 going to be forever because none of these charges carry
10 -- I mean, these are all parolable offense.

11 But you mentioned it earlier, and I agree: the
12 victims are the folks using and Ms. Frazier and his
13 children. Those are the victims in this case. And
14 why? Why do we leave this big path of destruction
15 behind us? For money. That's all. It's a money
16 thing. And I hate it because I've got a young man -- I
17 don't know Mr. Frazier, as I said, but I hate to see
18 any young man toss his life away because of these
19 drugs. They kill folks. And I don't mean necessarily
20 physically. They're killing him. They're killing him
21 and his family. It's just tragic.

22 I mean, obviously, on indictment 2010-GS-07-
23 2190, the marijuana charge, the sentence of the Court
24 is thirty days and credit for that. I mean, that's --

25 MR. DEYSACH: I don't think I told you his jail

State vs. Frazier
Jury Trial - Volume 2 of 2
May 26, 2011

1 time in, but it has been since October 11th.

2 THE COURT: And I have already marked on here
3 that -- October the 11th was his arrest?

4 MR. DEYSACH: That was the date of this offense
5 and that was his arrest.

6 THE COURT: And I'll make sure that I'm putting
7 on here that he's to get credit from October the 11th
8 so that there's no mistake down the road.

9 And I would also encourage, if you haven't
10 already done it, before these forms go away that you
11 double check the code and the CVR code to make sure
12 that it's appropriate for what the jury came back on.

13 MR. DEYSACH: Yes, sir. I thank you for that
14 opportunity.

15 THE COURT: On indictment 20100GS-07-2189, the
16 sentence of the Court is that you be committed to the
17 State Department of Corrections for a period of ten
18 years and pay a fine of \$25,000. On indictment 2010-
19 GS-07-2191, the sentence of the Court is that you be
20 committed to the State Department of Corrections for a
21 period of fifteen years. Those sentences are all to
22 run consecutive. And you're to be given credit for
23 time from October the 11th, 2010.

24 Good luck to you, sir.

25 [JURY TRIAL CONCLUDES AT 7:00 P.M.]

WITNESSES

J. Rodriguez (BCSO)

ARREST WARRANT NUMBER

1348895

ACTION OF GRAND JURY

Brett Wolf
Foreperson of Grand Jury
Date:

MAY 19 2011

VERDICT

Foreperson of Petit Jury
Date:

NDICT

DOCKET NO. 2010GS0702189

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

May Term 2011

THE STATE

vs.

Matthew Frazier

Amended Indictment for

Drugs / Trafficking in cocaine, 10g or more, but
less than 28g – 1st Offense

SC Code: 44-53-0370(e)(2)
CDR Code:0278

After being fully advised as to my legal
rights, I hereby waive presentment to the
Grand Jury.

Defendant

I

Hereby appear in my own proper person
and plead guilty to the within indictment or
to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

INDICTMENT
2010GS0702189

At a Court of General Sessions, convened on May 19, 2011, the Grand Jurors of Beaufort County present upon their oath:

Drugs / Trafficking in cocaine, 10g or more, but less than 28g – 1st offense

That in Beaufort County, South Carolina, on or about October 11, 2010, the Defendant, Matthew Frazier, unlawfully and knowingly did sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did possess or attempt to possess a controlled substance or a controlled substance analogue, to wit: cocaine, in excess of 10 grams; in violation of 44-53-370 of the South Carolina Code of Laws (1976) as amended.

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



Solicitor

COUNTY OF Beaufort
 STATE VS.
Matthew Frazier
 AKA: _____
 Race: B Sex: M Age: 29
 DOB: [REDACTED] SS#: _____
 Address: _____
 City, State, Zip: _____
 DL#: _____ SID#: _____

INDICTMENT/CASE#: 2010GS0702189
 A/W#: J348895
 Date of Offense: 10/11/2010
 S.C. Code §: 44-53-0370(e)(2)(a)1
 CDR Code #: 0278

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADS

TO: Drugs / Trafficking in cocaine, 10 g or more, but less than 28 g - 1st offense

in violation of § 44-53-0370(e)(2)(a)1 of the S.C. Code of Laws, bearing CDR Code # 0278
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] 77875 Matthew Frazier [Signature] 68463
 Shipley, William SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ 25,000.00; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2010-GS-07-2190+2191
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. Credit for time since Oct. 11, 2010

