

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from York County

Honorable Daniel D. Hall, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARIO CHANEL MOISE,

APPELLANT

APPELLATE CASE NO 2019-001172

RECORD ON APPEAL

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INDEX

INDEX i

TRANSCRIPT OF TRIAL HELD JULY 9, 2019.....1

 PRE-TRIAL MATTERS6

 TESTIMONY

 DETECTIVE MARK MOTZ15

 VINCENT ROSEBOROUGH26

 WILLIAM COLEMAN30

 JUDGE DANIEL MALPHRUS37

 CECIL TRADER45

 RODNEY HOPE50

 DETECTIVE FRED MOORE53

 AMANDA CARTER63

 MARIO MOISE82

 VERDICT101

 MOTION FOR NEW TRIAL102

 COURT’S RULING102

 SENTENCING104

INDICTMENTS111

CERTIFICATE OF COUNSEL115

State of South Carolina.,)
)
)
County of York.)

In the Court of General
Sessions for York

Case No.: 2018-GS-46-06030

State of South Carolina.,)
)
Plaintiff.,)
)
-vs-)
)
Mario Chanel Moise.,)
)
)
Defendant.)
)
)

Transcript of Record
Bench Trial

July 9, 2019
York, South Carolina

B-E-F-O-R-E:

The Honorable Daniel D. Hall, Judge.

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Union and York Counties
To The Honorable Daniel D. Hall

ORIGINAL

I-N-D-E-X

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

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21
22
23
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<u>WITNESS</u>	<u>BY:</u>	<u>PAGE NO.</u>
Detective Mark Motz	Solicitor Joyner	P.15-24
	Ms, Russo.	P.24-25
Vincent Roseborough	Solicitor Joyner	P.26-28
	Ms. Russo.	P.29
William Coleman	Solicitor Joyner	P.30-34
	Ms. Russo.	P.35-36
Judge Daniel Malphrus	Solicitor Joyner	P.37-43
	Ms. Russo.	P.44
Cecil Lyn Trader	Solicitor Joyner	P.45-48
	Ms. Russo.	P.48-49
Rodney Hope	Solicitor Joyner	P.50-52
	Ms. Russo.	P.53
Detective Fred Moore	Solicitor Joyner	P.53-60
	Ms. Russo.	P.60-62
Amanda Carter	Solicitor Joyner	P.63-69
	Ms. Russo.	P.71-73
Mario Moise	Ms. Russo.	P.82-92
	P.100-101
	Solicitor Joyner	P.92-100
Verdict/Sentencing.		P.104-109
Court Reporter Certificate Page		P.110

I-N-D-E-X

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

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
St.1	Defendant's Voluntary Statement to UCSD 6/18/19.		P.15
St.2	Affidavit of Indigency and Application for Counsel 7/26/18.		P.40
St.3	Bail Proceeding Form II.		P.43
St.4	YCSO Sex Offender Custody Notification		P.52
St.5	YCSO Sex Offender Registration Offender Information Form 12 of 14 pages		P.66/70
St.6	NOT ENTERED		
St.7	Employment Documentation		P.33
St.8	Buffalo Wild Wing Time sheets Pages 195 thru 199 and 313		P.35
St.9	2 page SC Change Form (residence, Employment, school, email and internet, vehicle)		P.94
St.10	Indictment No. 2003-GS-46-02192 for Failure to Register as Sex Offender		P.104
St.11	Indictment No. 2016-GS-46-01271, Fail to register		P.104

I-N-D-E-X

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

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
St.12	2015-GS-46-02014 Indictment, Fail to register		P.104
St.13	Amended Indictment 2009-GS-23-05698 Fail to register		P.104
St.14	2006-GS-04-02648 Sentencing Sheet for 10-6-06		P.104
St.15	NONE MARKED/NOT ENTERED		
St.16	2000-GS-04-023008 Sentencing Sheet from 7/20/00 Sex Offender Registry Violation		P.104

Court Reporter's Note: All Exhibits were filed with the
York County Clerk of Court's Office.

1 (YORK GENERAL SESSIONS COURT IN SESSION TUESDAY, JULY
2 9, 2019 AT 09:40 A.M.)

3 THE COURT: Thank you. Please be seated.

4 Is the State ready?

5 SOLICITOR JOYNER: The State's ready, your Honor.

6 THE COURT: Defense ready?

7 MS. RUSSO: Defense is ready, your Honor.

8 THE COURT: All right. Solicitor, call your next
9 case.

10 SOLICITOR JOYNER: Thank you, your Honor.

11 The State calls The State of South Carolina versus
12 Mario Chanel Moise. We're proceeding today in a trial two
13 indictments, the first 2018-GS-46-06030 for failure to
14 register as a sex offender. The second amended Indictment
15 2018-Gs-46-7697 for failure to register as a sex offender.

16 THE COURT: All right. And, Ms. Russo, you represent
17 Mr. Moise.

18 MS. RUSSO: Yes, your Honor.

19 THE COURT: How does he plead on these two
20 indictments?

21 MS. RUSSO: Not guilty, your Honor.

22 THE COURT: And I was informed yesterday that he was
23 requesting a bench trial; is that correct?

24 MS. RUSSO: Yes, your Honor.

25 THE COURT: Is that still the status, the position

1 we're in this morning?

2 MS. RUSSO: Yes, your Honor.

3 THE COURT: And certainly the State also has a right
4 to a jury trial that's equal to the rights of the defendant
5 to request a jury trial.

6 Ms. Joyner, is the State also requesting a bench
7 trial?

8 SOLICITOR JOYNER: Yes, your Honor.

9 THE COURT: All right. Then y'all ready to go?

10 SOLICITOR JOYNER: The State is ready, your Honor.

11 THE COURT: Is there any pretrial issues?

12 MS. RUSSO: We have a couple of very short matters,
13 your Honor. If I may approach?

14 (DOCUMENTS RECEIVED UP BY THE COURT.)

15 THE COURT: All right, I'll be glad to hear from you
16 Ms. Russo.

17 MS. RUSSO: Thank you, your Honor. I believe Ms.
18 Joyner and I have discussed most of them but the first is
19 to determine whether the State has complied with Rule 5 and
20 Brady.

21 SOLICITOR JOYNER: And, your Honor, the State has
22 complied; provided initial discovery on both cases. We
23 followed up with records, sex offender registry records
24 that we've been able to obtain from the York County
25 Sheriff's Office. The last item that was produced was this

1 morning. We issued a subpoena duces tecum for one of the
 2 records and we received a copy of those and provided the
 3 same to Ms. Russo so we are in compliance, your Honor.

4 THE COURT: All right. Thank you. Number 2.

5 MS. RUSSO: We would like to determine the prior
 6 record of the defendant if the state -- or the state would
 7 intend to introduce if he should choose to testify.

8 THE COURT: Well let's do this. It's a little bit
 9 unusual in that -- not unusual -- it's normal to have bench
 10 trials; however, we discussed his prior record with the
 11 court which is also the jury. That possibly could enter
 12 into the court's decision. One, let's just answer, does he
 13 have a prior record without going into it that the State
 14 would intend to introduce?

15 SOLICITOR JOYNER: He does have -

16 THE COURT: Without going into what they are.

17 And I guess my question is have you discussed those
 18 with Ms. Russo that you may or may not bring those --
 19 Here's the question.

20 SOLICITOR JOYNER: Yes, sir.

21 THE COURT: If you've discussed those with her and she
 22 says fine I have no objection to those, then I don't need
 23 to hear what they are and I can hear them at the
 24 appropriate time. If there is part of his record that you
 25 would like to introduce, and that you have an objection to

1 it without going into that, just tell me that's what it is
2 and then we'll deal with that.

3 MS. RUSSO: I believe there would be something we have
4 not discussed to see whether we agree on what those
5 somethings are yet.

6 THE COURT: All right. Well obviously we're not gonna
7 get to the point at least for a little while where he
8 testifies. Y'all talk about that and then we'll deal with
9 that if we need to if and when he testifies.

10 SOLICITOR JOYNER: And, your Honor, in candor to the
11 Court I'm not stating this to try to influence the Court as
12 the fact finder, but because it's a bench trial I have
13 certain exhibits that I did not redact that would reference
14 to part of his prior record.

15 THE COURT: We'll deal with those as you bring them
16 up. Well here's the thing. Whether he testifies or not, I
17 don't know, but we'll deal with that when we get to that
18 point.

19 SOLICITOR JOYNER: Yes, sir.

20 THE COURT: If he's gonna testify then we'll deal with
21 his prior record.

22 SOLICITOR JOYNER: Yes, your Honor.

23 THE COURT: If there are parts that you did not redact
24 you can go ahead and introduce those ---

25 SOLICITOR JOYNER: Okay.

1 THE COURT: --- during the trial. I will not take a
2 look at those until we -- if and when we get beyond him
3 testifying. Maybe that's the way to handle that.

4 SOLICITOR JOYNER: Well it just goes to being a third
5 offense. I think the court should know that.

6 THE COURT: Right. Obviously I know what offense it
7 is.

8 SOLICITOR JOYNER: Yes, sir.

9 THE COURT: So if it goes to that issue then that
10 shouldn't be a problem.

11 SOLICITOR JOYNER: Okay.

12 THE COURT: All right, so we'll deal with the prior
13 record if he intends -- if and when he testifies.

14 All right, Number 4, number 3.

15 MS. RUSSO: Yes, your Honor. I believe we have
16 received the list of witnesses and I believe we have
17 received their criminal histories and anybody who has one.

18 SOLICITOR JOYNER: That's correct.

19 THE COURT: All right.

20 MS. RUSSO: I don't believe there is any Lyle
21 testimony but to the extent that there is we would like to
22 know about that.

23 SOLICITOR JOYNER: And, your Honor, the State does not
24 intend to introduce any Lyle evidence in it's case in
25 chief. I think unless the door is suddenly opened to prior

1 registry Lyle.

2 THE COURT: We'll deal with that if and when that
3 comes up in trial. And then Number 5.

4 MS. RUSSO: I also don't believe there is statements
5 made by Mr. Moise but to the extent that there is we would
6 ask for knowledge of those.

7 SOLICITOR JOYNER: And I'm not aware of any statement
8 that were made to the arresting officers. By agreement we
9 released those arresting officers and the detectives are
10 gonna testify regarding the arrest so there are no
11 statements that would come in through those officers.

12 THE COURT: All right. No prior statements. Or no
13 statements to the officers. All right, anything else, Ms.
14 Russo?

15 MS. RUSSO: Nothing further, your Honor.

16 THE COURT: Any pretrial issues from the State?

17 SOLICITOR JOYNER: No, sir, your Honor. And strike
18 two of the witnesses from the State's witness list we put
19 up at the bench earlier. The first witness Christopher
20 Blaine Addis and the third to last witness Steven Michael
21 Reynolds.

22 THE COURT: All right. Thank you.

23 Do y'all wish to make any opening statements to the
24 jury?

25 SOLICITOR JOYNER: I do have a brief summary for the

1 Court.

2 THE COURT: All right. That would be very helpful.

3 I'll be glad to hear from you.

4 SOLICITOR JOYNER: Thank you, your Honor.

5 The Defendant is charged with two counts of failure to
6 register. The first indictment 2018-GS-46-066030 alleges
7 that incident date of July 1st to July 23rd, 2018.

8 The second indictment also a 2018 indictment ending in
9 7967 alleges an incident date of July 31st through
10 September 27th of 2018.

11 The State believes the evidence will show the
12 defendant was adjudicated guilty for criminal sexual
13 conduct with a minor in the first degree. The conviction
14 pled to -- or adjudication was November 27th of 1995. The
15 Defendant is previously registered in York County but had
16 been presiding outside of York County prior to these
17 incidents. The Defendant had returned to York County and
18 become employed at Buffalo Wild Wings that's located in
19 York County without registering.

20 The law enforcement investigated a tip they received
21 that he was employed at Buffalo Wild Wings. They went to
22 that location in July and confirmed his employment at which
23 point he still had not registered. On July 25th of 2018
24 the Defendant was arrested at his work and that is the
25 basis of the warrant underlying 06030.

1 At his bond hearing he provided information that he
2 was employed at Buffalo Wild Wings. On his bond paperwork
3 he signed acknowledging the address at 1305 Saluda Street
4 which is within York County although not indicating the
5 apartment number but he was released from custody on July
6 26th and did not register thereafter.

7 The second warrant was obtained for him in August of
8 2018 for failing to register after his release. It was
9 served on September 27th of 2018 when he was arrested at
10 1305 Saluda Street.

11 At that point he still had not registered so the
12 second Indictment ending in 2967 includes the expanded time
13 frame to include the time period after -- from the time the
14 warrant was issued until the time that the warrant was
15 served while he remained unregistered.

16 THE COURT: All right. Thank you.

17 Ms. Russo, do you wish to make any opening remarks?

18 MS. RUSSO: Yes, Your Honor. If it please the Court.

19 Mr. Moise as Ms. Joyner told you was residing outside
20 of the county of York. He was residing in the State of
21 Florida for a period of time; had moved there from South
22 Carolina where he's lived most of his life, and in Florida
23 he did not have to register. And when he moved back to
24 South Carolina he did not understand initially that he
25 would need to register and had not encountered that

1 situation before where he had been out of state; didn't
2 have to register, and just simply didn't understand. As
3 someone without a high school or college education that was
4 just beyond his comprehension; not something that he got.

5 But he came back to South Carolina. He got a job
6 here, he was arrested at that job and he's maintained that
7 job for about a year now. You heard that he was arrested
8 at the residence that -- the second time around he was
9 arrested at the same residence. At the first time around
10 he put on his bond paperwork that he was known to live at
11 known to reside told the jail he lived at so while he may
12 not have gone to go register immediately after being
13 released from jail the jail in York County were aware of
14 where he was, so he did substantially comply with the
15 statute.

16 In this case we would ask you to just take a look at
17 who Mr. Moise is and his history and the fact that he was
18 convicted or actually adjudicated delinquent because he was
19 so young. At such a young age that has impacted his whole
20 life and his ability to comply with the requirements of the
21 statute but to take a look at what his situation now and
22 the improvements he's made and the fact that he's had
23 stability over the last year and we would just ask you to
24 take a look at that, your Honor.

25 THE COURT: All right. Thank you.

1 Ms. Joyner, call your first witness.

2 SOLICITOR JOYNER: Your Honor, the State would like to
3 begin by offering into evidence under Rule 902 and 903 of
4 the State's Exhibit 1 which is a certified copy of his
5 adjudication for criminal sexual conduct with a minor in
6 the 1st degree.

7 THE COURT: Any objection?

8 MS. RUSSO: One moment, your Honor.

9 (PAUSE.)

10 MS. RUSSO: Your Honor, the defense would stipulate
11 that he is supposed to be on the registry and so we would
12 object to it coming in just because it would be overly
13 prejudicial that what he's on the registry for and the
14 facts of his case and we would just object under that.

15 THE COURT: All right. Well I assume you're objecting
16 to the form in which the prior CSC or the prior offense is
17 being proven up. I note your objection however I'm going to
18 admit State's Exhibit 1 into evidence.

19 (WHEREUPON, STATE'S EXHIBIT NO. 1, IDENTIFIED AND
20 MARKED, RECEIVED INTO EVIDENCE.)

