

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

—————  
Certiorari to Spartanburg County

R. Lawton McIntosh, Circuit Court Judge

—————  
SHANNON MILES LANCASTER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2020-000801

—————  
APPENDIX  
—————

JOANNA K. DELANY  
Appellate Defender

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
PO Box 11589  
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1000 Assembly St.  
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

**RECEIVED**

**Dec 22 2020**

S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG ) IN THE COURT OF GENERAL SESSIONS

The State, )  
-vs- ) TRANSCRIPT OF RECORD  
Shannon Miles Lancaster, ) 2016-GS-42-5068  
Defendant. ) March 14, 2017  
Spartanburg, South Carolina

B E F O R E :  
HONORABLE J. DERHAM COLE, JUDGE

A P P E A R A N C E S :  
JAMES EDWARD HUNTER, ESQUIRE  
Attorney for the State  
RICKY KEITH HARRIS, ESQUIRE  
Attorney for the Defendant

Linda D. Moffitt  
Circuit Court Reporter

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Guilty plea -- page 4.

No sworn testimony; no exhibits introduced into evidence.

1 THE COURT: You are Shannon Miles Lancaster.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Mr. Harris is your lawyer.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: I have an indictment, 2016-42-5068.

6 That indictment charges you with trafficking in  
7 methamphetamine. The state alleges that that occurred back  
8 on April the 15th of 2016, and they allege on that date  
9 that you did knowingly sell, manufacture, deliver, purchase  
10 or bring into the state, or provide financial assistance or  
11 otherwise aid, abet, assist or conspire to sell,  
12 manufacture, deliver, purchase or bring into the state, or  
13 you did knowingly have in your actual or constructive  
14 possession more than ten grams of methamphetamine, which is  
15 a Schedule II controlled substance.

16 If convicted of trafficking in methamphetamine where  
17 it is a second or subsequent offense -- in other words, you  
18 have prior convictions which serve to enhance the  
19 sentence -- in this case they're claiming it's a second  
20 offense and possession of methamphetamine greater than ten,  
21 less than 28, second offense, carries a potential sentence  
22 of up to 30 years in jail and a fine of \$50,000. It  
23 requires a mandatory minimum sentence of not less than five  
24 years in jail and a fine. Do you understand what you're  
25 charged with?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you understand the potential sentence  
3 that can be imposed?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you want to plead guilty or not guilty?

6 THE DEFENDANT: I want to get it behind me, sir.  
7 Guilty, sir.

8 THE COURT: And Mr. Harris is your lawyer. How long  
9 has he been representing you?

10 THE DEFENDANT: I think Mr. Harris has been  
11 representing me mostly about eight or nine months.

12 THE COURT: And have you been in custody during those  
13 eight or nine months?

14 THE DEFENDANT: Yes, sir. I've been in custody longer  
15 than that, but, yeah, I hired Mr. Harris about eight or  
16 nine months ago.

17 THE COURT: Well, now, what do you mean, you've been  
18 in custody for longer than that?

19 THE DEFENDANT: Yeah. It's been about a year. I am  
20 in custody now.

21 MR. HARRIS: He picked -- I believe he means he was in  
22 jail a few months before I came on the case.

23 THE DEFENDANT: Yeah. I mean, they -- we hired him  
24 probably about four or five months after I had been  
25 incarcerated.

1 THE COURT: Well, how long have you been in jail then?

2 THE DEFENDANT: Since the May 12th of last year.

3 THE COURT: Okay. And since that time have you had  
4 plenty of opportunity to talk to Mr. Harris about your case  
5 and about your decision to plead guilty?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Did he go over the indictment with you and  
8 explain to you what the state claims you did?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you understand it?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Do you understand what they have to prove  
13 before you could be convicted or found guilty of  
14 trafficking in methamphetamine?

15 THE DEFENDANT: Yes, I do.

16 THE COURT: And he explained to you what kind of  
17 punishment or penalty could be imposed?

18 THE DEFENDANT: Yes, sir. I do.

19 THE COURT: Did you tell him everything you know about  
20 the facts that relate to these allegations?

21 THE DEFENDANT: Yes. We have went over that.

22 THE COURT: Did you and he discuss whether or not you  
23 have a defense to this charge?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you have one?