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED ☐

☐ Set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____

Recipient: _____ May serve W/E beginning _____

*Fine: _____ Substance Abuse Counseling ☐

§ 14-1-206 (Assessments 107.5 %) \$ 25,000.00 Random Drug/Alcohol testing ☐

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 26,875.00 Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ 100.00 pmts. of \$ _____ beginning _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ paid to Public Defender Fund

§ 56-1-286 (DUI Breath Test) \$25 \$ _____ Other: Certified - A True Copy

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 1564.65

TOTAL \$ 53,719.65

Clerk of Court Deputy Clerk Kathleen M. McLean

Court Reporters Mica Person

Presiding Judge _____

Judge Code: 2141

Sentence Date: 5-26-2011

WITNESSES

J. Rodriguez (BCSO)

ARREST WARRANT NUMBER

J348897

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

DEC 16 2010

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2010GS0702191

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

December Term 2010

THE STATE

vs.

Matthew Frazier

Indictment for

Drugs / Possession with Intent to Distribute
Cocaine Base

SC Code: 44-53-0375(B)(1)

CDR Code:3014

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

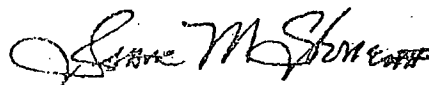
INDICTMENT
2010GS0702191

At a Court of General Sessions, convened on December 16, 2010, the Grand Jurors of Beaufort County present upon their oath:

Drugs / Possession with Intent to Distribute Cocaine Base

That in Beaufort County, South Carolina, on or about October 11, 2010, the Defendant, Matthew Frazier, did manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to distribute, dispense, deliver a controlled substance or a controlled substance analogue, to wit: cocaine base or "crack"; in violation of 44-53-375 of the South Carolina Code of Laws (1976) as amended.

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



Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

67

COUNTY OF Beaufort
STATE VS.
Matthew Frazier

AKA:

Race: B Sex: M Age: 29DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Drugs / PWID CRACK COCAINE, 1ST OFFENSEINDICTMENT/CASE#: 2010GS0702191A/W#: J348897Date of Offense: 10/11/2010S.C. Code §: 44-53-0375(B)(1)CDR Code #: 3014

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 44-53-0375(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3014
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Shibley, William77875 SC Bar#Matthew Frazier DefendantDon Deane Attorney for Defendant68462 SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2010-65-07-2190 + 2189☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. Credit for time since Oct. 11, 2010☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 2
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 8.40
TOTAL		\$ 288.40

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

Certified - A True Copy

Jeri Ann Rose
Jeri Ann Rose - Clerk of Court
Beaufort County, SC - La Sandra Young

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2141Sentence Date: 5-26-2011

Clerk of Court/ Deputy Clerk

Court Reporter: Mea Person

WITNESSES

J. Rodriguez (BCSO)

ARREST WARRANT NUMBER

J348896

ACTION OF GRAND JURY

True Bill

B. M. White
Foreperson of Grand Jury
Date:

DEC 16 2010

VERDICT

Foreperson of Petit Jury
Date:

INDICT

DOCKET NO. 2010GS0702190

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

December Term 2010

THE STATE

vs.

Matthew Frazier

Indictment for

**Drugs / Possession with Intent to Distribute
Marijuana**

SC Code: 44-53-0370(b)(2)
CDR Code: 0186

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
Hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

INDICTMENT
2010GS0702190

At a Court of General Sessions, convened on December 16, 2010, the Grand Jurors of Beaufort County present upon their oath:

Drugs / Possession with Intent to Distribute Marijuana

That in Beaufort County, South Carolina, on or about October 11, 2010, the Defendant, Matthew Frazier, unlawfully did possess with intent to distribute, dispense, or deliver a quantity of marijuana, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, or did otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, or deliver marijuana, all in violation of Section 44-53-370, Code of Laws of South Carolina (1976), as amended.