21 SOLICITOR JOYNER: Thank you, your Honor.

22 MS. RUSSO: Thank you, your Honor.

23 THE COURT: The stipulation was not to the form
24 State's Exhibit 1. The stipulation was that he had a prior
25 offense that would require him to register. I note that

DETECTIVE MARK MOTZ: DIRECT BY SOLICITOR JOYNER:

-15-

1 and however I am going to allow State's Exhibit 1 into
2 evidence.)

3 SOLICITOR JOYNER: Thank you, your Honor.

4 (WHEREUPON, STATE'S EXHIBIT NO. 1, IDENTIFIED AND
5 MARKED, RECEIVED INTO EVIDENCE.)

6 SOLICITOR JOYNER: Your Honor, the first witness for
7 the State is Detective Mark Motz. If you'd step forward
8 and be sworn.

9 (WHEREUPON, MARK MOTZ, BEING
10 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

11 DIRECT EXAMINATION

12 DETECTIVE MARK MOTZ BY SOLICITOR JOYNER:

13 Q. Good morning. Can you please state your full name for
14 the record?

15 A. Mark Elliott Motz.

16 Q. Where are you employed, Mr. Motz

17 A. York County Sheriff's Office.

18 Q. What is your title?

19 A. Detective.

20 Q. How many years have you been in law enforcement?

21 A. Almost 25 years.

22 Q. How long or what agency are you currently with?

23 A. York County Sheriff's Office.

24 Q. How long have you been with the York County Sheriff's
25 Office?

ORIGINAL

1 A. Little over 20 years.

2 Q. And do you have prior law enforcement experience?

3 A. Yes.

4 Q. And what experience is that?

5 A. That was in the Coast Guard.

6 Q. And is your current position as a detective how long
7 have you been a detective?

8 A. Ten years.

9 Q. What are your responsibilities as a detective?

10 A. All types of investigations. I've been involved with
11 property crimes right now. I've been involved with the
12 violent crimes; the sex crimes unit, as well as did the sex
13 offender registry for several years.

14 Q. Tell me how many years you've been with the sex
15 offender registry?

16 A. I believe it was right at 3 years.

17 Q. And what was the time period that you did that
18 registry?

19 A. Between 2000 -- I believe it was just up to 2000 or
20 2014 to 2016.

21 Q. And when you said you worked for the registry, what
22 type of work did you do at the registry?

23 A. I did registrations on individuals that are required
24 by law to

25 Q. On sex offenders?

DETECTIVE MARK MOTZ: DIRECT BY SOLICITOR JOYNER:

-17-

1 A. That's correct.

2 Q. And if you could please just explain in general
3 terms what the sex offender registry is.

4 A. It's basically after defendant's have been convicted
5 of a crime involving sex offenses and they're required to
6 come onto the sex offender registry they would come to the
7 sheriff's office, we would register them and put their
8 information into the computer and ask them questions step
9 by step, box by box, line by line, of what the questions
10 were written in the law and we would get them registered
11 give it to them afterwards just to let them see it, initial
12 it, and sign it.

13 Q. And so the information, what types of information
14 would a person have to provide?

15 A. It's all sorts but they would have to give their name,
16 aliases, internet, their home address, their place of
17 employment and just so on on vehicles. I mean there's just
18 a ton of 'em.

19 Q. And you said that you would take the information you
20 would enter it into the computer?

21 A. That's correct.

22 Q. You then type out or print out a form for them to
23 review?

24 A. That's correct.

25 Q. And do you allow them to review that information

ORIGINAL

1 before signing?

2 A. That's correct.

3 Q. And if the person were to say no, no, no, you got
4 that wrong, would you be willing -- you would change that
5 information?

6 A. That's correct.

7 Q. And when you -- who -- who all ultimately maintains
8 all the sex offender records in the state?

9 A. SLED.

10 Q. When you obtain information from offenders who are
11 living, working, et cetera, in York County, do you put that
12 information into the SLED data base?

13 A. That's correct.

14 Q. Do you also maintain records of registrations within
15 your agency?

16 A. That's correct.

17 Q. Is registration as a sex offender a one time
18 requirement?

19 A. No its not. Its for life in the state of South
20 Carolina.

21 Q. And do people have to register or do they register
22 more than one time a year?

23 A. Yes. It depends on their offense but either twice
24 to four times a year.

25 Q. And how many offenders are currently registered in

DETECTIVE MARK MOTZ: DIRECT BY SOLICITOR JOYNER:

-19-

1 York County?

2 A. I believe maybe somewhere in 400.

3 Q. Back in or currently how many employees with the
4 sheriff's office are involved with registering sex
5 offenders?

6 A. I believe there's three right now.

7 Q. And going back to July of 2018 was that -- was it
8 three employees then as well?

9 A. That's correct.

10 Q. Or was it two?

11 A. It would have been two.

12 Q. When a person registers initially or registers does
13 a person have to appear in person at the sheriff's office?

14 A. Yes they do.

15 Q. Are there designated hours for them to appear?

16 A. Yes there is.

17 Q. And what are those designated hours?

18 A. It's Monday through Friday, 8:00 to 4:00, but they're
19 assigned -- each time that they come into register they're
20 given a certain time and date to come back.

21 Q. If a person changes their information, their
22 employment, their address, or something like that, between
23 their registration time what obligation I mean do they have
24 to update the sheriff's office?

25 A. They have to come in and put it in writing of those

ORIGINAL

1 changes.

2 Q. And if a person moves into York County or comes
3 employed in York County when they previously were not, what
4 obligations do they have to the sheriff's office in York
5 County?

6 A. They had twenty-four hours to notify us and to come
7 in after an appointment has been set up for them to
8 actually register.

9 Q. And where specifically does an offender come to
10 register?

11 A. To the York County Sheriff's office.

12 Q. But is it to the lobby?

13 A. They would come to lobby to sign in and they would
14 at that time when I was doing it they would contact us and
15 we would walk up to get them and then escort them back to
16 the register room.

17 Q. Now is it different now that the sheriff's office has
18 moved?

19 A. It's different yes, ma'am. I hadn't done - been on
20 the registry in a couple of years.

21 Q. Now as part of your work as a detective after you left
22 the sex offender registry were you sometimes assigned to
23 investigate failure to register cases?

24 A. Yes.

25 Q. In July of 2018 were you assigned to investigate

DETECTIVE MARK MOTZ: DIRECT BY SOLICITOR JOYNER:

-21-

1 whether this defendant Mario Moise was either living or
2 working in York County without registering?

3 A. That's correct.

4 Q Prior to that investigation had you ever had any
5 interaction with Mr. Moise specifically regarding his
6 sex offender registry?

7 A. Yes.

8 Q. And had you previously registered him?

9 A. That's correct.

10 Q. Do you see the person in the room that you know as
11 Mario Moise that you previously registered?

12 A. Yes.

13 Q. Could you please point him out?

14 A. Right there in the I believe it's a stripe shirt.

15 Q. Let the record to reflect that Detective Motz has
16 identified the Defendant.

17 (WITNESS IDENTIFIES DEFENDANT AT DEFENSE TABLE.)

18 Q. At the time that you formally or registered him in the
19 past was he residing in York County?

20 A. Yes.

21 Q. And at some point after you had interacted with him
22 in the past regarding registry, are you aware of whether he
23 had moved from the county?

24 A. Yes.

25 Q. So going back to the July of 2018 investigation what

ORIGINAL

1 started that investigation?

2 A. We got -- received a tip through SLED.

3 Q. And what specifically was the tip?

4 A. That Mr. Moise had been residing back in York County
5 and working at Buffalo Wild Wings.

6 Q. And at the time that you received the tip to your
7 knowledge had the sheriff's office received anything from
8 Mr. Moise and he appeared to register notifying you of his
9 presence in the county?

10 A. No, ma'am.

11 Q. Now as to specifically as to Mr. Moise are you aware
12 of how many times he's required to register?

13 A. Four times.

14 Q. And what is Mr. Moise's date of birth?

15 A. I have to ---

16 Q. You can --

17 A. --- 9/23 of '81.

18 Q. When a person is required to register four times of
19 year is the date of birth significant in determining when
20 they would register?

21 A. That's correct. They would register on their birth
22 month initially and then for him to have to register four
23 times a year he would come three months after that.

24 Q. So am I correct that based on his date of birth it
25 would be a September registry, December, March, and June?

DETECTIVE MARK MOTZ: DIRECT BY SOLICITOR JOYNER:

-23-

1 A. That's correct.

2 Q. Now in July of 2018 during your investigation did you
3 go to Buffalo Wild Wings?

4 A. Yes, I did.

5 Q. And where is Buffalo Wild Wings located?

6 A. Off of Dave Lyle Boulevard in Rock Hill.

7 Q. Is that within York County?

8 A. Its in the County of York.

9 Q. And when you went to Buffalo Wild Wings were you
10 able to verify his employ -- Mr. Moise's employment at that
11 location?

12 A. Yes, I did.

13 Q. And based upon that verification did you obtain
14 Warrant 2018A46101000634?

15 A. Yes, I did.

16 Q. And do you recall when you obtained that warrant?

17 A. I'd have to --

18 Q. I can hand you a copy of the warrant if that would
19 refresh you.

20 A. I believe it was the same. It would a been fairly
21 quickly.

22 Q. I'll hand you this warrant, Detective Motz, to
23 refresh you.

24 A. It's July 25th.

25 Q. July 25th? Okay. Of 2018?

ORIGINAL

DETECTIVE MARK MOTZ: DIRECT BY SOLICITOR JOYNER:
CROSS BY MS. RUSSO:

-24-

1 A. That's correct.

2 Q. And when was this warrant ultimately served?

3 A. Same day, 25th.

4 Q. Do you know where the Defendant was arrested?

5 A. At Buffalo Wild Wings at work.

6 SOLICITOR JOYNER: Thank you very much. Please answer
7 any questions Ms. Russo has.

8 MS. RUSSO: Thank you.

9 CROSS-EXAMINATION

10 DETECTIVE MARK MOTZ BY MS. RUSSO:

11 Q. Detective Motz, you still have that warrant handed
12 you?

13 A. Yes, ma'am.

14 Q. Can you take a look at the address you put on the
15 warrant?

16 A. The address for?

17 Q. Mr. Moise.

18 A. Okay.

19 Q. And you put 1305 Saluda Street?

20 A. That's correct.

21 Q. Okay. So you received a tip from SLED; is that
22 correct?

23 A. That's correct.

24 Q. And that tip came by way of anonymous email; is that
25 correct? ?

ORIGINAL

DETECTIVE MARK MOTZ: CROSS BY MS. RUSSO:

-25-

1 A. That's correct.

2 Q. So at this point Mr. Moise hadn't picked up any new
3 arrest or new charges or anything like that?

4 A. Not that I was aware of.

5 Q. And you ultimately arrested him at his job?

6 A. That's correct.

7 Q. Now you been working with the sex offender registry
8 unit or you did work with them for several years, right?

9 A. Correct.

10 Q. So you would be aware that the law has changed a few
11 times since it's inception and that at one point sex
12 offender registrants only had to register once per year?

13 A. That's correct.

14 Q. And then at some point went up to twice a year and
15 its changed since then?

16 A. That's correct.

17 Q. Okay. You obtained the first warrant in this case
18 but the second warrant was passed off to another officer,
19 right?

20 A. Correct.

21 Q. Okay. Is that because you switched out of the sex
22 offender unit or?

23 A. That's correct.

24 Q. Okay.

25 MS. RUSSO: All right. I have no further questions,

ORIGINAL

1 your Honor.

2 THE COURT: Any redirect?

3 SOLICITOR JOYNER: No, sir.

4 THE COURT: Detective, you can step down. Thank you.

5 (WITNESS LEAVES WITNESS STAND.)

6 THE COURT: Call your next witness.

7 SOLICITOR JOYNER: Thank you, your Honor. The State's
8 next witness is Vincent Yarborough. Mr. Yarborough please
9 step forward and be sworn.

10 (WHEREUPON, VINCENT
11 ROSEBOROUGH, BEING FIRST CALLED AND DULY SWORN, TESTIFIED
12 AS FOLLOWS:)

13 DIRECT EXAMINATION

14 VINCENT ROSEBOROUGH BY SOLICITOR JOYNER:

15 Q. Mr. Yarborough, can you please state your full name
16 for the record?

17 A. Vincent Demario Roseborough.

18 Q. And where are you employed?

19 A. Buffalo Wild Wings.

20 Q. And where is Buffalo Wild Wings located?

21 A. Meeting Boulevard.

22 Q. Can you give me the exact address?

23 A. 1406.

24 Q. 1406. You said Meeting Boulevard?

25 A. Yes, ma'am.

VINCENT ROSEBOROUGH: DIRECT BY SOLICITOR JOYNER:

-27-

1 Q. And is that within Rock Hill?

2 A. Yes, ma'am.

3 Q. Is that within York County?

4 A. Yes, ma'am.

5 MS. RUSSO: I can't hear him.

6 MADAM REPORTER: He's gonna have to speak up.

7 You are very soft spoken, sir. And I'm getting feed
8 back and I'm not sure what it is and that might be
9 interfering. It works, and I'm sorry, you're gonna have to
10 lean into it.

11 BY SOLICITOR JOYNER:

12 Q Sir, how long have you been employed at Buffalo
13 Wild Wings?

14 A. Going on four years.

15 Q. And what's your current job description at Buffalo
16 Wild Wings?

17 A. In the kitchen area --

18 Q. Kitchen area. Going back to July of 2018, what was
19 your job description at that time?

20 A. Manager.

21 Q. And do you know the Defendant Mario Moise?

22 A. Yes, ma'am.

23 Q. And how do you know him?

24 A. I hired him.

25 Q. You hired him?

ORIGINAL

1 A. Uh-huh.

2 Q. And do you see Mr. Moise in the courtroom?

3 A. Yes, ma'am.

4 Q. Can you please point him out for the Court?

5 SOLICITOR JOYNER: Your Honor, let the record reflect
6 he's identified the Defendant.

7 (WITNESS INDICATES TOWARD DEFENDANT AT DEFENSE TABLE.)

8 Q. Now, to your knowledge was Mr. Moise, the defendant,
9 employed at Buffalo Wild Wings in July of 2018?

10 A. Yes, ma'am.

11 Q. And how long had he been employed at Buffalo Wild
12 Wings in July of 2018?

13 A. I don't know the actual date.

14 Q. Had it been a long time?

15 A. It hadn't been that long yet.

16 Q. Were you at work on July 25th of 2018?

17 A. Yes, ma'am.

18 Q. And were you present when Mr. Moise was arrested?

19 A. Yes, ma'am.

20 Q. When the time that he was arrested had he been
21 working at Buffalo Wild Wings for at least a month?

22 A. Yes, ma'am.

23 SOLICITOR JOYNER: Thank you very much. Please answer
24 any questions that Ms. Russo has.

25

CROSS-EXAMINATION

ORIGINAL

VINCENT ROSEBOROUGH: CROSS BY MS. RUSSO:

-29-

1 VINCENT ROSEBOROUGH BY MS. RUSSO:

2 Q. Thank you, Mr. Roseborough. Is Mr. Moise a good
3 employee?

4 A. He's an excellent --

5 SOLICITOR JOYNER: Relevance?

6 THE COURT: I sustain the objection.

7 BY MS. RUSSO:

8 Q. You were there when Mr. Moise was arrested?

9 A. Yes, ma'am.

10 Q. And he's been employed there even though he was
11 arrested at work?

12 A. Yes, ma'am.

13 Q. And he's still employed there now?

14 A. He sure is.

15 Q. All right. Do you know where Mr. - have you ever
16 been to Mr. Moise's residence?

17 A. No, ma'am.

18 Q. Do you ever hang out after work?

19 A. No.

20 Q. So you wouldn't know where he lives?

21 A. No, ma'am.

22 Q. All right.

23 MS. RUSSO: No further questions, your Honor.

24 THE COURT: Any redirect?

25 SOLICITOR JOYNER: No, sir, your Honor.

ORIGINAL

WILLIAM COLEMAN: DIRECT BY SOLICITOR JOYNER:

-30-

1 THE COURT: All right. Thank you, Mr. Yarborough,
2 you can step down.

3 (WITNESS LEAVES WITNESS STAND.)