1 THE DEFENDANT: No, sir.

2 THE COURT: Do you understand that if you did when you  
3 plead guilty you give up your right to assert it?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you still wish to go forward?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Did Mr. Harris explain to you each of the  
8 constitutional rights you have that you must give up if you  
9 want to plead guilty?

10 THE DEFENDANT: Yes, sir. He has.

11 THE COURT: Did he explain to you about your right to  
12 remain silent?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand it?

15 THE DEFENDANT: Yes, sir, I do.

16 THE COURT: Did he explain to you about your right to  
17 confront and to examine any witness in court who would  
18 offer evidence against you?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you understand it?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Did he explain to you about your right to  
23 have a jury trial and to have 12 jurors determine whether  
24 or not you are guilty?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand it?

2 THE DEFENDANT: Yes, sir. I do.

3 THE COURT: And understanding each of those rights, do  
4 you wish to give them up in order to plead guilty as you've  
5 indicated?

6 THE DEFENDANT: Yes, sir. I do.

7 THE COURT: You and Mr. Harris and the prosecutor have  
8 agreed upon a negotiated range of sentencing for my  
9 consideration?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And what did you understand that that  
12 agreement resulted in?

13 THE DEFENDANT: It was the range from 12 to 18.

14 THE COURT: And do you understand that that would be  
15 solely up to me --

16 THE DEFENDANT: Yes, sir.

17 THE COURT: -- to decide what I would impose within  
18 that range if I agreed to go along with it?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Other than that have you been promised  
21 anything?

22 THE DEFENDANT: No, sir.

23 THE COURT: Did they agree to reduce the charge or  
24 agree to dismiss any other charges in return for pleading  
25 guilty now?

1 THE DEFENDANT: No, sir.

2 THE COURT: Okay. Other than the agreement have you  
3 been promised anything?

4 THE DEFENDANT: No, sir.

5 THE COURT: Threatened or coerced or pressured by  
6 anybody in any way?

7 THE DEFENDANT: No, sir.

8 THE COURT: Are you pleading guilty freely and  
9 voluntarily?

10 THE DEFENDANT: I'm pleading guilty freely and  
11 voluntarily.

12 THE COURT: And are you guilty of trafficking just as  
13 it is described in this indictment?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You're 42 years old.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: How far did you go in school?

18 THE DEFENDANT: I went to school up to the 11th grade  
19 and got my G.E.D. inside the prison.

20 THE COURT: Are you married?

21 THE DEFENDANT: No, I'm not married, but I have three  
22 children.

23 THE COURT: And have you worked before?

24 THE DEFENDANT: Yes, sir, I have worked.

25 THE COURT: Doing what?

1 THE DEFENDANT: I did electrical work before.

2 THE COURT: Have you ever been treated for any type of  
3 substance abuse or addiction?

4 THE DEFENDANT: I've never been to rehab, but I went  
5 to the substance abuse class inside the jail, the SADAC  
6 class. I got a graduate certificate for it. And I  
7 actually enjoyed it. I took it serious as I can.

8 I been going to Bible studies. I've been trying to  
9 better myself and get a better attitude about my situation,  
10 you know. I've seen a change in me since I come off drugs  
11 in the last year. I feel -- you know, I do see my wrongs I  
12 did though. I am sorry. I'm ashamed and I am embarrassed  
13 of my drug use, you know.

14 THE COURT: All right. What -- do you suffer from an  
15 addiction today?

16 THE DEFENDANT: I don't any more, but for months I  
17 did, you know, and I -- you know, coming off that, and I  
18 started slowly trying to get into my Bible studies.

19 And I know -- I knew the counselor at the SADAC. I  
20 actually went to school with her, and she got me into that.  
21 And I actually enjoyed, you know. I just -- about the best  
22 thing I do, I try to stay in my Bible and pray, you know,  
23 and pray to God to help me, help my soul.

24 THE COURT: So you are clear-headed today?

25 THE DEFENDANT: I'm about the clearest I've been in

1 years. I mean, not years. But, you know, today I am  
2 feeling good, you know.

3 THE COURT: Have you ever been treated for any type of  
4 mental illness or emotional disturbance?

5 THE DEFENDANT: No, I haven't, you know.

6 THE COURT: Do you suffer from any such a condition?

7 THE DEFENDANT: I don't think I have, you know. I  
8 felt -- before when I got out of prison that, you know,  
9 I -- I needed to go to mental health, but I never did  
10 pursue it.