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


Solicitor

70 STATE OF SOUTH CAROLINA

COUNTY OF Beaufort
STATE VS.
Matthew Frazier

AKA:

Race: B Sex: M Age: 29

DOB: SS#:

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Drugs / Poss. of 28g (1.0z) or less of marijuana or 10g or less of hash - 1st of

in violation of § 44-53-0370(d)(4) of the S.C. Code of Laws, bearing CDR Code # 0659

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Shipley, William

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☒ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. Credit for time served Oct. 11, 2010☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 8.40
TOTAL		\$ 288.40

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010GS0702190

A/W#: J348896

Date of Offense: 10/11/2010

S.C. Code § : 44-53-0370(b)(2)

CDR Code #: 0186

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP days/hours Public Service Employment

Obtain GED ☐Attend Voc. Rehab. or Job Corp. ☐

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other: Certified - A True Copy

Jeri Ann Rousseau - Clerk of Court
Beaufort County, SC - Leandra Young☐ Appointed PD or appointed other counsel
§ 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2141

Sentence Date: 5-26-2011

Clerk of Court/Deputy Clerk: Katie McComin

Court Reporter: Mica Pearson

STATE OF SOUTH CAROLINA

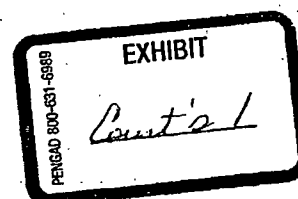
COUNTY OF BEAUFORT

SEARCH WARRANT

1999 Dodge Intrepid VIN 2B3HD56J0XH757430

DATE October 02, 2010

OFFICER Cpl. J. R. Carmany



STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

SEARCH WARRANT

Form Approved by
S.C. Attorney General
Section 17-13-160
March 16, 1988

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY
OF BEAUFORT

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED

See Attached Exhibit C

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

See Attached Exhibit B

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Beaufort, S.C.
10-2, 2010

Signature of Judge

(L.S.)

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF BEAUFORT

Personally appeared before me, one Cpl. J. R. Cammy
who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions
of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

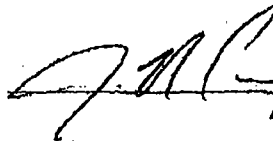
See Attached Exhibit BDESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHEDSee Attached Exhibit CREASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISESSee Attached Exhibit A

Sworn to and Subscribed before me

this 2day of Oct2010

(L.S.)

Signature of Judge



Affiant

#00469Address 2001 Duke StreetBeaufort, South Carolina, 29902Phone (843)-757-1575

RETURN

I received the attached Search Warrant OCTOBER 02, 2010, and have executed it as follows:
On OCTOBER 11, 2010 at 1919 o'clock P M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with IN THE VEHICLE
Name of person searched or "at the place of search" with
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

SEE ATTACHED INVENTORY

This inventory was made in the presence of LT. WOODWARD, MSGT. SAMPOLSKI, SSGT. FINEASCILO, SGT. RICKER,
AND CPL MICHAUD, CPL RODRIGUEZ, CPL CARMAN

I swear that the Inventory is a true and detailed account of all property taken by me on the warrant.

SWORN to before me this 10 TH
DAY OF OCT, 2010

[Signature] (L.S.)
Signature of Judge

[Signature]
(Signature of Officer Executing Warrant)



P.J. Tanner
Sheriff

**OFFICE OF SHERIFF
BEAUFORT COUNTY**

POST OFFICE BOX 1758
BEAUFORT, SOUTH CAROLINA 29901

AREA CODE (843)

SHERIFF	470-3200
CHIEF DEPUTY	470-3192
CRIMINAL RECORDS	470-3186
CIVIL RECORDS	470-3188
JUDGMENTS	470-3189
FAX #	470-3187

**STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT**

EXHIBIT A

SEARCH WARRANT AFFIDAVIT:

Personally appeared before, Cpl. Carmany, who being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of section 17-13-140, 1976 Code of Law of South Carolina, as amended, is located on the following premises in this county.

I have been employed as a South Carolina Police Officer since 2006 and a certified law enforcement officer since 1998. In 2010, I was assigned to the Beaufort/Jasper Multi-Agency Drug Task Force, where I am presently employed as a narcotics investigator. I have participated in numerous narcotics investigations over the past year. These investigations resulted in numerous arrests and seizures of drugs, related to illegal drug activity.