4 THE COURT: Call your next witness.

5 SOLICITOR JOYNER: Thank you, your Honor. The State
6 calls Mr. Will, William Coleman to the stand.

7 Please step forward and be sworn.

8 (WHEREUPON, WILLIAM COLEMAN, BEING
9 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

10 DIRECT EXAMINATION

11 WILLIAM COLEMAN BY SOLICITOR JOYNER:

12 Q. Mr. Coleman, can you please state your full name for
13 the record?

14 A. It's William Travis Coleman.

15 Q. Where are you employed, sir?

16 A. Buffalo Wild Wings.

17 Q. How long have you been employed at Buffalo Wild Wings?

18 A. Its about to be about fifteen years. Began in 2004.

19 Q. What is your current job title?

20 A. General Manager.

21 Q. Are you the General Manager of the location at 1406
22 Meeting Boulevard?

23 A. Correction on that one. It's 1460 Meeting Boulevard.

24 Q. Okay.

25 A. Suite 119, yes, ma'am.

ORIGINAL

WILLIAM COLEMAN: DIRECT BY SOLICITOR JOYNER:

-31-

1 Q. Is that the only store or the only restaurant that
2 you're the general manager over?

3 A. Yes, ma'am.

4 Q. Now is part of your -- part of the process from
5 Buffalo Wild Wings hires someone do they complete a team
6 member orientation?

7 A. Yes, ma'am.

8 Q. And is documentation produced at that orientation
9 which is maintained in the normal course of business?

10 A. Yes, ma'am.

11 Q. And that maintained in each employees file?

12 A. Yes, ma'am.

13 Q. Now as part of your job as the general manager of
14 Buffalo Wild Wings are you familiar with how records are
15 kept and maintained?

16 A. Yes, ma'am.

17 Q. Are records kept and maintained regarding employees
18 work shifts when they work a number of hours?

19 A. Yes, ma'am.

20 Q. And of those it's important for those to be accurate;
21 is that correct?

22 A. Yes, ma'am. We do keep them on a -- we have a
23 computer system that holds all that information.

24 Q. Is that information regarding the hours that they
25 work? Is that put into the computer system close in

ORIGINAL

1 time to when they actually work?

2 A. Yes. It keeps a record of when they clock in and
3 when they clock out.

4 Q. And that again, both the orientation form and the
5 time cards are maintained in the normal course of business?

6 A. Yes. The time cards are in the computer system.

7 Their files are kept in a file cabinet and locked in
8 the office.

9 Q. Did you receive a subpoena to bring employment records
10 to court?

11 A. Yes, ma'am.

12 Q. And did you bring the employment records pertained to
13 time cards and a team member orientation form among other
14 documents?

15 A. Yes. Yes. All the documents that are in this file
16 along with the time punches.

17 Q. I'm gonna show you what's been marked for exhibit
18 purposes as State's Exhibit 7. Do you recognize that
19 document?

20 A. Yes.

21 Q. And what is that document?

22 A. This is the front of their team member card that we
23 keep on file.

24 Q. Is that the team member the front of the folder as to
25 Mr. Moise?

WILLIAM COLEMAN: DIRECT BY SOLICITOR JOYNER:

-33-

1 A. Yes, ma'am.

2 Q. And what is the date of hire

3 A. March 2nd of 2018.

4 Q. And does he list a next of kin or a family member?

5 A. His emergency contact would be Amy Scott his
6 girlfriend.

7 SOLICITOR JOYNER: Move to enter State's Exhibit 7
8 into evidence.

9 THE COURT: State's Exhibit 7 they're moving into
10 evidence.

11 MS. RUSSO: We have no objection to that, your Honor.

12 THE COURT: Thank you. State's Exhibit 7 in evidence
13 without objection.

14 (WHEREUPON, STATE'S EXHIBIT NO. 7, IDENTIFIED AND
15 MARKED, RECEIVED INTO EVIDENCE.)

16 SOLICITOR JOYNER: Thank you.

17 Q. Now I'm gonna show you what's been marked as State's
18 Exhibit 8. This is five pages of a larger document and if
19 you can take a look at that document and tell me if you
20 recognize those five pages.

21 A. Yes.

22 Q. And what do you recognize those five pages as?

23 A. The document you requested from June of last year to
24 current.

25 Q. Are those part of the time card records that you

ORIGINAL

1 provided?

2 A. Yes, ma'am.

3 Q. Are those the time card records of Mr. Moise?

4 A. Yes, ma'am.

5 Q. And could you please read the beginning date on the
6 first page?

7 A. This one dated back 6/2 because I reported for six
8 months. That's probably from another team over there.

9 Q. Okay.

10 A. But 6/2/2108.

11 Q. And that's just part of a larger record that you
12 provided; is that correct?

13 A. Yes. Yes, ma'am.

14 Q. Could you read the last date that's listed on what
15 report?

16 A. Last date 10/22/2018.

17 Q. You said -- as we said the state requested records
18 from June 1st of 2018 forward?

19 A. Yes, ma'am.

20 Q. Okay: Is that a truthful and accurate representation
21 of or an truthful and accurate representation of the
22 business record that exist as to his time cards and the
23 dates representative?

24 A. Yes, ma'am.

25 SOLICITOR JOYNER: Move State's Exhibit 8 into

WILLIAM COLEMAN: CROSS BY MS. RUSSO:

-35-

1 evidence.

2 MS. RUSSO: No objection, your Honor.

3 THE COURT: That is Exhibit 8, its in evidence without
4 objection.

5 (WHEREUPON, STATE'S EXHIBIT NO. 8, IDENTIFIED AND
6 MARKED, RECEIVED INTO EVIDENCE.)

7 SOLICITOR JOYNER: And, your Honor, I have no further
8 questions for Mr. Coleman.

9 Mr. Coleman please answer any questions Ms. Russo has.

10 THE COURT: Thank you. Ms. Russo.

11 CROSS-EXAMINATION

12 WILLIAM COLEMAN BY MS. RUSSO:

13 Q. Mr. Coleman, this prior date of March 2nd, would that
14 indicate that's the day he did his training or started his
15 training?.

16 A. That would be his orientation date that we bring him
17 in to get all his paperwork done.

18 Q. And does it normally take some period of time after
19 that for people to actually start and get shifts?

20 A. Usually it's they do a week of training. The
21 training's changed since then but usually it's about seven
22 days of training.

23 Q. Okay. So that would not indicate like he was actually
24 working and started that day?

25 A. I'm not a hundred percent sure his first day that he

ORIGINAL

WILLIAM COLEMAN: CROSS BY MS. RUSSO:

-36-

1 started but that orientation day is his first date of hire.

2 Q. All right. And then on the time sheet it indicates

3 a start date of June 1st. Why is that?

4 A. The documents requested were from June of 2018 to
5 current.

6 Q. So that's just a start date for the document?

7 A. Yes, ma'am.

8 Q. Okay. And Mr. Moise has been employed there and he's
9 still employed there, right?

10 A. Yes, ma'am.

11 Q. And have you ever been to his residence?

12 A. No, ma'am.

13 Q. Okay.

14 MS. RUSSO: I have no further questions, your Honor.

15 THE COURT: Thank you.

16 SOLICITOR JOYNER: No redirect, your Honor.

17 THE COURT: You can step down.

18 (WITNESS LEAVES WITNESS STAND.)

19 THE COURT: Call your next witness.

20 SOLICITOR JOYNER: Thank you, your Honor. We ask
21 that Mr. Roseborough and Mr. Coleman be released from their
22 subpoenas.

23 THE COURT: Any objection that Mr. Roseborough and Mr.
24 Coleman be released?

25 MS. RUSSO: No, your Honor.

ORIGINAL

JUDGE MALPHRUS: DIRECT BY SOLICITOR JOYNER:

-37-

1 THE COURT: Thank you.

2 SOLICITOR JOYNER: Your Honor, our next witness is
3 Judge Malphrus. Would you please step forward to be sworn.

4 (WHEREUPON, LEWIS DANIEL
5 MALPHRUS, WITNESS BEING FIRST CALLED AND DULY SWORN,
6 TESTIFIED AS FOLLOWS:)

7 DIRECT EXAMINATION

8 JUDGE LEWIS MALPHRUS BY SOLICITOR JOYNER:

9 Q. Good morning, Judge Malphrus. How are you?

10 A. Swell.

11 Q. Can you please state your full name for the record?

12 A. Yes, ma'am. Lewis Daniel Malphrus, Junior.

13 Q. And are you currently a magistrate here in York
14 County?

15 A. Yes, ma'am.

16 Q. And how long have you been a magistrate?

17 A. Since 2003.

18 Q. Part of your duties a magistrate is to perform bond
19 hearings?

20 A. Correct.

21 Q. And as part of those bond hearings do you screen
22 people to determine whether they're eligible for appointed
23 counsel?

24 A. If they apply, yes, ma'am.

25 Q. And what types of questions do you ask to determine

ORIGINAL

1 whether a person is eligible for appointed counsel?

2 A. We want to know about their job status, their marital
3 status, the number of dependents; their address, their
4 assets, their liabilities, that's it.

5 Q. And when they provide this information do you note
6 that information on the indigence application?

7 A. Yes, I do.

8 Q. And does the person being screened have an opportunity
9 to see the document and sign the document?

10 A. Yes.

11 Q. Were you presiding over bond court on July 26th, of
12 2018?

13 A. I'm presume so, yes, ma'am.

14 Q. Judge Malphrus, I'm gonna show you what's been
15 marked as State's Exhibit 2. Do you recognize this
16 document?

17 A. Yes. This is a standard form that we use in the bond
18 court to determine eligibility for assistance from the
19 Public Defender's Office.

20 Q. And did you -- is this a form that you completed?

21 A. Yes, ma'am, that appears to be my handwriting.

22 Q. And do you recognize your signature on this document?

23 A. Yes, I do.

24 Q. And who was the person you were screening listed in
25 this document?

JUDGE MALPHRUS: DIRECT BY SOLICITOR JOYNER:

-39-

1 A. The document says Mario Moise.

2 Q. How typically in a bond hearing am I correct that the
3 address that's on the form may have been an address
4 provided by law enforcement?

5 A. Absolutely.

6 Q. But regarding employment information is that normally
7 something that you fill in based upon the answers that the
8 person gives you?

9 A. Yes. My standard procedure when I conduct a bond
10 hearing for a defendant is to ask them what their present
11 address may be.

12 Q. So regarding that form does that form appear to be a
13 truthful and accurate representation of the form that you
14 completed with Mr. Moise?

15 A. Yes. And at the third page the defendant did swear an
16 oath that this was the truth that he gave to me in order to
17 be considered for public defender support.

18 Q. And do you personally witness the signature of the
19 defendant?

20 A. Yes I do.

21 Q. Okay.

22 SOLICITOR JOYNER: Your Honor, we move states Exhibit
23 2 into evidence.

24 THE COURT: Ms. Russo. MS. RUSSO: Your Honor, I
25 would object and this may be the form that Ms. Joyner was

ORIGINAL

1 speaking of which he spoke about redactions. But Mr. Moise
2 filled out this form without the assistance of an attorney
3 when he spoke to Judge Malphrus. He was not aware that
4 this statement was going to be used against him at some
5 point. It contains things that are not relevant at all,
6 and one thing that might be relevant are the statement
7 about the address. If everything else were redacted
8 perhaps otherwise I would object.

9 THE COURT: All right. I note your objection. I
10 overrule the objection and will move States Exhibit No. 2
11 into evidence. However, out of the abundance of caution --
12 I note that it list an address of place of employment and
13 at this point the court's not going to take a look at it.

14 It's in evidence.

15 (WHEREUPON, STATE'S EXHIBIT NO. 2, IDENTIFIED AND
16 MARKED, RECEIVED INTO EVIDENCE.)

17 SOLICITOR JOYNER: It's in evidence? Okay. Thank you.

18 Q. And Judge Malphrus, what is listed as the information
19 regarding employment?

20 A. I asked the defendant if he was presently employed, he
21 checked the box yes. He worked at Buffalo Wild Wings in
22 Rock Hill. He told me that he worked at the rate of \$10
23 per hour for approximately 40 hours per week.

24 Q. At any point did he indicate whether he was married?

25 A. Yes. Question two says employment for spouse if

JUDGE MALPHRUS: DIRECT BY SOLICITOR JOYNER:

-41-

1 applicable. He gave the information that his spouse --

2 MS. RUSSO: Objection. I'm renewing --

3 THE COURT: I'm in trial mode and I'm wanting the
4 lawyers to approach so the jury won't hear, but the jury is
5 not here so you don't need to approach.

6 At this point if the document is intended to be used
7 to impeach any testimony that he may have given less than
8 truthful information you've got to wait to use it if he
9 takes the stand.

10 SOLICITOR JOYNER: It's not for that purpose, Your
11 Honor. We're just entering address and -- or employment
12 information for this document.

13 THE COURT: All right.

14 SOLICITOR JOYNER: And some rent information.

15 THE COURT: Okay. Well let's stick to that. The last
16 question was was he married and --

17 MS. RUSSO: I believe the solicitor ask about his
18 wife's employment which now we've gotten into the other
19 information on the document that, Your Honor, indicated he
20 would not look at.

21 SOLICITOR JOYNER: It's entered into evidence though.

22 THE COURT: And we will go through it if we need to
23 piece by piece, whether she was employed or not is a valid
24 question that's asked to determine whether he was indigent
25 or not and so I overruled the objection as to that

ORIGINAL

1 question and will allow him to answer the question

2 SOLICITOR JOYNER: Thank you, your Honor.

3 MS. RUSSO: Thank you, your Honor.

4 A. If the information on the application was that he was
5 in fact a spouse or had a spouse who worked at Buffalo Wild
6 Wings in Rock Hill making \$11.50 an hour for a 40 hour
7 week.

8 Q. At any point does he -- did you question him regarding
9 his rent, the amount of his rent?

10 A. Rent?

11 Q. The amount of his rent payment, did it anywhere
12 indicate in the form?

13 A. Rent? Yes, ma'am. He gave rent as \$600 per month.

14 Q. Thank you very much. Okay, moving on to -- I'm going
15 to show you what's been marked as States Exhibit 3. If you
16 could take a look at that document. When you saw Mr. Moise
17 for purposes of screening for the public defender did you
18 also set bond on his case?