11 THE COURT: Why did you think you needed to go?

12 THE DEFENDANT: Because I was, I guess, used to being  
13 inside locked up so much, you know, I just --

14 THE COURT: You were depressed about your  
15 circumstances?

16 THE DEFENDANT: Yeah. Well, I would say, Mr. Cole, it  
17 would lead to depression, you know, being -- being in my  
18 surroundings and, you know, but I'm being good, honest,  
19 I've had to say yeah.

20 THE COURT: Well, is there anything about your mental  
21 outlook or condition -- have any affect upon your ability  
22 to understand fully what you're doing here right now?

23 THE DEFENDANT: I understand I'm pleading guilty.

24 THE COURT: All right. Listen to what the solicitor  
25 tells about your case, and then I'll ask you some

1 additional questions.

2 MR. HUNTER: For sure. I want to go over some -- you  
3 asked him if there were any dismissal of any other charges,  
4 and we are dismissing all of those other pending charges  
5 once we pleads to this case as part of the --

6 THE COURT: What else does he have pending?

7 MR. HUNTER: He has a distribution of meth third, PWID  
8 meth third, trafficking meth third, unlawful carrying,  
9 trafficking meth third, possession of oxy and possession of  
10 Lorazepam.

11 THE COURT: And are all of those -- are all of those  
12 indictments that are pending?

13 MR. HUNTER: Those are all indictments that are  
14 pending, Your Honor.

15 THE COURT: And are there any other warrants that are  
16 pending or any warrants that are contemplated?

17 MR. HUNTER: Not to my knowledge, Your Honor.

18 THE COURT: And so everything he's done up until today  
19 is considered in this plea?

20 MR. HUNTER: Correct, Your Honor.

21 THE COURT: Okay. Is that a fair statement,  
22 Mr. Lancaster?

23 THE DEFENDANT: I've been convicted of a first before,  
24 and I don't -- I don't know about the third offense.

25 THE COURT: No, no. That's not what we're talking

1 about. We're talking about --

2 THE DEFENDANT: Yes, sir.

3 THE COURT: -- the other pending charges.

4 THE DEFENDANT: Oh, yes. I have pending charges.

5 THE COURT: What I'm trying to find out is you have  
6 other pending charges.

7 THE DEFENDANT: Yes, sir. I did have pending charges.

8 THE COURT: And I don't know if they have other  
9 warrants that they contemplate serving on you or not. You  
10 know, even if you haven't been arrested --

11 THE DEFENDANT: Okay. I understand. I do understand  
12 that.

13 THE COURT: But Mr. Hunter's saying that whatever  
14 you've done up until today that relates to these drug cases  
15 are taken care of in this plea today.

16 THE DEFENDANT: Right. Yes, sir.

17 THE COURT: So, in other words, they're not going to  
18 be coming back to serve you with any more warrants.

19 THE DEFENDANT: Yeah. It was -- it was like a spree,  
20 you know, spree type, undercover. And all of these  
21 warrants come piled at one time. So, you know, that's  
22 what happened to me and James Ruann. That's --

23 THE COURT: All right.

24 MR. HUNTER: Your Honor, on April 15th of 2016  
25 Investigator Ruann with the Spartanburg County Sheriff's

1 Office had previously been introduced to Mr. Lancaster as  
2 someone who had purchased meth.

3 He called up Mr. Lancaster to purchase meth from him  
4 that day. He originally picked him up in Gaffney, drove  
5 him down to a trailer park here in Wellford where he  
6 dropped Mr. Lancaster off. For a few hours they went back  
7 and forth because the meth was not ready.

8 Ultimately, they ended up meeting back together at  
9 the -- at a Spinx and Burger King before finally going back  
10 to the trailer park where Mr. Ruann gave Shannon Lancaster  
11 \$1,250 in sheriff's office recorded money.

12 Mr. Lancaster went into the trailer. Hispanic male  
13 then showed up in a car and went into the trailer.  
14 Mr. Lancaster came back out and gave Investigator Ruann  
15 just under 28 grams of methamphetamine.

16 Mr. Lancaster -- this occurred obviously in  
17 Spartanburg County.

18 Mr. Lancaster was arrested a few days later on  
19 multiple warrants, and a large amount of cash was found on  
20 his person. Within that cash was at least \$140 of the  
21 marked funds that Investigator Ruann had purchased meth on  
22 April 15th, Your Honor.