I have attended law enforcement schools related to the enforcement of controlled substances, and I have read papers, articles, and books dealing with illegal drugs and their effects. I have worked numerous hours with more tenured drug investigators and participated in the preparation of drug related search warrants throughout Beaufort / Jasper County in the State of South Carolina and Summit County in the State of Ohio.

The information provided herein is based upon my own investigation, as well as the investigations of agents of the Beaufort/Jasper Multi-Agency Drug Task Force, whose results have been provided to me.

**Reason for Affiant's Belief That The
Property Sought Is On the Subject Premises**

1. The Beaufort/Jasper Multi-Agency Drug Task Force began a drug investigation during the month of September 2010 in reference to the area of Martha Brown Circle, Bluffton, Beaufort County, South Carolina. Multiple

confidential and reliable sources provided information about a subject selling drugs, specifically marijuana, crack cocaine and cocaine, out of a burgundy Dodge Intrepid on Martha Brown Circle. The reliable sources identified a black male known as "BJ" as the person selling drugs from this vehicle.

2. During the month of September 2010 multiple controlled purchases of suspected marijuana were conducted from the black male subject known as "BJ," from within the burgundy Dodge Intrepid bearing SC vehicle registration GJU683. The controlled buys were conducted by a reliable and confidential informant working under the direction and control of the Beaufort/Jasper Multi-Agency Drug Task Force. The controlled purchases were monitored by members of the Beaufort/Jasper Multi Agency Drug Task at the incident location.
3. That with in the last seventy-two (72) hours a reliable and confidential informant did conduct a controlled purchase of suspected marijuana from "BJ" from within the burgundy Dodge Intrepid located on [REDACTED] Bluffton, Beaufort County, South Carolina. This transaction was monitored by members of the Beaufort/Jasper Multi Agency Drug Task Force at the incident location.
4. Members of the Beaufort/Jasper Multi Agency Drug Task Force have conducted surveillance on the area of Martha Brown Circle, Bluffton, Beaufort County, South Carolina, to include the burgundy Dodge Intrepid bearing SC vehicle registration GJU683. Members of the Beaufort/Jasper Multi Agency Drug Task Force have observed what they recognized from their training and experience as multiple hand to hand drug transactions which were conducted from within the burgundy Dodge Intrepid.
5. The Confidential Informant was shown an unmarked photograph of a black male known to members of the Beaufort/Jasper Multi-Agency Drug Task Force as Matthew Frazier. The Confidential Informant positively identified Matthew Frazier as the same black male known to the Confidential Informant as "BJ" and the person who sold the Confidential Informant a quantity of Marijuana on multiple occasions.
6. Matthew Frazier is listed as living at 114 Goethe Rd., Bluffton, South Carolina, 29910, in the South Carolina Department of Motor Vehicle Records. Matthew Frazier's South Carolina Driver's License (090283113) displays 114 Goethe Rd., Bluffton, South Carolina, 29910, as the customer address. This address is also known as 114 Martha Brown Circle and has been provided by Matthew Frazier in the past as his address to Law Enforcement.

W 9

7. Matthew Frazier, the resident of [REDACTED] has the following criminal convictions in the State of South Carolina. Frazier was convicted of Simple Assault & Battery on 06-08-1999, Unlawful Carry of a Weapon on 12-17-2002, Criminal Domestic Violence on 09-05-2008.

Based on the ongoing criminal activity substantiated by the controlled purchases of marijuana from the vehicle, a search warrant is requested for the burgundy Dodge Intrepid bearing SC vehicle registration GJU683, located primarily on [REDACTED] Bluffton, Beaufort County, South Carolina. Any and all subjects that are in close proximity of the vehicle or associated with the vehicle at the execution of the Search Warrant. The surrounding area of the vehicle due to the ability to easily hide or discard illegal drugs to include but not limited to bags and common items used to store illegal drugs during the execution of the Search Warrant. Based on the above statement of facts collected by various task force officers including the affiant, it is the affiant's belief that the aforementioned vehicle has been established as being used in the history of continuing criminal enterprise involving the transportation, storage and sale and distribution of illegal drugs, specifically marijuana, in the Bluffton area of Beaufort County, South Carolina.