19 A. Yes.

20 Q. And did you complete paperwork regarding the setting
21 of bond?

22 A. Yes I did.

23 Q. I believe it's page 2, is there a signature of Mr.
24 Moise -- well first of all, the defendants, do they sign
25 these documents? Did Mr. Moise sign this document?

JUDGE MALPHRUS: DIRECT BY SOLICITOR JOYNER:

-43-

1 A. Yes, he did.

2 Q. And what is the address that is listed next to his
3 signature as his address?

4 A. 1305 Saluda Street, Rock Hill, South Carolina.

5 SOLICITOR JOYNER: Your Honor, we move states Exhibit
6 3 into evidence.

7 MS. RUSSO: Your Honor, I would continue my objection
8 as this information was not something he was advised to be
9 used against him, and that at some point all of this
10 information is not necessary. I'm not sure the relevance
11 of the entirety of the bond paperwork, your Honor.

12 THE COURT: I note your objection, however, I'll admit
13 States Exhibit 3 into evidence.

14 SOLICITOR JOYNER: Thank you.

15 (WHEREUPON, STATES EXHIBIT NO. 3, IDENTIFIED AND
16 MARKED, RECEIVED INTO evidence.)

17 SOLICITOR JOYNER: I don't have any further questions
18 for Judge Malphrus.

19 Judge Malphrus, please answer any questions Ms. Russo
20 has.

21 THE COURT: Ms. Russo.

22 MS. Russo: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 JUDGE MALPHRUS BY MS. RUSSO:

25 Q. Your Honor, it is a standard condition of a South

ORIGINAL

1 Carolina bond that the defendant live in South Carolina,
2 correct, and not leave the state?

3 A. Say that again now.

4 Q. Is a condition of South Carolina bond that defendants
5 not leave the state?

6 A. Yes. Yes. In fact I think it's if they go out on bond
7 you mean?

8 Q. Yes.

9 A. There is a statement that is on page 1, I think it's
10 subparagraph 4, notify the court promptly if he changes his
11 address and will comply with the conditions described in
12 order.

13 So it is possible that the defendant would be able to
14 leave the state if he requested it from the court. And the
15 reason we do this in York County is we are so close to
16 North Carolina that it's almost -- well, I'm not going to
17 say what the intent of the General Assembly was, but we
18 think it probably meant that he would move his residence,
19 not go to Charlotte to buy close or to see his family.

20 Q. So, it's a standard condition to not leave the state,
21 but people can get permission from the court to leave the
22 state if they need to?

23 A. Yes.

24 Q. Okay. Thank you.

25 Ms. Russo: I have no further questions.

CECIL TRADER: DIRECT BY SOLICITOR JOYNER:

-45-

1 SOLICITOR JOYNER: Nothing further, Your Honor. We
2 would ask judge Mao first to be released.

3 THE COURT: Thank you. You may step down, Judge
4 Malphrus.

5 THE COURT: Judge Malphrus is requesting to be
6 excused. Any objection?

7 SOLICITOR JOYNER: No, sir.

8 MS. RUSSO: No, objection.

9 THE COURT: All right. Let's call your next witness.
10 We'll take a break after the next witness.

11 SOLICITOR JOYNER: Yes, sir. The next witness will be
12 Cecil Lyn Trader.

13 Mr. Trader, if you could step forward and be sworn.

14 (WHEREUPON, CECIL TRADER, BEING
15 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

16 DIRECT EXAMINATION

17 CECIL TRADER BY SOLICITOR JOYNER:

18 Q. Mr. Trader, can you please state your full name for
19 the record?

20 A. Cecil Lyn Trader.

21 Q. Do you go by Lyn?

22 A. Yes, ma'am.

23 Q. Now, Mr. Trader, where do you currently live?

24 A. 1305 D, Saluda Street.

25 Q. Is that address in Rock Hill?

ORIGINAL

1 A. Yes, ma'am.

2 Q. Is that also within York County?

3 A. Yes, ma'am.

4 Q. How long have you lived at 1305 Saluda Street,
5 Apartment D?

6 A. Since January, 2019.

7 Q. 2019. Prior to January 2019 when you moved into
8 Apartment D, did you live at another apartment on the
9 property?

10 A. Yes. 1307 Saluda Unit 1.

11 Q. And in addition to living at 1305 Saluda do you also
12 serve as a handyman for one of the property owners?

13 A. Yes.

14 Q. And what's that property owner's name?

15 A. AB Fanning.

16 Q. Say it again.

17 A. AB Fanning.

18 Q. Is part of being a handyman and also residing on
19 the property do you know who lived at 1305 Saluda Street,
20 Apartment D before you lived there?

21 A. Amy Scott and her husband.

22 Q. Okay. And how long had Amy Scott lived there?

23 A. Approximately January of 2018 to November of 2018.

24 Q. When was the last rent payment by Ms. Scott?

25 A. November of 2018.

CECIL TRADER: DIRECT BY SOLICITOR JOYNER:

-47-

1 Q. And is part of your handyman duties did you collect
2 rent for the homeowner?

3 A. Yes.

4 Q. And did you collect rent from Ms. Scott?

5 A. Yes, ma'am.

6 Q. And what was the amount of rent that she paid at
7 1305 Saluda Street, Apartment D?

8 A. \$600 a month.

9 Q. And you said that Ms. Scott and her husband lived
10 there. Did you know her husband's name?

11 A. No, not personally.

12 Q. And how did you know that or why did you believe
13 that that was her husband?

14 A. She had told me that was her husband and he'd be
15 moving in.

16 Q. Do you remember did he live, did her husband live
17 with her the full time?

18 A. Probably about three to four months before they were
19 -- I won't say evicted, but ask to leave.

20 Q. So three to four months before the end of November?

21 A. Yes, ma'am.

22 Q. Okay. Did you ever learn the name of her husband?

23 A. I met him one time just talk with him briefly.

24 Q. Would you recognize her husband if you saw him?

25 A. Not on the street.

ORIGINAL

CECIL TRADER: DIRECT BY SOLICITOR JOYNER:
CROSS BY MS. RUSSO:

-48-

1 Q. Not on the street. Okay. Can you generally describe
2 what her husband looked like?

3 A. African male, 5, 8; 5,9; slender, short hair.

4 SOLICITOR JOYNER: Mr. Trader, I don't have any
5 further questions for you, Mr. Trader. Please answer any
6 questions Ms. Russo has.

7 THE COURT: Ms. Russo.

8 MS. RUSSO: Thank you.

9 CROSS-EXAMINATION

10 CECIL TRADER BY MS. RUSSO:

11 Q. Mr. Trader, you said about three or four months
12 before the end of November you think that Mr. Moise moved
13 in?

14 A. Yes.

15 Q. And how do you know that?

16 A. Ms. Scott told me he was moving in.

17 Q. Because you heard it from somebody else? Did you ever
18 see him at the property?

19 A. Yes.

20 Q. When do you recall seeing him at the property?

21 A. Probably September or so.

22 Q. Okay. So you didn't see him there until September?

23 A. Probably.

24 Q. Do you recall seeing him more than once or just one
25 or two times or?

ORIGINAL

CECIL TRADER: CROSS BY MS. RUSSO:

-49-

1 A. I'd see him coming in and out of the property.

2 Q. How many times per week would you say you saw him?

3 A. Their trailer was kind of hidden so I wouldn't say
4 I seen him every week.

5 Q. You wouldn't even say you saw him once a week
6 necessarily?

7 A. No, ma'am.

8 Q. Okay.

9 MS. RUSSO: I have no further questions. Thank you
10 very much,

11 THE COURT: All right. Thank you.

12 Let's take about a ten minute break.

13 Mr. Trader has ask to be excused. Any objection?

14 MS. RUSSO: I have no objection, your Honor.

15 SOLICITOR JOYNER: No objection.

16 THE COURT: Mr. Trader, you're excused.

17 (WITNESS LEAVES WITNESS STAND.)

18 THE COURT: We'll break for about ten or fifteen
19 minutes.

20 (COURT IN RECESS AT 10:37 A.M.)

21 (COURT BACK IN SESSION AT 10:58 A.M.)

22 THE COURT: Thank you, please be seated.

23 Is the State ready?

24 SOLICITOR JOYNER: The State's ready, your Honor.

25 THE COURT: Defense ready?

ORIGINAL

CAPTAIN RODNEY HOPE: DIRECT BY SOLICITOR JOYNER:

-50-

1 MS. RUSSO: Defense is ready, your Honor.

2 THE COURT: All right, call your next witness.

3 SOLICITOR JOYNER: Your Honor, the State calls Captain
4 Rodney Hope. Please come forward and be sworn.

5 (WHEREUPON, RODNEY HOPE,
6 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

7 DIRECT EXAMINATION

8 CAPTAIN RODNEY HOPE BY SOLICITOR JOYNER:

9 Q.. Can you please state your full name for the record?

10 A. Rodney Demond Hope.

11 Q. And how are you employed?

12 A. At York County Detention Center.

13 Q. And what is your current job title?

14 A. Operations Captain.

15 Q. Are you also the keeper of records?

16 A. Yes, ma'am.

17 Q. How long have you been with York County Sheriff's
18 Office Detention Center?

19 A. Twenty years.

20 Q. And how long have you been the operations captain?

21 A. A year.

22 Q. Through your work at the York County Detention Center
23 are you familiar with the Sex Offender Custody Notification
24 Form?

25 A. Yes, ma'am.

ORIGINAL

CAPTAIN RODNEY HOPE: DIRECT BY SOLICITOR JOYNER:

-51-

1 Q. And is that a form that is completed when a sex
2 offender is released from custody?

3 A. Yes, ma'am.

4 Q. And is that a form that is maintained in the normal
5 course of business by the York County Sheriff's Office?

6 A. Yes, ma'am.

7 Q. Is it maintained within the file of the individual
8 defendant?

9 A. Yes, ma'am.

10 Q. I'm showing you what's been marked as an exhibit as
11 State's Exhibit 4. Do you recognize that document?

12 A. Yes, ma'am.

13 Q. And what do you recognize that document as?

14 A. The Sex Offender Custodian Notification.

15 Q. Is that a form -- and do you recognize that as part of
16 a record that is maintained at the sheriff's office as to
17 Mario Moise?

18 A. Yes, ma'am.

19 Q. And is that maintained in his file?

20 A. Yes, ma'am.

21 SOLICITOR JOYNER: Your Honor, we'd move State's
22 Exhibit 4 into evidence.

23 THE COURT: Ms. Russo.

24 MS. RUSSO: Your Honor, we've not established
25 anything as to the accuracy of that record and so I would

ORIGINAL

1 object.

2 THE COURT: All right. I note your objection,
3 however, I find there is a sufficient basis and foundation
4 laid to its admissibility State's Exhibit 4 is into
5 evidence.

6 (WHEREUPON, STATE'S EXHIBIT NO. 4, IDENTIFIED AND
7 MARKED, RECEIVED INTO EVIDENCE.)

8 SOLICITOR JOYNER: Thank you.

9 Q. Captain Hope, was that form issued as to Mr. Moise's
10 release from custody on July 26 of 2018?

11 A. Yes, ma'am.

12 Q. Okay. After his release from custody is there any
13 record in the York County Detention Center records that he
14 was in custody up until September 27th of 2018?

15 A. When he got back arrested?

16 Q. When he got back arrested.

17 A. Yes, ma'am.

18 Q. Okay.

19 SOLICITOR JOYNER: Thank you. Please answer any
20 questions that Ms. Russo may have for you.

21 THE COURT: Any cross?

22 MS. RUSSO: Thank you.

23 CROSS-EXAMINATION

24 CAPTAIN RODNEY HOPE BY MS. RUSSO:

25 Q. Captain Hope, you're not the one who filed out this

CAPTAIN RODNEY HOPE: CROSS BY MS. RUSSO:
DETECTIVE FRED MOORE: DIRECT BY SOLICITOR JOYNER:

-53-

1 form; is that correct?

2 A. No, ma'am, I didn't fill out the form.

3 Q. Okay.

4 MS. RUSSO: I have no further questions, your Honor.

5 THE COURT: All right. Thank you.

6 SOLICITOR JOYNER: May he be excused from his
7 subpoena?

8 MS. RUSSO: No objection?

9 THE COURT: Thank you. You're excused.

10 (WITNESS LEAVES WITNESS STAND.)

11 THE COURT: All right. Call your next witness.

12 SOLICITOR JOYNER: Thank you, your Honor. The State
13 next calls Detective or Captain Fred Moore.

14 Please come forward and be sworn.

15 (WHEREUPON, FRED MOORE, BEING
16 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

17 DIRECT EXAMINATION

18 CAPTAIN FRED MOORE BY SOLICITOR JOYNER:

19 Q. Detective Moore, or Captain Moore, can you please
20 state your full name for the record?

21 A. Fred Wesley Moore, Junior.

22 Q. Where are you currently employed?

23 A. York County Sheriff's Office.

24 Q. How long have you been at the York County Sheriff's
25 Office?

ORIGINAL

1 A. Fifteen years.

2 Q. What is your current job title?

3 A. Captain of Administration.

4 Q. And when did you become captain of administration?

5 A. July the 1st of this year.

6 Q. Prior to becoming captain of administration what other
7 jobs have you held within the York County Sheriff's Office?

8 A. Patrol deputy, I was a detective on the Sex Offender
9 Registry from 2008 to 2010 and then a detective in Violent
10 Crimes and Sex Crimes 2010 until 2017 and I was promoted to
11 Lieutenant of the Sex Crimes Unit.

12 Q. And when were you promoted to Lieutenant of the Sex
13 Crimes Unit?

14 A. July -- August of 2017.

15 Q. Now going back you said you worked the Sex Offender
16 Registry from 2008 to 2010?

17 A. Yes, ma'am.

18 Q. At that point in time would you as an officer actually
19 complete the registration process for offender?

20 A. Yes.

21 Q. And going back to July of 2018 at that time how many
22 employees were assigned to the Sex Offender Registry for
23 the specific purpose of completing registrations?

24 A. Two.

25 Q. And roughly how many sex offenders are currently

DETECTIVE FRED MOORE: DIRECT BY SOLICITOR JOYNER:

-55-

1 registered or supposed to register in York County?

2 A. Usually averages between 440 and 460.

3 Q. And would that number have been -- would that number
4 have been 440 to 460 back in July of 2018?

5 A. It might a been slightly lower but it had been in the
6 four hundreds.

7 Q. Okay. Now we talked a little bit already about the
8 registry process but I don't want to go back through that
9 too much in depth. But generally when an offender comes
10 into register what types of information are they required
11 to provide?

12 A. They complete the 10 to 12 page form that provides
13 address, resident, employment, any information change of
14 vehicles. It's an extensive form that they complete and
15 initial each page.

16 Q. Now when an offender comes in to register are they
17 given a form that includes their obligations as on the
18 registry?

19 A. Yes.

20 Q. Are they given an opportunity to read that?

21 A. Yes.

22 Q. And initial?

23 A. That's correct.

24 Q. If an offender had questions would it be part of the
25 normal practice and routine of the sheriff's office to

ORIGINAL

1 answer those questions?