23 THE COURT: And his history is what?

24 MR. HUNTER: His history is a 1991 possession of  
25 crack, simple assault and battery, '94, petty larceny times

1 two, obtaining property by false pretenses; a '96 burglary  
2 third times three, petty larceny times two, grand larceny;  
3 1999, simple possession of marijuana, D.U.S.; 2001,  
4 possession of Xanax times two, PWID marijuana; 2006,  
5 shoplifting, malicious injury to personal property, C.D.V.;  
6 '08, receiving stolen goods, shoplifting; 2009, open  
7 container, simple possession of marijuana; 2010, receiving  
8 stolen goods third or subsequent, C.D.V. second; 2014,  
9 shoplifting; 2015, shoplifting and trafficking meth ten to  
10 28 grams.

11 THE COURT: All right. You heard what he told me  
12 about the facts.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you agree?

15 THE DEFENDANT: Yes, sir. I -- I've made a lot of  
16 mistakes in my life, you know.

17 THE COURT: You heard what he told me about your  
18 history.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you agree?

21 THE DEFENDANT: Yes, sir. I have been convicted of  
22 those things.

23 THE COURT: Do you still want to plead guilty?

24 THE DEFENDANT: Yes, sir, I do. I want to get this  
25 behind me.

1 THE COURT: All right. I'll accept your plea and hear  
2 from you and Mr. Harris.

3 MR. HARRIS: May it please the Court, Your Honor.

4 I've been representing Mr. Lancaster for several  
5 months, have met with him several occasions at the jail to  
6 discuss his case, his pending charges, and of course spent  
7 a lot of time with him just in the last week preparing for  
8 what we anticipated to be a trial today on this charge.

9 I have found Mr. Lancaster to be a very torn kind of  
10 individual. He knows that he's let his drug addiction  
11 control his life, and it has led to this.

12 And now he knows, obviously, that he's facing at least  
13 12 to 18 years in prison and that's -- I've explained to  
14 him the significance of a conviction for trafficking in  
15 methamphetamine second offense beyond the punishment, that  
16 the other consequences, that being a serious offense, being  
17 a no-parole offense and being a 85 percent offense. He  
18 understands that, and he's made the decision today, which I  
19 agree with, to, as he says, put this matter behind him.

20 Your Honor, we -- we just simply ask that the Court,  
21 considering all of the circumstances, sentence him with  
22 some degree of leniency and consideration for the plea.

23 THE COURT: All right. Mr. Lancaster, you heard Mr.  
24 Harris tell me that he talked to you about the fact that  
25 this crime is classified as a violent offense and a serious

1 offense under the law and a no-parole offense under the  
2 law. Do you understand the significance of those  
3 designations?

4 THE DEFENDANT: Yes, sir, I do, Mr. Cole.

5 THE COURT: And do you still want to go forward with  
6 the plea?

7 THE DEFENDANT: Yes, sir, I do, Mr. Cole.

8 THE COURT: Do you have anything you want to add to  
9 what he told me?

10 THE DEFENDANT: I'd like to say, you know, that I'm  
11 very sorry for what I did to the Court. I ask, I beg, the  
12 Court to please have mercy and to -- understand I'm in the  
13 wrong. I'm still going away to prison. You know, and I'd  
14 like to just ask you to have mercy.

15 I do have three children. Their ages are 20, 17 and  
16 15. I'd like to maybe get out there soon and be a part of  
17 their life, maybe stay in their lift. I do ask for that,  
18 Mr. Cole.

19 You know, I'm sorry. I've shamed and I've embarrassed  
20 my family and I'm here to take responsibility for what I  
21 did.

22 THE COURT: All right. On Indictment 2016-5068,  
23 Sentence of the Court is you be confined to the South  
24 Carolina Department of Corrections for a period of 15  
25 years.

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Give him credit for any time he's entitled to pursuant  
to 24-13-40.

END OF REQUESTED TRANSCRIPT OF RECORD

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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 14th day of March 2017.