It is also the affiant's belief that there is presently concealed with in the premises to be searched, items which constitute evidence of violations of sections 44-53-370 and 44-53-375 of the South Carolina Code of Laws, 1976 as amended. The source of your affiant's information and the grounds for his belief are based as follows:

Based upon your affiant's training, experience, and participation in other narcotic investigations, I know:

- W 92
- a) That drug traffickers maintain books, records, receipts, notes, ledgers, money orders, and other papers relating to the negotiation, purchase, transportation, and distribution of controlled substances. That drug traffickers commonly "front" (provide on consignment) controlled substances. That the aforementioned books, records, receipts, notes, ledgers, etc., are maintained where the traffickers have ready access to them.
 - b) That drug traffickers of controlled substances commonly maintain addresses and/or telephone numbers in books or papers, which reflect names, addresses and/or telephone numbers of their associates in the trafficking organization.
 - c) That drug traffickers maintain paraphernalia for manufacturing, weighing, cutting, packaging, storing, and distributing controlled substances, including scales, baggies, utensils, etc.
 - d) That drug traffickers take or cause to be taken, photographs of themselves, their associates, their property, and their product, and that these photographs are usually in their possession.

e) That drug traffickers must maintain on hand, large amounts of U.S. Currency in order to maintain and finance their on-going narcotics business.

f) That drug traffickers very often place assets in names other than their own to avoid detection/seizure of these assets by law enforcement authorities.

g) That even though these assets are in the name of others, the drug trafficker actually owns and continues to use these assets and exercise dominion and control over them.

h) That it is common for drug traffickers to hide contraband proceeds of drug sales, and records of drug transactions in secure locations within their residence for the ready access, and to conceal them from law enforcement authorities.

i) That persons involved in drug trafficking conceal in their residence, large amounts of currency, items of value and/or proceeds of drug transactions, evidence of financial transactions relating to obtaining, transferring, secreting, or spending large amounts of money made from engaging in drug trafficking activities.

j) That people in general, drug traffickers included, maintain evidence of residency, occupancy and/or ownership of premises and locations described in the warrant to include: telephone and utility bills, canceled checks, bank statements, keys, rental/lease agreements, tax returns, etc.

k) That drug traffickers commonly have in their possession that is on their person, at their residence or place of business, firearms, including but not limited to: handguns, revolvers, rifles, shotguns, and other weapons. Said property may include, but not limited to: narcotics, jewelry, narcotic paraphernalia, books, records, U.S. Currency, etc.

l) Base on this officer's experience that drug traffickers commonly have other associates holding the illegal narcotics, to avoid detection by law enforcement officers, this officer asked that all persons present during the execution of this search warrant, be subjected to search.

Affiant

44-169

Signature of Judge

(L.S.)



P.J. Tanner
Sheriff

**OFFICE OF SHERIFF
BEAUFORT COUNTY**

P.O. BOX 1758
BEAUFORT, SOUTH CAROLINA 29901

AREA CODE (843)

SHERIFF	470-3200
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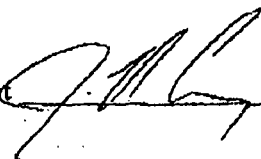
**STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT**

EXHIBIT B

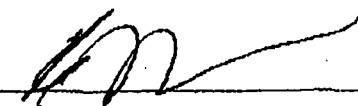
DESCRIPTION OF PROPERTY SOUGHT

Any and all illicit narcotics or drugs, to include, but not limited to: Marijuana, Cocaine, and Crack Cocaine. Any items, devices, containers, implements, or tools commonly associated with the use, sale, manufacturing, storage, transportation, or distribution of illicit narcotics or drugs. Any proceeds or records of proceeds of illicit narcotic or drug transactions to include, but not limited to, currency, ledgers, or magnetic media. Any items, which would tend to identify persons, found in the place to be searched. Any and all firearms present.

Affiant

 # 66469

Signature of Judge

 (L.S.)



P.J. Tanner
Sheriff

**OFFICE OF SHERIFF
BEAUFORT COUNTY**

P.O. BOX 1758
BEAUFORT, SOUTH CAROLINA 29901

AREA CODE (843)

SHERIFF	470-3200
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FAX #	470-3187

**STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT**

EXHIBIT C

**DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED**

A 1999 burgundy four door, Dodge Intrepid, VIN 2B3HD56J0XH757430 and bearing South Carolina Registration GJU-683. The vehicle is registered to Derrick Fields, address of [REDACTED]. Any and all subjects that are in close proximity of the vehicle or associated with the vehicle at the execution of the Search Warrant. The surrounding area of the vehicle due to the ability to easily hide or discard illegal drugs to include but not limited to bags and common items used to store illegal drugs during the execution of the Search Warrant.