2 A. Yes.

3 Q. Does the form, does the information that the offender
4 provided also include a next of kin?

5 A. It does.

6 Q. And the sex offender the records that are taken, the
7 registrations that are taken, are they made a -- are they
8 filled in in the regular course of business?

9 A. They are.

10 Q. Of the sheriff's office?

11 A. Yes.

12 Q. Are they -- are registration -- is registration
13 information maintained by the sheriff's office?

14 A. We update the information. Obviously SLED controls
15 and maintains.

16 Q. I'm sorry. Can you say that again.

17 A. SLED maintains and we update all information.

18 Q. Do you take the information and upload it into the
19 SLED Data Base?

20 A. We do.

21 Q. And is information Sorry, scratch that. Going back
22 to July of 2018, if a person failed to register or was
23 suspected of failing to register, would an investigation
24 be conducted by a detective?

25 A. Yes.

DETECTIVE FRED MOORE: DIRECT BY SOLICITOR JOYNER:

-57-

1 Q. And back in July of 2018 did you assign Detective
2 Motz to look into whether Mr. Mario Moise had failed to
3 register based on the SLED tip?

4 A. I did.

5 Q. And at that time had you had previous interactions
6 with Mr. Moise was to the sex offender registry?

7 A. Years ago.

8 Q. And do you see the person that you know as Mario
9 Moise from those prior interactions?

10 A. Yes.

11 Q. Can you please point him out?

12 (WITNESS INDICATED TOWARD DEFENDANT.)

13 Q. Let the record reflect he's identified the defendant.

14 (WHEREUPON, WITNESS INDICATED TOWARD DEFENDANT.)

15 Q. At the time -- so in your capacity as a detective
16 were you familiar with the way in which records were
17 maintained with the sheriff's office and sent to SLED
18 regarding registrations?

19 A. Yes.

20 Q. And at the time you assigned Detective Motz to
21 investigate Mr. Moise, was there any record of the
22 defendant coming to the York County Sheriff's Office to
23 register that he had either moved in York County or
24 obtained employment in York County?

25 A. No.

ORIGINAL

1 Q. . And when Detective Motz obtained his warrant were
2 you aware that he had obtained that warrant?

3 A. Yes.

4 Q. And were you aware of the defendant's arrest on that
5 charge?

6 A. Yes.

7 Q. When an offender is arrested, a sex offender is
8 arrested in York County, does the detention center provide
9 you notification of their release?

10 A. They do.

11 Q. And did you receive notification from the detention
12 center that Mr. Moise had been released from custody?

13 A. Yes.

14 Q. Do you recall the date according to what you were made
15 to understand by the sheriff's office that Mr. Moise was
16 released from custody?

17 A. The 26th of July.

18 Q. Do you know that day of the week that was?

19 A. I believe it was a Thursday.

20 Q. . Following his release did the defendant come to the
21 York County Sheriff's Office to complete his registration?

22 A. No.

23 Q. Now as you transitioned into lieutenant over sex
24 crimes including sex offender registry August 1st; is that
25 correct?

DETECTIVE FRED MOORE: DIRECT BY SOLICITOR JOYNER:

-59-

1 A. 2017.

2 Q. Of 2017. Okay. So, as the lieutenant over sex
3 crimes and the sex offender registry, you had access to the
4 records that were maintained by the sheriff's office
5 regarding sex offender registry?

6 A. Yes.

7 Q. And was there any indication that following his
8 release on July 26th that Mr. Moise came to the sheriff's
9 office to register?

10 A. No.

11 Q. On July or -- ultimately did you seek warrant
12 20184610100641?

13 A. Yes.

14 Q. Okay. As a result of -- are you aware of the date --
15 or what date did you seek that warrant?

16 A. August the 9th.

17 Q. Of 2018?

18 A. Yes.

19 Q. And are you aware of when that warrant was served?

20 A. I believe it was September the 27th of 2018.

21 Q. And are you aware of the location of the defendant's
22 arrest?

23 A. 1305 Saluda Road, Rock Hill.

24 Q. That Saluda Street?

25 A. Saluda Street.

ORIGINAL

DETECTIVE FRED MOORE: DIRECT BY SOLICITOR JOYNER:
CROSS BY MS. RUSSO:

-60-

1 Q. And is that address within York county?

2 A. Yes.

3 Q. Thank you.

4 SOLICITOR JOYNER: Please answer any questions Ms.
5 Russo has.

6 THE COURT: Any cross?

7 MS. RUSSO: Thank you.

8 CROSS-EXAMINATION

9 CAPTAIN FRED MOORE BY MISS RUSSO:

10 Q. Captain, you basically received this case from
11 Detective Motz?

12 A. Detective Motz moved from sex crimes to property
13 crimes the first of August of 2018.

14 Q. And so you received kind of for lack of a better word
15 a tip from him to look out and see whether Mr. Moise had
16 registered or not?

17 A. But the tip came in from SLED.

18 Q. Initially?

19 A. Initially in July 23. That's how I was assigned the
20 case with Detective Motz investigating that ---

21 Q. Okay.

22 A. --- that failure to register.

23 Q. But ultimately that tip was received anonymously by
24 SLED?

25 A. The first, yes, July 23rd, yes.

ORIGINAL

DETECTIVE FRED MOORE: CROSS BY MS. RUSSO:

-61-

1 Q. Okay. So Mr. Moise hadn't picked up new charges or
2 been rearrested and that's not how this came to your
3 attention?

4 A. That's correct.

5 Q. Okay. Did you ultimately kind of reinvestigate this
6 case after Detective Motz left the case?

7 A. When he failed to register I double checked with two
8 ladies who worked for me in registry. He hadn't showed up
9 he was obviously in violation again. He was notified
10 obviously within 24 hours to contact us and make
11 arrangements. He didn't do that so I had to take him down

12 ---

13 Q. Okay.

14 A. --- for failure to register.

15 Q.. As a part of that -- I'm sorry. As a part of that did
16 you look at his prior registrations?

17 A. From years ago or?

18 Q. From any time. Prior to that anytime in 2018, 2017?

19 A. No. I mean he had left work and he call me prior.

20 Q. Okay. Do you know where he had gone?

21 A. He went to Greenville County.

22 Q, Okay. Do you know if he had remained in Greenville
23 County or gone anywhere else?

24 A. Through I guess investigation we saw that he moved to
25 Florida. I'm not exactly sure of the date.

ORIGINAL

1 Q. Would you be aware of whether he would have to
2 register in Florida?

3 A. No.

4 Q. And you didn't check whether he was registered in
5 Florida?

6 A. Yeah.. He did leave from this county so he left from
7 Greenville County.

8 Q. Okay. So you wouldn't have any knowledge of that?

9 A. No.

10 Q. Okay. I don't have anything else for you.

11 MS. RUSSO: Thank you.

12 THE COURT: Anything further, Ms. Joyner?

13 SOLICITOR JOYNER: Nothing further from this witness.

14 THE COURT: Thank you, Captain Moore, you can step
15 down.

16 (WITNESS LEAVES WITNESS STAND.)

17 THE COURT: Call your next witness.

18 SOLICITOR JOYNER: Thank you, Your Honor. The State
19 calls Amanda Carter.

20 (WHEREUPON, AMANDA CARTER,
21 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

22 DIRECT EXAMINATION

23 OFFICER AMANDA CARTER BY SOLICITOR JOYNER:

24 Q. Can you please state your full name for the record?

25 A. Amanda Pettus Carter.

OFFICER AMANDA CARTER: BY SOLICITOR JOYNER:

-63-

- 1 Q. How are you employed?
- 2 A. York County Sheriff's Office.
- 3 Q. Are you a detective?
- 4 A. Yes.
- 5 Q. And how long have you been with the Sheriff's office?
- 6 A. Twenty-one years.
- 7 Q. And are you currently involved with the Sex Offender
- 8 Registry?
- 9 A. Yes.
- 10 Q. And in what capacity?
- 11 A. I am registry.
- 12 Q. Registry?
- 13 A. Registry for the Sex Offender Registry.
- 14 Q. How long have you been with the registry?
- 15 A. Since 2010.
- 16 Q. Through your work with the registry are you familiar
- 17 with the defendant Mario Moise?
- 18 A. I am.
- 19 Q. And did you have the occasion in the past to register
- 20 Mr. Moise at different times?
- 21 A. Yes.
- 22 Q. Could you please point out to the court the person
- 23 that you know is Mario Moise?
- 24 A. There.
- 25 Q. Let the record reflect she's identified the defendant.

ORIGINAL

1 (WITNESS IDENTIFIED TO DEFENDANT.)

2 Q. Detective Carter, did you last register Mr. Moise, to
3 the best of your knowledge, on September 22nd of 2014?

4 A. Yes.

5 Q. I'm showing you what's been marked for exhibit
6 purposes as States Exhibit 5. Please take your time and
7 look through this document and when you're ready let me
8 know.

9 (WITNESS COMPLIES.)

10 A. Okay, I'm ready.

11 Q. Is that -- the States Exhibit 5, do you recognize that
12 document?

13 A. I do.

14 Q. And is that a copy of the registration you completed
15 with Mr. Moise on September -- September of 2014?

16 A. It is.

17 Q. And is this an accurate copy of that September 22nd,
18 2014 registration?

19 A. Yes.

20 Q. And how are you able to tell that that is the
21 registration you completed with Mr. Moise?

22 A. Because of his signature and mine.

23 Q. And over the course of your interaction with Mr.
24 Moise have you become familiar with his signature?

25 A. Yes.

OFFICER AMANDA CARTER: BY SOLICITOR JOYNER:

-65-

1 Q. And is that his signature?

2 A. Yes it is.

3 Q. And when an offender signs do you actually witness
4 that signature?

5 A. I do.

6 Q. Would you have signed next to it if it had been
7 anybody other than Mr. Moise that had signed that document?

8 A. No.

9 Q. Okay. And was that document produced in the normal
10 course of business with the York County Sheriff's office?

11 A. Yes.

12 Q. And was that information uploaded to the SLED Data
13 base?

14 A. Yes.

15 Q. And that would be in the normal course of business?

16 A. Yes.

17 SOLICITOR JOYNER: Your Honor, we move States Exhibit
18 5 into evidence.

19 MS. RUSSO: No objections, your Honor.

20 THE COURT: States Exhibit 5 moved into evidence
21 without objection.

22 (WHEREUPON, STATES EXHIBIT NO. 5, IDENTIFIED AND
23 MARKED, RECEIVED INTO EVIDENCE.)

24 SOLICITOR JOYNER: Thank you, your Honor.

25 Q. Now I'm going to ask you to direct your attention to

ORIGINAL

1 a few places. Now the date that is listed at the bottom of
2 each page, is that written by you or written by Mr. Moise?

3 A. It was written by me.

4 Q. Okay. The initials that are on the bottom of the
5 pages are those initials written by you or written by Mr.
6 Moise?

7 A. By Mr. Moise.

8 Q. Does part of the registration process in addition to
9 providing -- the offender providing information, are they
10 ask to read and review the list of obligations they have on
11 the registry?

12 A. Yes.

13 Q. Now, it's a fairly lengthy part of the registry
14 process. Are they read this or do they read this to
15 themselves?

16 A. They read it to themselves. Also when they initial
17 they register with the York County Sheriff's office we give
18 them a copy of it.

19 Q. When a person begins registering are you interacting
20 with them? Do you make an attempt to determine whether
21 they're able to read?

22 A. Yes.

23 Q. And to your knowledge was Mr. Moise able to read?

24 A. Yes.

25 Q. Okay. Now this document is listed as having 14

OFFICER AMANDA CARTER: BY SOLICITOR JOYNER:

-67-

1 pages but actual registration that we've entered only goes
2 up to page 12 of 14.

3 A. Correct.

4 Q. What's the explanation for the missing two pages?

5 A. One of the pages is where the -- the sex offender
6 registry requires a fee of a \$150 a year. And one of those
7 pages would be the page that he did pay his fee.

8 Q. Okay.

9 A. The other page we have to do what we call a second
10 party check and that's to make sure that everything that's
11 on this form is in the software for SLED. And that page is
12 just a form for the second party checker.

13 Q. So there's nothing substantive about those final two
14 pages regarding Mr. Moise's information or obligation?

15 A. Right.

16 Q. Okay. Now going to page 5 of 14.

17 A. Un-huh.

18 Q. Are all of the initials on these pages and the
19 following page Mr. Moise's initials?

20 A. Yes.

21 Q. Okay. Of the items that are initialed can you read
22 to the court these last two on page 5 of 14?

23 A. "Provide written notification in person within three
24 business days of change of address to a new jurisdiction
25 to the county sheriffs with whom the person last

ORIGINAL

1 registered."

2 And the other says, "The offender must comply with the
3 new jurisdiction registration requirements.

4 Note: Under the *Adam Walsh Child Protection and*
5 *Safety Act* of 2006, A.T., United States Code 2250, if you
6 travel to another jurisdiction and fail to register as
7 required you are also subject to federal prosecution that
8 carries penalties of a fine and/or imprisonment of up to 10
9 years."

10 Q. Going up to -- and staying on page 5 of 14 -- the
11 first paragraph is initialed, not reading the bullet
12 points, but if you could read that main initial paragraph
13 that begins with "present myself in person".

14 A. "Present myself in person to register and re-register
15 at the sheriff's office of the primary county of
16 registration and provide information on any and all county
17 or state locations where I reside on real property, am
18 employed, or attend and am enrolled, volunteer, intern, or
19 carry on a vocation at any public and private school
20 including but not limited to a secondary school, adult
21 education school, college or university, or any vocational
22 technical or occupational school within the prescribed time
23 frames as set forth below."

24 Q. And going to page 6 of 14, the third paragraph down
25 is initialed, "I understand . . . I may be required".

OFFICER AMANDA CARTER: BY SOLICITOR JOYNER:

-69-

1 A. "I understand that I may be required to register in
2 jurisdiction where I am employed, carry on a vocation, am a
3 student, a temporarily visit. It is my responsibility to
4 check with the local law enforcement about registration
5 requirements in that jurisdiction."

6 Q. Now going to page 7, that is Mr. Moise's signature?

7 A. Correct.

8 Q. And this was a September of 2014 registry. What was
9 the next month indicated for his registry? Was it December
10 of 2000 --

11 A. It would've been December, 2014.

12 Q. So at this point then am I correct that the state had
13 already transitioned into quarterly registration?

14 A. Correct.

15 Q. And you testified earlier that you are familiar with
16 Mr. Moise's signature from your time registering him?

17 A. I am.

18 Q. I ask you to take a look at States Exhibit 2, the
19 third page. Is that signature one that you recognize as
20 Mr. Moise's signature?

21 A. Yes it is.

22 Q. Going to States Exhibit 3 on the second page, this
23 top, under Acknowledgment by Defendant, is that a
24 signature that you recognize as Mr. Moise's signature?

25 A. Yes it is.

ORIGINAL

OFFICER AMANDA CARTER: DIRECT BY SOLICITOR JOYNER:
CROSS BY MS. RUSSO:

-70-

1 Q. Now going to State's Exhibit 4, is the signature below
2 one that you can recognize as Mr. Moise's signature?

3 A. Yes.

4 SOLICITOR JOYNER: Your Honor, I believe I previously
5 had entered State's Exhibit 5 into evidence, if I've not
6 done so, I moved into evidence now.