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

July 22, 2017



Linda D. Moffitt  
Circuit Court Reporter



STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 :  
 COUNTY OF SPARTANBURG ) SEVENTH JUDICIAL CIRCUIT

The State, ) NOTICE OF MOTION AND MOTION  
 : FOR RECONSIDERATION  
 -vs- )  
 : Indictment No. 2016-GS-42-5068  
 Shannon Miles Lancaster, )  
 :  
 Defendant. )

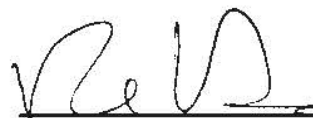
TO: JAMES EDWARD HUNTER  
 ASSISTANT SOLICITOR, SEVENTH JUDICIAL CIRCUIT

**YOU WILL PLEASE TAKE NOTICE** that the Defendant will move before the Honorable J. Derham Cole, Judge for the Seventh Judicial Circuit, for reconsideration of his guilty plea and sentence occurring on March 14, 2017.

The Defendant asks for the following relief:

- (1) The Defendant asks for reconsideration of his guilty plea by way of request to withdraw his guilty plea as entered on March 14, 2017.
- (2) The Defendant asks for reconsideration of his guilty plea by way of request for reconsideration of the sentence imposed on March 14, 2017.

Respectfully submitted,

  
 \_\_\_\_\_  
 RICKY HARRIS  
 145 N. Church Street, #34  
 Spartanburg, South Carolina 29306  
 (864) 591-4250  
 S.C. Bar No. 2750

FILED  
 2017  
 MAR 21  
 10 11 AM  
 CLERK OF COURT  
 SPARTANBURG, SC

March 21, 2017

Attorney for the Defendant



TD



STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
 :  
 COUNTY OF SPARTANBURG ) SEVENTH JUDICIAL CIRCUIT

The State, )  
 :  
 -vs- ) CERTIFICATE OF SERVICE  
 :  
 :  
 : Indictment No. 2016-GS-42-5068  
 Shannon Miles Lancaster, )  
 :  
 :  
 Defendant )

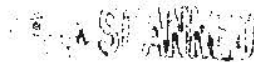
PLEASE TAKE NOTICE that by hand delivery on J. Smith, I have served on James Edward Hunter, Assistant Solicitor of the Seventh Judicial Circuit, 180 Magnolia Street, Spartanburg, South Carolina, the following:

DEFENDANT'S NOTICE OF MOTION AND MOTION FOR RECONSIDERATION

RICKY HARRIS  
 Attorney for Defendant

BY: Melissa Murdoch  
 Melissa Murdoch  
 Paralegal

March 21, 2017



FILED  
 2017 MAR 21 PM 1:05

TT

Spartanburg, SC  
 vs Plaintiff  
 Shannon Lancaster  
 Defendant

Date 3-23-17

FILED  
 CLERK OF COURT  
 GREEN COUNTY

2017 MAR 27 AM 11:24

M. HOPE BLACKLEY

: Motion for reconsideration of  
 sentence for reduction:

(Motion: Reasons for Motion)

I ask a motion for a reconsideration of my guilty plea on  
 3-14-17. I please ask for a restructure of my negotiated 12 to 18 yr  
 plea for 1 charge of Trafficking Meth 2nd. I request a reconsideration  
 or plea restructure because I was persuaded and rushed into plea by attorney.  
 I had arguement with Attorney about my pending jury trial on 3-14-16  
 and frightened into plea. I was told by my Attorney that the solicitor  
 had a problem with me in my case, and I feel this was personal between  
 myself and the solicitor Eddie Hunter. I should of spoke up and let Judge  
 Cole know what had happened before my guilty plea on 3-23-17.

(Date 3-23-17)

Thank you sincerely,

Shannon Lancaster

Clerk of Court, I had written this appeal <sup>over</sup> or reconsideration myself, because I don't know if my Attorney Ricky Harris filed this motion for me like I have asked him. I wrote my Attorney on 3-14-17 after my guilty plea asking my Attorney to file this appeal or reconsideration within the 10 day period. I plead guilty on 3-14-17 and im mailing this off on 3-23-17 so this has been within my 10 day period. I thank the Clerk of Court with their help with this situation,

Shannon Lancaster

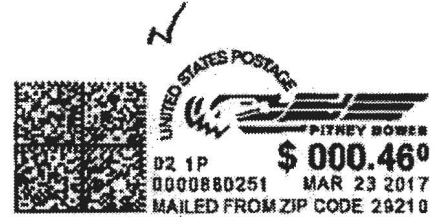
Date 3-23-17

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IBURG COUNTY  
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M. HOPE BLACKLEY