Affiant

[Signature] H 06/05

Signature of Judge

[Signature] (L.S.)

SEARCH WARRANT INVENTORY

CASE NO.: 201010110586

PAGE: 1 OF 1

LOCATION:

DATE: 10-11-10

BEGIN: 1919 END: 2102

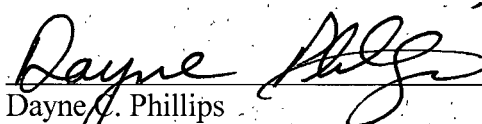
ITEM NO.	DESCRIPTION	LOCATION	LOCATED BY	TIME
1	YELLOW MEDICINE BOTTLE CONTAINING	FLOOR NEAR DOOR	CARMANY	1933
	YELLOW ROCKLIKE SUBSTANCE	"	"	
2	BLACK CRICKET CELLULAR PHONE	"	"	1936
3	\$210.00 U.S. CURRENCY	"	MICHAUD	1940
4	PORTABLE BAG CONTAINING GREEN LEAFY	CARLOS WILLIAMS W	MICHAUD	1945
	SUBSTANCE	RIGHT POCKET FRONT		
5	SILVER METAL CONTAINER	ROADWAY	RICE	1955
6	BLACK PLASTIC TERN BAG	FLOOR OUTSIDE DOOR	CARMANY	2000
7	BLACK/SILVER DIGITAL SCALE	SITTING ON CENTER CONSOLE	"	2002
8	PLASTIC BAGGIE W/ WHITE RESIDUE	DIVERSIDE FLOORBOARD	"	2017
9	PLASTIC BAG CONTAINING WHITE POWDERED	SITTING ON SHIFTER	CARMANY	2021
	SUBSTANCE			
10	BLACK Hi-Point 9mm S/N: P109102	PASSENGER FLOORBOARD	RICKER	2024
	THREE (3) 9mm Round, ONE (1) MAG	(STOLEN)		
11	MISC PLASTIC BAGS	"	"	2029
12	CRIMINAL ROYAL BAG CONTAINING	UNDER KICK PANEL	MICHAUD	2030
	U.S. CURRENCY \$11,040.00	(UNDER DASH)		
13	SILVER & BLACK CELL PHONE (#2)	DIVERSIDE DOOR PANEL	"	2034
14	\$181.00 U.S. CURRENCY	CENTER CONSOLE	"	2035
15	GREEN LEAFY SUBSTANCE IN PLASTIC BAG	"	"	2039
16	SUBURBAN LODGE CARD KEY	"	"	2040
17	PLASTIC BAG CONTAINING SUSPECTED MARIJUANA	PASSENGER SEAT (ON)	CARMANY	2043
	# 75 PILLS			
18	MARIJUANA & WHITE ROCKLIKE SUBSTANCE	ON PASSENGER SEAT	"	2045
19	SUSPECTED MARIJUANA BUD	PASSENGER FLOORBOARD	"	2045
20	GNC INOSITOL POWDER CONTAINER	"	"	2047
21	VALTINE SANDWICH BOX (EMPTY)	"	"	2049
22	LOTTERY TICKET CONTAINING MARIJUANA	MATTHEW FRAZIER IN	POSSIBLY CARMANY	1936
	RESIDUE	FRONT RIGHT POCKET		

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CERTIFICATE OF COUNSEL FOR APPELLANT

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

December 28th, 2012


Dayne C. Phillips
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Thomas A. Russo, Circuit Court Judge

RECEIVED

DEC 28 2012

SC Court of Appeals
RESPONDENT

THE STATE,

V.

MATTHEW FRAZIER,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Julie Kate Keeney, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and on Matthew Frazier at Kirkland Correctional Institution 4344 Broad River Road Columbia, SC 29210 this 28th day of December, 2012.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 28th day of December, 2012.

Marion Hight (L.S.)
Notary Public for South Carolina

My Commission Expires: October 30, 2022