7 THE COURT: Any objection? I have a record States
8 Exhibit 5 was introduced.

9 Any objection to States Exhibit 5?

10 MISS. RUSSO: I have a record of that and I have no
11 objection, your honor.

12 THE COURT: All right.

13 (WHEREUPON, STATES EXHIBIT NO. 5, IDENTIFIED AND
14 MARKED, RECEIVED INTO EVIDENCE.)

15 SOLICITOR JOYNER: Your Honor, I have no further
16 questions for Detective Carter at this time.

17 THE COURT: Any cross-examination?

18 MISS RUSSO: Yes, your Honor. Thank you.

19 CROSS-EXAMINATION

20 OFFICER AMANDA CARTER BY MISS RUSSO:

21 Q. Detective Carter, if I can direct your attention to
22 States Exhibit 5, and I think they took it away from you.

23 A. Yeah.

24 Q. And I think we're going back to page 5. Yes.

25 In the first part there's a section that he initials

ORIGINAL

OFFICER AMANDA CARTER: CROSS BY MS. RUSSO:

-71-

1 and then that section has three bullet points, right?

2 A. Correct.

3 Q. And those bullet points don't get initials. Like
4 there's no spot there to initial them.

5 A. No they don't.

6 Q. Okay. Could you read for us that last bullet point?

7 A. "An offender who is not under the jurisdiction of the
8 DOC, PPP, or DJJ, at the time of moving into the state of
9 South Carolina must register within 3 business days of
10 establishing residency."

11 Q. Okay. So someone who under our statute would be
12 required to register, they move here from another state,
13 they must register within 3 days?

14 A. Yes.

15 Q. Okay. In our statute which part of it is kind of in
16 a section above, just states that any person residing in
17 the state of South Carolina who has been convicted,
18 adjudicated delinquent, pled guilty, et cetera, of a
19 qualifying offense must register?

20 A. Correct.

21 Q. That's an accurate summary of what that says at the
22 top?

23 A. Correct.

24 Q. Okay. Are you aware that Mr. Moise had gone to
25 Greenville County for some period of time?

ORIGINAL

1 A. Yes.

2 Q. And are you aware he then went to Florida for a period
3 of time?

4 A. No, I wasn't aware until the investigation.

5 Q. But when the investigation started you became aware
6 that he moved to Florida?

7 A. Yes.

8 Q. Okay. Do you know how long, did your investigation
9 show you how long he was in Florida?

10 A. No. I did not know that he had actually moved or how
11 long because he was registering in Greenville County so
12 therefore he was under their's jurisdiction at that time.

13 Q. Okay. How did you become aware that he moved to
14 Florida? What part of your investigation told you that?

15 A. We received a tip from SLED that he was working at
16 Buffalo Wild Wings.

17 Q. And it indicated he was back from Florida?

18 A. Into South Carolina.

19 Q. Okay. So you don't know when he moved to Florida or
20 how long he was there?

21 A. No.

22 Q. Did you note in your file that at some point he had
23 gone to another state?

24 A. Yes.. We have to - any time they move into another
25 state we have to clear them or another county would clear

1 them within our registry.

2 Q. Okay. Thank you. Going back to the form just
3 briefly, this form references often times the offender or
4 an offender being released, an offender being sentenced.
5 But nowhere on this form does it actually define what an
6 offender or the offender is does it?

7 A. Yes it does. At the very top on page 5 it states "any
8 person regardless of age residing in the state of South
9 Carolina who has been convicted of, adjudicated delinquent,
10 or pled guilty, et cetera, would be in a state that they
11 would have to be to register."

12 Q. But does it then go on to say that we will refer to
13 this person as an offender, or from now on in this form
14 that person is going to be referred to as an offender?

15 A. . As an offender?

16 Q. Yes..

17 A. . No.

18 Miss Russo: Thank you. I have no further questions.

19 THE COURT: Any redirect?

20 SOLICITOR JOYNER: No redirect, your Honor.

21 THE COURT: All right. Thank you.

22 Detective Carter, you can step down.

23 (WITNESS LEAVES WITNESS STAND.)

24 THE COURT: Ms. Joyner, have you any other witnesses?

25 SOLICITOR JOYNER: I don't believe so, your Honor. I

1 just want to assure, I just want to confirm that items one
2 through five have all been entered into evidence. And
3 seven.

4 MADAM. REPORTER: Seven and eight are in too.

5 SOLICITOR JOYNER: And seven and eight, yes, your
6 Honor. Six is not. Okay.

7 THE COURT: All right.

8 SOLICITOR JOYNER: The State rest, your Honor.

9 THE COURT: All right, thank you.

10 Any motions at this point?

11 MS. RUSSO: Yes, your Honor. The defense would move
12 for a directed verdict at this time. At this point the
13 State is required to prove that Mr. Moise had returned to
14 South Carolina and that he had established a residence
15 here. I think under the statute it is not enough that he
16 had a job here, but that he established a residence here.

17 If he had moved out of state, which I think the
18 record has -- we had evidence that he moved out of state
19 and returned, then we're looking at the section of the form
20 that they give to him that an offender at the time of
21 moving into the state of South Carolina must register
22 within three days of establishing residency.

23 I don't think these business records are enough to
24 say that he worked within the state; at that point in time
25 he could've been living outside the state, or provided a

1 different mailing address or something like that. None of
2 his employers could tell us where he lived or whether he
3 had lived there or where that was whether it was within the
4 county.

5 Additionally the information provided on bond or jail
6 paperwork was provided when he was being released on a
7 condition of bond that he live within the county and
8 therefore I don't believe the State has enough evidence
9 that they have established residency and so we would ask
10 for a directed verdict as to that charge, your Honor.

11 THE COURT: Thank you. Solicitor.

12 SOLICITOR JOYNER: Thank you, your Honor. Under SC
13 Code annotated 23-3-450 it provides an offender shall
14 register with the sheriff of each county in which he
15 resides, owns real property, is employed, or attends or is
16 enrolled, volunteers, et cetera. So, 450 expressly states
17 that employment alone is sufficient.

18 We go to the applicable penalty provision, it is the
19 duty of the offender to contact the sheriff in order to
20 register, provide notification of change of permanent or
21 temporary address, notification change of employment or
22 attendance et cetera, and schools. And then it goes on to
23 provide that if the client failed to do so, and so I
24 believe that employment alone is sufficient, and I think in
25 this case we have good solid proof that is been put forward

1 to the court that he was residing in York County, that he
2 was employed in York County, first of all changed
3 employment.

4 . There is testimony in the record that he had a start
5 date or a hire date, an orientation date, in March of 2018
6 at the Buffalo Wild Wings. There are timecard records in
7 evidence from June of 2018 all the way through October
8 which is the time period specified in the first indictment
9 and the second indictment showing that he was employed here
10 in York County.

11 . Secondly, as to residence, I think it is very clear
12 that he was residing here. There is from Mr. Trader he
13 estimates 3 to 4 months back so potentially his estimation
14 is correct that perhaps not residing here during that first
15 time period in the first indictment. But also I think
16 there is other good evidence that he was residing during
17 the initial time period as evidenced by the fact in his
18 interagency application he states that he owed \$600 a month
19 in rent which is the exact amount of rent that Mr. Trader
20 said Ms. Scott paid on the apartment, Apartment B.

21 . He also acknowledged 1305 Saluda on his bond paperwork
22 on July 26th, so I think that that's where it goes back and
23 goes forward to show his residency.

24 A person within the statute within 23-3460 it's a lot
25 of words jumbled up but basically when you go through that

1 statute on obligations to change up probation it is
2 consistently three days, three business days. So when a
3 person changes their address for the same county they have
4 three business days. If they change their temporary
5 permanent address into another county three business days.
6 If a person required to register pursuant to this article
7 moves outside of South Carolina they have three business
8 days to notify. If they move to South Carolina that's
9 under 23-3460 G they have three business days. So they
10 have three days to notify the sheriff's office of these
11 items. Let me look at one more thing.

12 I believe it will be three business days also for the
13 establishment of employment. I'm looking for that
14 particular -- I think the employment is also within 460 G,
15 a person required to register moves to South Carolina from
16 another state establishes resident, acquires real property,
17 is employed --

18 THE COURT: I'm looking at the statute.

19 SOLICITOR JOYNER: SO three business days. So I
20 think there's ample evidence of both residence and
21 employment during the applicable time periods.

22 THE COURT: All right. Thank you. I deny the
23 defense's motion for directed verdict taking the evidence
24 in the light most favorable to the nonmoving party and in
25 this case that's the state. I find there is sufficient

1 evidence for the case to go forward and for there to be a
2 determination by a judge, or a jury, about whether the
3 state has proven his guilt beyond a reasonable doubt.

4 All right, anything further?

5 MS. RUSSO: Your Honor, as to the States Exhibit 1,
6 the juvenile convictions, I would like to note for the
7 record that that is not a public document. It's a sealed
8 record and so I would ask the court to consider sealing
9 that so it doesn't become a public record because if it's
10 in evidence.

11 SOLICITOR JOYNER: I don't have an objection to that,
12 your Honor.

13 THE COURT: All right, without objection we will seal
14 States Exhibit 1 at the conclusion of this hearing or this
15 trial.

16 All right, Ms. Russo, anything else before you call
17 your first witness?

18 MS. RUSSO: I would ask for just a short break. We
19 have not discussed any convictions on the part of Mr. Moise
20 to determine whether or not --

21 THE COURT: Let me do this, let me talk to him first
22 informing him of his right not to testify. Let me go
23 through that with him and then we will take a break.

24 MS. RUSSO: Thank you, Judge.

25 THE COURT: All right, Mr. Moise, if you would stand

1 with your attorney.

2 We've come to the point in the trial where Mr. Moise,
3 you have a right to present a defense, and when we get to
4 this point in the trial you have the right to claim the
5 protections given to you by the Fifth Amendment to the
6 Constitution. That amendment in part states that no person
7 shall be compelled in any criminal case to be a witness
8 against themselves. Even though this is a bench trial you
9 have the same protections as if you had a jury trial and
10 one of those protections is the right to not testify; the
11 right to remain silent.

12 What that means is that you cannot be required to
13 testify in this case. You have the right to testify on
14 your own behalf, however, no one can make you testify.
15 That's a personal right that you have and no one can waive
16 this right except you. If you decide to testify you will
17 be subject to the same rules that govern other witnesses
18 and you may be examined and cross-examined on any relevant
19 issue in the case.

20 In addition, if you have any convictions involving
21 dishonesty, or false statement, or for crimes punishable by
22 imprisonment for more than one year, and this court
23 determines that the probative value of admitting this
24 evidence outweighs its prejudicial effect to you, the
25 solicitor would be able to introduce your record to attack

1 your credibility.

2 If you decide to testify this decision on your part
3 must be freely voluntarily and intelligently made with
4 knowledge of the protections given to you by the *Fifth*
5 *Amendment* and the consequences of your decision to testify.
6 If you decide not to testify, in this particular case not
7 only am I the judge and determiner of the issues of law,
8 I'm also the finder of fact. Normally that is a duty that
9 the jury has; in this particular case because you and the
10 State have requested a bench trial, I am also the finder of
11 fact. And the fact that if you did not testify then this
12 court would not consider the fact that you did not testify
13 and there would be no prejudice to you because you did not
14 testify. It is left entirely up to you whether or not you
15 testify, and you can talk to your attorney or your friends,
16 anyone else, but the final decision is going to be left up
17 to you, entirely up to you.

18 Do you understand what I've explained to you about
19 your right not to testify?

20 MR. MOISE: Yes, sir.

21 THE COURT: Do you have any questions about that?

22 MR. MOISE: No, sir.

23 THE COURT: All right. I'm going to take a break
24 here, y'all resolve any prior record. If that is an issue,
25 if I need to be involved with that, we'll deal with that

1 when we come back.

2 And then you all talk to your client about whether he
3 wants to testify or not and we'll deal with that when we
4 come back, all right. We'll take about a 10-minute break.

5 (COURT IN RECESS AT 11:42 A. M.)

6 (COURT BACK IN SESSION 12:04 P. M.)

7 THE COURT: Thank you. Is the State ready to proceed?

8 SOLICITOR JOYNER: The State is ready, your Honor.

9 THE COURT: Defense?

10 MS. RUSSO: Defense is ready, your Honor.

11 THE COURT: All right. Mr. Moise, if you'd stand
12 again. When we left before the break I had indicated that
13 I would give you an opportunity to talk to your lawyer
14 about whether you should testify or not.

15 Have you had plenty of time to talk to your lawyer's
16 about that?

17 MR. MOISE: Yes, sir.

18 THE COURT: Do you wish to testify?

19 MR. MOISE: Yes, sir.

20 THE COURT: All right. Then you can have a seat.

21 All right, Ms. Russo, call your first witness.

22 MS. RUSSO: Thank you, your Honor. The Defense calls
23 Mario Moise.

24 (WHEREUPON, MARIO MOISE,
25 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

MARIO MOISE: DIRECT BY MS. RUSSO:

-82-

DIRECT EXAMINATION

1
2 MARIO MOISE BY MS. RUSSO:

3 Q. Thank you, Mr. Moise. How old are you?

4 A. Thirty-seven.

5 Q. How old were you when you were convicted for the
6 charge that put you on the registry?

7 A. Thirteen.

8 Q. Thirteen. And when did you actually start
9 registering?

10 A. In 1998.

11 Q. How old were you in 1998?

12 A. Sixteen getting ready to turn seventeen.

13 Q. So at sixteen did you go to DJJ or anywhere else
14 for that offense?

15 A. Yes, ma'am. I went to -- at the time I got convicted
16 I went to DJJ, from DJJ I went to a group home.

17 Q. So at sixteen you were in a group home and you were
18 on the sex offender registry?

19 A. Yes.

20 Q. And was that charge also a felony?

21 A. Yes.

22 Q. Did you end up going back to high school once you got
23 out of DJJ?

24 A. I've never been to high school.

25 Q. What was the last grade you did complete?

ORIGINAL

MARIO MOISE: DIRECT BY MS. RUSSO:

-83-

1 A. Six.

2 Q. Sixth grade. Never went to high school, never got
3 your GED?

4 A. No, ma'am.

5 Q. Never did any adult education or anything like that?

6 A. No, ma'am.

7 Q. So when you got out at sixteen, did you have to get
8 a job?

9 A. Yes, ma'am.

10 Q What kind of jobs did you start with?

11 A. Restaurant.

12 Q. And have you continued in that line of work? Have
13 you done other things? What kind of work do you do?

14 A. The only other job I've ever had was a factory at
15 Shutterfly.

16 Q. And how long did that last?

17 A. Three months.

18 Q. Three months. So, you get out at sixteen, did you
19 have a place to go live other than the group home or how
20 long did you stay there?