Shannon Lancaster # 341546 CI-13

**Mailroom**  
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4344 Broad River Road  
Columbia, S.C. 29210

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SC 2920  
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**RECEIVED**

MAR 23 2017

KIRKLAND R&E CENTER  
MAILROOM

Clerk of Court  
P.O. Box 3483  
Spartanburg, SC 29304-3488

**LEGAL  
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29304-348353



Es

STATE OF SOUTH CAROLINA )  
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 COUNTY OF SPARTANBURG )  
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 The STATE of South Carolina, )  
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 Prosecutor, )  
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 -vs- )  
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 Shannon Miles LANCASTER, )  
 )  
 Defendant. )

IN THE COURT OF GENERAL SESSIONS

**ORDER**

**Denying Post-trial Motion**

Indictment No. **2016-GS-42-05068**

This matter came before this Court on *pro se* "motion" of the defendant Shannon Miles Lancaster, filed with the Clerk of Court on March 24, 2017, seeking a "time cut or ... an open reconstructed plea."

**Salient Facts**

The defendant appeared before this Court on March 14, 2017 for disposition of the above-referenced indictment charging him with Trafficking in Methamphetamine (10 grams or more and less than 28 grams) Second Offense. At the call of the case the Court was informed that the defendant wished to enter a plea of guilty to the charge based upon a negotiated agreement as to the sentence to be imposed (a term within a range of twelve (12) to eighteen (18) years) and dismissal of additional pending indictments. The defendant was represented by Ricky Harris, Esq. The State was represented by James Edward Hunter of the Circuit Solicitor's office.

The usual plea colloquy established that the defendant understood the charge, the sentence range, his waiver of constitutional rights, and the waiver of any defenses. It was apparent that his decision to plead guilty was freely, voluntarily, and knowingly made with an understanding of the consequences. Pursuant to the negotiated agreement the defendant was sentenced to a term of fifteen years.

It appears that the defendant is now requesting a reduction in the sentence imposed or, in the alternative, to have his guilty plea withdrawn and entered with the discretion in sentencing left to the Court.

*(Handwritten signature/initials)*

*(Handwritten initials)*

\_\_\_\_\_

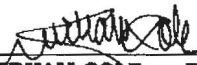
**Applicable Law**

Rule 29, SCRCrimP, provides that "... post-trial motions shall be made within ten (10) days after the imposition of sentence." Based upon the relief requested in his correspondence, the Court is treating the request as a timely filed motion for reconsideration.

**Conclusion**

After having considered the contents of the letter constituting his "motion" and after reviewing the transcript of the plea proceeding, this Court finds that the defendant's post-trial **motion** should be and **is** therefore **denied**.

March 27, 2017

  
\_\_\_\_\_  
J. DERHAM CODE, Presiding Judge  
The Seventh Judicial Circuit Court

\*2

012-1-110

FORM 5

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF Spartanburg )  
 )  
Shannon Lancaster )  
 Full name and prison number (if any) of Applicant. )  
 )  
 v. )  
 )  
 State of South Carolina )  
 )

IN THE COURT OF COMMON PLEAS

APPLICATION FOR  
 POST-CONVICTION RELIEF

**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Correctional Institution
2. Name and location of Court which imposed sentence General Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2016-GS-420-5068 (Drug Trafficking)
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) March 14, 2017
  - (b) \_\_\_\_\_

2018 SEP -4 AM 10:46  
 J. HERR BLAOKLEY  
 CLERK OF COURT  
 CLERK OF COURT  
 CLERK OF COURT

- (c) \_\_\_\_\_
- 6. Check whether a finding of guilty was made:
  - (a) after a plea of guilty
  - (b) after a plea of not guilty \_\_\_\_\_
  - (c) after a plea of nolo contendere \_\_\_\_\_
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?  
Yes
- 8. If you answered "yes" to (7), list:
  - (a) the name of each Court to which you appealed:
    - i. SC Court of Appeals
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (b) the result in each such Court to which you appealed:
    - i. Appeal dismissed
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (c) the date of each such result:
    - i. July 13, 2018
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (d) if known, citations of any written opinion or orders entered pursuant to such results:
    - i. 2018-UP-325
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
- 9. If you answered "no" to (7), state your reasons for not so appealing:
  - (a) N/A
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
- 10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