21 A. No, ma'am.

22 Q. Okay.

23 A. I stayed in the group home about two years and after
24 that I been homeless.

25 Q. You've been homeless?

ORIGINAL

1 A. Yes, ma'am.

2 Q. So restaurant jobs. Is it difficult to afford a
3 place?

4 A. Yes, ma'am.

5 Q. And then if you're homeless does that make it hard
6 to keep a job?

7 A. Yes, ma'am.

8 Q. Then where do you register when you're homeless?

9 A. I don't.

10 Q. And does that lead to more charges?

11 A. Yes, ma'am.

12 Q. And then you loose a job because you get arrested?

13 A. Yes, ma'am.

14 Q. So, where are you living now?

15 A. Right now I'm staying on 2 Willow Street in York
16 County.

17 Q. In York County?

18 A. Yes, ma'am.

19 Q. How long have you been there?

20 A. About six months.

21 Q. Who are you living with?

22 A. My wife and my two kids.

23 Q. How long have you been living with your wife?

24 A. About a year.

25 Q. What kind of impact has your wife had on you life?

MARIO MOISE: DIRECT BY MS. RUSSO:

-85-

1 A. A major impact.

2 Q. Tell me about that.

3 A. She's the only reason that I'm really afraid. She's
4 the reason I have a job.

5 Q. And where is that job?

6 A. Buffalo Wild Wings.

7 Q. How long you been there?

8 A. A year and a half.

9 Q. And is that -- what's the longest you've ever had a
10 job?

11 A. This is the longest.

12 Q. This is the longest. Before this what was the
13 longest you had a job?

14 A. Forty-five days.

15 Q. Forty-five days. And now you've had a job for over
16 a year. And does your wife work there too?

17 A. Yes.

18 Q. Did she help you get the job?

19 A. Yes.

20 Q. That's a good woman.

21 A. A great woman.

22 Q. And the two of you live together?

23 A. Yes.

24 Q. And you have two kids?

25 A. Yes.

ORIGINAL

1 Q. Do you have any grandkids?

2 A. One on the way.

3 Q. So back in July of 2018 were you and your wife, what's
4 her name?

5 A. Amy.

6 Q. Amy. Are you and Amy, were you together then?

7 A. Yes.

8 Q. And were you living with her at that time?

9 A. Yes.

10 Q. Where were the two of you living?

11 A. At the time we was staying at 1305 Saluda Street.

12 Q. And prior to that were -- where were you before you
13 moved in with her?

14 A. I was in Florida.

15 Q. How long were you in Florida?

16 A. About six, six or seven months.

17 Q. And what took you to Florida?

18 A. I was in Greenville County and I was homeless and I
19 moved to Florida to try to have a new life and try to start
20 over.

21 Q. And how did that go in Florida?

22 A. Not too well. I was in -- I went from staying at a
23 homeless shelter to with the mother of my kids to actually
24 coming back to South Carolina.

25 Q. And when you were in Florida, first of all, when you

MARIO MOISE: DIRECT BY MS. RUSSO:

-87-

1 left here did you register that you were moving to Florida?

2 A. Yes. I was staying in Greenville County and I let
3 them know that I'm fixin to be moving to Florida.

4 Q. Okay. And so you registered with them that you
5 were moving to Florida?

6 A. Yes.

7 Q. And then you went to Florida. Did you register with
8 Florida?

9 A. I attempted to register with Florida.

10 Q. Okay.

11 A. I went like I would normally do at any other place.

12 I was like, hello, my name is Mario and I'm here to
13 register, I give 'em my ID. They say okay, give me a
14 minute. The lady came back, she said, Mario, give us a
15 second, we trying to find, trying to find your name. I'm
16 like, okay. So a gentleman came back and said, Mario, can
17 you come with me? I'm thinking I'm in trouble. I wasn't.
18 He was like well, sir, you're no longer on the register.
19 I'm like okay. Well can you show me because I just can't
20 believe your word. He turned his computer around and
21 showed me where I was no longer on it. And I was like can
22 you show me that again? Can you read, type whatever you
23 just typed. And he's like, yes, sir. So he typed in my
24 name, my full name Mario Chanel Moise, birthday 9/23/81 and
25 he's like you know, you're no longer on the register. I'm

ORIGINAL

1 like, thank you, sir. So I left. And I went, well the
2 mother of my kids, I let her know, and I posted on
3 Facebook, a public post. I didn't say exactly what it was
4 but I was like I no longer have to report anymore.

5 Q. Okay. So Florida you didn't have to register?

6 A. No, ma'am.

7 Q. But you tried too. You didn't have too?

8 A. I tried to.

9 Q. And you conviction, or your adjudication delinquency,
10 whatever you want to call it, that was over twenty years
11 ago?

12 A. Yes, ma'am.

13 Q. So then you were in Florida and you came back to South
14 Carolina?

15 A. Yes..

16 Q. And you did not register at that point?

17 A. No, ma'am.

18 Q. Okay. You came back. You got a job?

19 A. Yes.

20 Q. And you were arrested at your job?

21 A. Yes.

22 Q. And they let you keep working there?

23 A. Yes.

24 Q. And they kept you for how long after that?

25 A. I'm actually still currently employed there.

MARIO MOISE: DIRECT BY MS. RUSSO:

-89-

1 Q. Still currently employed there. You then when you
2 were in jail were informed that you did have to register,
3 right?

4 A. Yes.

5 Q. So when you are released from jail they give you all
6 sorts of forms. They give you bond forms, they give you
7 your paperwork, they give you your court dates that you got
8 to come back on. How much paperwork did you leave the jail
9 with?

10 A. About a folder full.

11 Q. A full folder. Do you recall seeing a Sex Offender
12 Custody Notification Form?

13 A. No, ma'am.

14 Q. Okay.

15 A. I just signed papers.

16 MS. RUSSO: May I approach, your Honor?

17 THE COURT: Yes, you may.

18 BY MS. RUSSO:

19 Q. Take a look at State's Exhibit 4. Before today, do
20 you ever recall seeing this form?

21 A. I don't recall seeing it but it's address -- I mean
22 like my . . .

23 Q. Signature?

24 A. Signature.

25 Q. And they put forms in front of you and you were to

ORIGINAL

1 sign multiple forms that day, right?

2 A. Yes.

3 Q. And additionally when you go on the register they
4 give you a packet. Exhibit 5, I'll have you take a look
5 at that. Can you tell me how many pages that is?

6 A. Fourteen.

7 Q. Fourteen pages. And in that packet there are two
8 pages where you go down and initial, right?

9 A. Yes.

10 Q. How many things do you have to initial when you sign
11 that form?

12 A. Eighteen.

13 Q. Eighteen. And you had a sixth grade education?

14 A. Yes.

15 Q. And nobody reads that form to you, right?

16 A. No, ma'am.

17 Q. Okay. Do you have a copy of that form at home?

18 A. Somewhere.

19 Q. Do you remember them giving you a copy of it?

20 Do you remember receiving it and reading it and --

21 A. I received it before yes.

22 Q. Okay. How many times have you looked at it or
23 read it?

24 A. I read it once when I first got me the register form.

25 Q. So that would be in 1998 or 1999?

MARIO MOISE: DIRECT BY MS. RUSSO:

-91-

1 A. Yes.

2 Q. Do you know if the register requirements have
3 changed since then?

4 A. The only thing I know I had to come register more.

5 Q. More often?

6 A. Yes..

7 Q. So in 1999 or '98 you were going to register maybe
8 once a year?

9 A. Yes.

10 Q. Now you register four times a year?

11 A. Yes.

12 Q. So the requirements have changed. All right. You
13 then registered in October of 2018, right?

14 A. Yes.

15 Q. Why did you go register in October?

16 A. Because I was trying to do the right thing and my
17 wife she said go register, go register, go register, do
18 what's right, do what's right. You got kids, you got a
19 family so.

20 Q. And since then have you been registering like you're
21 supposed to?

22 A. Since then I been registering every three months like
23 I was supposed to.

24 Q. Does your wife make you go -

25 A. She make me go. She make me go. She gonna find out

ORIGINAL

MARIO MOISE: DIRECT BY MS. RUSSO:
CROSS BY SOLICITOR JOYNER:

-92-

1 when I got to go and when my next day, everything. She
2 keeps track of it.

3 Q. Is there anything else you would like the Court to
4 know about you?

5 A. No.

6 Q. All right. Thank you.

7 MS. RUSSO: Please answer any questions Ms. Joyner
8 has for you.

9 THE COURT: Thank you. Cross-examination.

10 SOLICITOR JOYNER: Yes, sir, just briefly.

11 CROSS-EXAMINATION

12 MARIO MOISE BY SOLICITOR JOYNER:

13 Q. Mr. Moise, going through --

14 SOLICITOR JOYNER: Your Honor, may I approach the
15 witness?

16 THE COURT: Yes, you may.

17 BY SOLICITOR JOYNER:

18 Q. I'm showing you the State's Exhibit 4. Do you -- and
19 that's your signature?

20 A. Yes.

21 Q. And when -- you agree then that you were working at
22 Buffalo Wild Wings?

23 A. Yes.

24 SOLICITOR JOYNER: Your Honor, do you have Items 7
25 and 8 at the bench?

ORIGINAL

MARIO MOISE: CROSS BY SOLICITOR JOYNER:

-93-

1 THE COURT: I have 8 and 7.

2 BY SOLICITOR JOYNER:

3 Q. And you've been working at Buffalo Wild Wings. What
4 was your start date there?

5 A. It was if I'm not mistaken March of 2018.

6 Q. Now you mentioned that you had changed your address
7 with Greenville County.

8 A. Yes.

9 Q. Is that correct?

10 A. Yes.

11 SOLICITOR JOYNER: May I approach the witness?

12 THE COURT: Yes, you may.

13 BY SOLICITOR JOYNER:

14 Q. I'm gonna show you what's been marked as State's
15 Exhibit 9. And you can just take your time and look
16 through that document and when you're ready let me know.

17 A. Okay.

18 Q. Is that your signature on page 2?

19 A. Yes.

20 Q. And is that your change of address form you filed
21 with Greenville County?

22 A. Yes.

23 Q. Is that the correct date listed on the second page?

24 A. Yes.

25 SOLICITOR JOYNER: Your Honor, we move State's Exhibit

ORIGINAL

MARIO MOISE: CROSS BY SOLICITOR JOYNER:

-94-

1 9 into evidence.

2 THE COURT: Ms. Russo, any objections to State's
3 Exhibit 9?

4 MS. RUSSO: No objection, your Honor.

5 THE COURT: State's Exhibit 9 in without objection.

6 (WHEREUPON, STATE'S EXHIBIT NO. 9, IDENTIFIED AND
7 MARKED, RECEIVED INTO EVIDENCE.)

8 SOLICITOR JOYNER: Thank you.

9 Q. And am I correct that this list you notifying
10 Greenville County you moved to Florida on January 2nd,
11 2018?

12 A. Yes.

13 Q. And going back to your employment you estimate March
14 2018 as you began working at Buffalo Wild Wings?

15 A. Yes.

16 Q. At the time you moved to Buffalo Wild Wings and
17 began employment there, were you living at 1305 Saluda
18 Street?

19 A. Yes.

20 Q. So that's only two months difference between the
21 time you filed a change of address to Greenville County and
22 the time that you were here in York County; is that
23 correct?

24 A. Yes.

25 Q. So its not six months. Did I misunderstand you

ORIGINAL

MARIO MOISE: CROSS BY SOLICITOR JOYNER:

-95-

1 earlier that you said you were in Florida for six months?

2 A. I stayed in Florida for about six months yes.

3 Q. You stayed in Florida for six months?

4 A. Yes.

5 Q. But is this on State's Exhibit 9 is that or the
6 date of January 2nd of 2018 that was the correct date that
7 you filed this change of address?

8 A. I had filed that before I went to Florida.

9 Q. Okay. So you went to Florida on January 2nd of 2018
10 before you went to Florida?

11 A. Yes.

12 Q. And you had an orientation date at the Buffalo Wild
13 Wings of March 2nd of 2018?

14 A. Something wrong.

15 Q. Okay.

16 A. Something. That paper, that change of address form is
17 wrong because that's not -- no, that's not possible.

18 Q. So you don't agree with the date ---

19 A. No.

20 Q. --- but you agree that that's your signature?

21 A. Yeah, it's my signature. That's not the date, I
22 apologize.

23 Q. Okay. So, when - now the Failure To Register Form,
24 its very long, correct?

25 A. Yes.

ORIGINAL

1 Q. Now you -- did you ever ask anybody at the Sheriff's
2 office to read that form to you?

3 A.. No.

4 Q. Did you ever indicate that you needed assistance
5 in reading the form?

6 A. No. I was just trying to do what I had to do to get
7 up out of there.

8 Q. Okay. So you were speeding along ---

9 A. Yes.

10 Q. --- to get it done?

11 A. They say initial this, sign here and date here. I
12 initialed here and signed that date there.

13 Q. But you understood that prior to your move to Florida
14 you understood that you were required to register multiple
15 times a year, correct?

16 A. Yes.

17 Q. And you would be provided different dates to register?

18 A.. Yes.

19 Q. And you knew that you were registering four times a
20 year in South Carolina, correct?

21 A. Yes.

22 Q. So have you ever before this moved out of state?

23 A. No, ma'am.

24 Q. Did you go to Ohio?

25 A. I didn't stay. I was up there visiting.

MARIO MOISE: CROSS BY SOLICITOR JOYNER:

-97-

1 Q. Okay. And so when you went to Florida and you came
2 back, did you know Ms. Scott before you came back?

3 A. Yes. I been knowing her for eight years.

4 Q. But you were not with her in Florida?

5 A. No.

6 Q. So you decided to come back to South Carolina and
7 when do you get there to York County?

8 A. It was January, close to the end of January.

9 Q. Close then to January of 2018?

10 A. Yes.

11 Q. At any point did you go to the York County Sheriff's
12 Office and say, hi, I'm Mario Moise I used to register
13 here, Florida said that I don't have to register?

14 A. No, ma'am.

15 Q. Am I correct that your birthday is September 23rd of
16 1981?

17 A. Yes..

18 SOLICITOR JOYNER: Judge, may I approach?

19 THE COURT: Yes you may.

20 BY SOLICITOR JOYNER:

21 Q. Now going to State's Exhibit 5, that's been entered
22 as a registry from September 22nd of 2014. If you could
23 look and just tell me if you recognize your signature.

24 A. Yes.

25 Q. And are those your initials on that form?

ORIGINAL

1 A. Yes.

2 Q. Thank you. So when going to the night that you were
3 arrested at Buffalo Wild Wings on July 25th of 2018, when
4 you were released you didn't go to register did you?

5 A. No, ma'am.

6 Q. And why not?

7 A. Because I was confused. I don't know too much about
8 court. They said I was failure to register, okay. They
9 gave me a court date. I figured I could get in and
10 situated with the new court date. I didn't know. If I had
11 a known I would a went. I wasn't trying to avoid the law
12 or trying to be on the run or like forget it. I just
13 really didn't know.

14 Q. But you know that you can get arrested for failure
15 to register?

16 A. Yes, I do know that.

17 Q. And Ms. Russo alluded to you before that --

18 SOLICITOR JOYNER: Your Honor, just as a point of
19 order with some impeachment issues, Ms. Russo and I reached
20 an agreement impeachment. However I believe the door was
21 opened by reference to his prior arrests.

22 THE COURT: I'm not gonna allow any impeachment
23 evidence.

24 SOLICITOR JOYNER: Okay.

25 Q. So you were confused?

MARIC MOISE: CROSS BY SOLICITOR JOYNER:

-99-

1 A. Yes.

2 Q. Did you call the York County Sheriff's Office to
3 address it with them to find out what the confusion was?

4 A. No, ma'am.

5 Q. But you were aware before you left for Florida that
6 if you changed your address you had to register or you had
7 to change your address with an agency; you had to register
8 with the sheriff's office in your new county, right?

9 A. Yes.

10 Q. You knew that?

11 A. Yes.

12 Q. So you knew to change your address from Greenville
13 to Greenville from York County?

14 A. Yes.

15 Q. And you completed a change of address form with
16 Greenville to put a Florida, correct?

17 A. Yes.

18 Q. And just to be clear, you agree that from July 1st of
19 2018 to September 27th of 2018 you were employed at Buffalo
20 Wild Wings?

21 A. Yes.

22 Q. In York County?

23 A. Yes.

24 Q. And you were living at 1305 Saluda Street?

25 A. Yes.

ORIGINAL

MARIO MOISE: CROSS BY SOLICITOR JOYNER:
REDIRECT BY MS. RUSSO:

-100-

1 Q. In York County?

2 A. Yes..

3 Q. Okay.

4 SOLICITOR JOYNER: Thank you very much, Mr. Moise

5 THE COURT: Any redirect?

6 MS. RUSSO: Just briefly.

7 REDIRECT EXAMINATION

8 MARIO MOISE BY MS. RUSSO:

9 Q. So when you came back from Florida why didn't you
10 go to the sheriff's office and try to register?

11 A. Because I was under the impression from Florida
12 stating that I did not no longer had to register. I was
13 under the impression that I was off of it completely. I
14 never moved from South Carolina to go stay in another state
15 to come back. I never. Now I visited other states but I
16 never moved and actually physically stayed in a different
17 state just to come back to Florida, I mean -- excuse me,
18 come back to South Carolina. So I didn't register.

19 Q. Thank you.

20 MS. RUSSO: Nothing further.

21 THE COURT: All right. Thank you. You can --

22 Any --

23 SOLICITOR JOYNER: Nothing further.

24 THE COURT: You can step down, Mr. Moise.

25 (WITNESS LEAVES WITNESS STAND.)

ORIGINAL

1 THE COURT: Call your next witness.

2 MS. RUSSO: The Defense rest, your Honor.

3 THE COURT: All right. Thank you. Any motions?

4 MS. RUSSO: We just renew all previous motions, your
5 Honor.

6 THE COURT: All right. Thank you. The Court abides
7 by it's prior rulings on any motions. Let me have all the
8 evidence. We'll take about a ten or fifteen minute break
9 and I'll come back in.

10 (COURT IN RECESS AT 12:29 P.M.)

11 (COURT BACK IN SESSION AT 12:43 P.M.)

12 THE COURT: All right, on Indictments 2018-GS-46-06030
13 The State versus Mario Moise, having been indicted for
14 violation of sex offender registry, for failure to register
15 the Court finds that the State has proven beyond a
16 reasonable doubt with their evidence that he is guilty of
17 a violation of this statute. And his failure to register
18 as a sex offender therefore the verdict on this indictment
19 is guilty.

20 Indictment 2018-GS-46-07697 indicted for violation of
21 sex offender registry by failure to register the Court
22 finds that Mr. Moise the defendant is guilty. The State
23 has proven beyond a reasonable doubt that he has violated
24 the elements of this statute, therefore again the verdict
25 on this indictment that amended indictment the verdict is

1 guilty. So lets bring Mr. --

2 Do you have some sentencing sheets?

3 SOLICITOR JOYNER: Yes, sir.

4 THE COURT: I'm not sure he's required to sign a
5 sentencing sheet after a jury verdict or a bench trial.

6 MS. RUSSO: Your Honor, that may handle, I would just
7 ask to renew all previous motions and ask for a new trial.

8 THE COURT: All right. Thank you. Again, my ruling
9 is the same on all prior motions and I deny your motion for
10 a new trial.

11 MS. RUSSO: Thank you, your Honor.

12 THE COURT: What are you marking?

13 SOLICITOR JOYNER: I'm marking his prior registry
14 convictions.

15 THE COURT: Okay. All right, let's bring Mr. Moise
16 around or if you all can stand right in front of your desk
17 there. All right, y'all ready?

18 MS. RUSSO: Yes, your Honor.

19 SOLICITOR JOYNER: Yes, your Honor.

20 THE COURT: All right, Solicitor, tell me about --
21 obviously I know about the facts of this case. Tell me
22 about his prior convictions.

23 SOLICITOR JOYNER: Thank you, your Honor.

24 Yes, sir, he was -- he had the adjudication from
25 Juvenile Court. He was convicted in 2000 for failure to

VERDICT/SENTENCING: BY THE COURT

-103-

1 register from Anderson County and that is marked as State's
2 Exhibit 16.

3 We'd ask that State's Exhibit 10 through 16 be made
4 Court's Exhibits or State's Exhibits regarding prior
5 convictions. He has a 2000 also a failure to accompany a
6 city court charge from Anderson County.

7 2001 a shoplifting from Rock Hill City Court; from
8 2002 a DUI from Rock Hill City Court. From 2003 he has a
9 failure to register as a sex offender out of York County
10 and that is marked as State's Exhibit 2 or 10.

11 From 2003 out of Anderson County use of vehicle. Inn
12 2004 out of Anderson County no driver's license. Also out
13 of Anderson County a 2004 grand larceny more than 5,000.

14 From 2006 out of Clemson criminal domestic violence
15 and malicious injury over 5,000.

16 From Anderson County 2006 he has a failure to register
17 as a sex offender and that is marked as State's Exhibit 14.

18 From 2010 out of Mauldin City DUS. He has a TIA out
19 of York County for 2011 giving false information. From
20 2011 he has a conviction out of Greenville County for
21 failure to register. I have marked that as a State's
22 Exhibit 13 and that is the incident date of 2009 but a
23 conviction made it 2011.

24 From York County 2015 he has a failure to register.
25 That is marked as State's Exhibit 12. From 2016 York

ORIGINAL

VERDICT/SENTENCING: BY THE COURT

-104-

1 County he has a failure to register marked as State's
2 Exhibit 11. And he also had a burglary 2nd. I'm not sure
3 if that was burglary 2nd violent or non-violent but a
4 burglary conviction. And I will pass these up, your Honor.

5 (WHEREUPON, STATE'S EXHIBIT NO. 10 THROUGH 14, AND 16,
6 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

7 (EXHIBITS RECEIVED UP BY THE COURT.)

8 THE COURT: All right. Ms. Russo, I'll be glad to
9 hear you as to sentencing.

10 MS. RUSSO: Thank you, your Honor. First I would like
11 to note that the 2006 conviction from Anderson County for
12 that conviction Mr. Moise was unrepresented and so we would
13 ask you not to consider that especially for enhancement
14 purposes. I understand there may be enough other
15 convictions but because he was unrepresented and did
16 receive jail time on that charge it may not qualify for
17 enhancement purposes, your Honor.

18 I think your Honor throughout this trial has heard Mr.
19 Moise's story and in the best from his own mouth. And I
20 think it's a compelling one. And it may not be a legal
21 defense to the charge and I think Mr. Moise just wanted to
22 have his story be heard and he's done that.

23 But he was put on the registry and convicted of a
24 sex offense and felony at the age of fourteen. And I think
25 he was probably put out of his house by parents who didn't

ORIGINAL

VERDICT/SENTENCING: BY THE COURT

-105-

1 support him and went into a group home when he got out of
2 DJJ at sixteen or seventeen and has lived in a cycle of
3 homelessness and joblessness since then.

4 It's been twenty years. And part of it is needing to
5 register and the cycle of not being able to register
6 because you're homeless and then picking up a new charge
7 because you're homeless and you go to jail or you're
8 sixteen and you don't want to register or you don't know or
9 you don't understand. And some of it is, you know, I just
10 got out of jail and I'm mad that, you know, they know where
11 I am and why do I have to go register.

12 It may not a hundred percent be homelessness but I
13 think it's a cycle he got into when he was young. You
14 heard him say he's never held a job longer than forty-five
15 days. But now he's on the right path, he's got a good
16 woman who's here supporting him today and her daughter who
17 has been here supporting him and they've come to numerous
18 appointments with him. They clearly have him on the right
19 path. It may have taken him twenty years to get there. I
20 can't argue young stupidity for all this because it's been
21 twenty years in the making. But she's gotten him a stable
22 home that he changed his address when he moved from Rock
23 Hill to York.

24 That second time he got out of jail and got his hard
25 head on straight went down to register and has been

ORIGINAL

VERDICT/SENTENCING: BY THE COURT

-106-

1 registering consistently ever since. He's not been
2 rearrested; he's been at the same job for over a year which
3 is far longer than he's ever held a job before and I think
4 he's doing right by himself and by his woman.

5 I really hope that when he gets out he will be able to
6 go back to that life and I think he's got Ms. Amy who will
7 stand beside him during that period of time and I really
8 hope that that is true and that happens and I think she's
9 willing to do it and she's willing to keep him straight
10 when he gets out.

11 I really think that this last year has been very good
12 for him. I know he's got a bit of a record but the one
13 thing you don't see on there is more sex offenses. He has
14 not been in another sex offense way since he was fourteen.
15 That is not his life; it's not his life style. He's on a
16 registry that is not even visible to the public because he
17 was a juvenile when he was registered. And he was living
18 at the same address when these charges happened. He had
19 told the jail where he was. The same address is on the
20 bond paperwork, on his warrants, on his employment
21 paperwork. They clearly knew where he was. He wasn't
22 trying to evade them or run from them or anything like
23 that.

24 I would ask you to take all of that in your account
25 and consider giving Mr. Moise the minimum on both charges

ORIGINAL

VERDICT/SENTENCING: BY THE COURT

-107-

1 to run concurrent, your Honor.

2 THE COURT: Mr. Moise, anything you want to say?

3 MR. MOISE: No, sir.

4 THE COURT: It looked like Judge Gee sentenced you
5 to three years. You had two three years sentences for
6 failure to register. How much time do you actually do when
7 she sentenced you in April of 2016 a three year sentence,
8 how much time did you do on that three years?

9 MR. MOISE: I did twenty months and got out because
10 it was a non-violent offense.

11 THE COURT: How much credit does he get?

12 SOLICITOR JOYNER: He bonded immediately on the July
13 arrest and on --

14 MS. RUSSO: I think he has four days, your Honor.

15 THE COURT: All right, I'm gonna count four days.

16 Well here's the thing, Mr. Moise. In some ways your
17 case is sad in that you having to deal with the
18 consequences of something that happened almost twenty-four
19 years ago. And I will note that on that particular
20 commitment order it may indicate that Mr. Moise himself may
21 be -- may have been a victim of sexual abuse.

22 However our legislature has made it clear and
23 determined that strict compliance with the sex offender
24 statute is necessary in our society and it's not my role or
25 its beyond my role to deviate from what the legislature has

ORIGINAL

1 so clearly indicated is potential penalties on violations
2 for the sex offender registry.

3 And then I'm also concerned, Mr. Moise, that you
4 appear to be a very honest guy but I'm concerned that you
5 were being helped immensely and for whatever reason and the
6 way you think you didn't think to try to protect that
7 situation, that job, that woman who's helping you by going
8 to register until after you had been charged. And you
9 certainly have a record of plenty of notice knowing what
10 the requirements are and so that concerns the court as
11 well.

12 My advice to you is that you know the system better
13 than I do. You know what you're gonna be facing and
14 certainly you know that at least we like to believe that
15 there are opportunities available to work on your education
16 while you're there if you choose to do that. On the other
17 hand you choose not to avail yourselves of any of the
18 programs at the Department of Corrections, I'm not naive
19 enough to know that there's a bunch of correcting that goes
20 on in the Department of Corrections but that's to be left
21 up to you whether it's gonna benefit you or not.

22 But based on that the sentence of the Court on both of
23 these Indictments he be committed to the Department of
24 Corrections for a determinate term of five (5) years to run
25 concurrent, credit for four days. Thank you.

VERDICT/SENTENCING: BY THE COURT

-109-

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SOLICITOR JOYNER: Thank you, your Honor.

THE COURT: Let me put on the record too that I am sealing State's Exhibit 1 into an envelop provided by the Clerk of Court.

(WHEREUPON, THE COURT SEALS STATE'S EXHIBIT NO. 1.)

(COURT IN RECESS AT 01:00 P.M.)

WITNESSES

YCSO

Witnessing Officer: *Hager*

ARREST WARRANT NUMBER

2018A4610100641

ACTION OF GRAND JURY

TRUE BILL

(To Sarah Nivens 1-17-19)

Foreperson of Grand Jury

Date: *Sarah Nivens 6/20/19*

VERDICT

Bench Trial

Guilty

Guilty 7-9-19

Foreperson of ~~Petit Jury~~

Date:

AMENDED
DOCKET NO. 2018-GS-46-07697

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JUNE 20, TERM 2019

THE STATE

VS.

MARIO CHANEL MOISE

INDICTMENT FOR

VIOLATION OF SEX OFFENDER
REGISTRY- FAIL TO REGISTER

SC Code: § 23-03-0470(A)
CDR Code: 2435

After being fully advised as to my legal rights, I hereby waive presentation 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 YORK


INDICTMENT

At a Court of General Sessions, convened on June 20, 2019, the Grand Jurors of York County present upon their oath:

VIOLATION OF SEX OFFENDER REGISTRY- FAIL TO REGISTER

The defendant, Mario Chanel Moise, having been convicted of an offense for which he is required to register as sex offender, did on or about July 31, 2018, through September 27, 2018, in York County, South Carolina, fail to register as a sex offender with the York County Sheriff's Office. All in violation of 23-03-0470(A), *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.



ERIN M. JOYNER
ASSISTANT SOLICITOR

DOCKET NO. 2018-GS-46-06030

After being fully advised as to my legal rights, I hereby waive presentation 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.

The State of South Carolina
County of York

COURT OF GENERAL SESSIONS

OCTOBER 11, TERM 2018

THE STATE
VS.
MARIO CHANEL MOISE

INDICTMENT FOR

VIOLATION OF SEX OFFENDER
REGISTRY- FAIL TO REGISTER

SC Code: § 23-03-0470(A)
CDR Code: 2435

WITNESSES

YCSO

Witnessing Officer: T.Hager

ARREST WARRANT NUMBER

2018A4610100634

ACTION OF GRAND JURY

TRUE BILL

U.M.O. Bennett

Foreperson of Grand Jury

Date: 10-11-18

VERDICT

Bench Trial

Guilty

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA

COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on October 11, 2018, the Grand Jurors of York County present upon their oath:

VIOLATION OF SEX OFFENDER REGISTRY- FAIL TO REGISTER

The defendant, Mario Chanel Moise, having been convicted of an offense for which he is required to register as sex offender, did on or about July 1, 2018, through July 23, 2018, in York County, South Carolina, fail to register as a sex offender with the York County Sheriff's Office. All in violation of 23-03-0470(A), *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.



ERIN M. JOYNER
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

s/Jessica M. Saxon
Jessica M. Saxon
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 13th day of April, 2020.

RECEIVED

Apr 13 2020

SC Court of Appeals