2018 SEP -4 AM 10:46  
 M. J. BLACKLEY

- (a) See Attachment
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) See Attachment
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(b) the name and location of the Court in which each was filed:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(c) the disposition thereof:

- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

2018 SEP -4 AM 10:46  
 H. HOJ L. B. ACHLEY

- iv. \_\_\_\_\_
- (d) the date of each such disposition:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?  
N/A
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- (b) the proceedings in which each ground was raised:
- i. N/A
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) See Attachment
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_
17. Were you represented by an attorney at any time during the course of:

2018 SEP -4 AM 10:46  
HALL OF RECORDS

- (a) your arraignment and plea? ✓
- (b) your trial, if any? No
- (c) your sentencing? ✓
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? No

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
  - i. Ricky Harris 145 N. Church St. Suite 501
  - ii. Spartanburg, SC 29306
  - iii. Robert M. Pachak, P.O. Box 11599, Columbia, SC, 29211
- (b) the proceedings at which each such attorney represented you:
  - i. plea (Ricky Harris)
  - ii. Appeal (Robert M. Pachak)
  - iii. \_\_\_\_\_

19. State clearly the relief you seek in filing this application:

Vacate and Remand

20. Are you now under sentence from any other court that you have not challenged?

N/A

2018 SEP -4 AM 10:46  
 J. H. COLARNEY

STATE OF SOUTH CAROLINA )  
 )  
County of )

VERIFICATION

I, S.L., being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Shanna Rancaster

SWORN to and subscribed before me this 28th  
day of August, 2018.

Tamara Conwell (L.S.)  
Notary Public

My Commission Expires: \_\_\_\_\_

**RECEIVED**

AUG 28 2018

P.C.I. MAILROOM

2018 SEP -4 AM 10:46  
M. HOFFER-DUNNLEY

APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF

I, SL., hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Shanna Lancaster  
Applicant

SWORN or affirmed to and subscribed before me this  
28th day of August, 2018.

Tammie Conwell  
Notary Public

My Commission Expires

My Commission Expires: September 25, 2023

RECEIVED

AUG 28 2018

P.C.I. MAILROOM

2018 SEP -4 AM 10:46  
THOMAS A. ACHLEY



failed to process an application, that has to be initiated by the Chief of 31ed. After reviewing the application the Attorney General or his Assistant Attorney General may authorize the application to a judge of competent jurisdiction, and the judge may grant in conformity with this chapter.

Investigator James Ruane in violation of S.C. Code § 17-30-70 application process, for this case.

(3) Failure of counsel to investigate the evidence and discovery, to make sure the Investigator James Ruane had a judge of competent jurisdiction enter an ex parte order, as modified, authorizing the interception of wire, oral, or electrical communications within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that: (1) there is  
(2)

2018 SEP - 4 AM 10: 46  
11: 11: 11  
11: 11: 11

probable cause for belief that an individual is committing, has committed, or is about to commit an offense provided in section 17-30-70, pursuant to S.C. Code § 17-30-80 (D) (1). The investigator James Ruane is in violation of S.C. Code § 17-30-80 (D) (1) authorizing order for the Interception of Wire, Electric, or Oral communications.

(4) Failure of counsel to investigate the intercepted communication, and to make sure the said evidence was not illegally disclosed pursuant to S.C. Code § 17-30-75. Investigator James Ruane illegally disclosed said evidence in violation of S.C. Code § 17-30-75.

(5) Failure of counsel to request and require as part of Discovery that copies of all intercepted communications be provided as they are gathered so that a proper defense for physical evidence can be built as is provided for by S.C. Code § 17-30-105.

(6) Failure of counsel pursuant to S.C. Code § 17-30-130,

(3)

2018 SEP 23 AM 10:47  
M. HOFFER  
LEUCKLEY  
SOUTH CAROLINA  
DEPARTMENT OF COURT



that when Investigator Ruane came to Cherokee county to pick me up for a drug investigation, he had no authority to do so, and acted illegally thus these actions and /or lack thereof constituted entrapment by law enforcement.

(10) Counsel was ineffective for providing erroneous and incorrect advice to plead guilty instead of challenging the State's evidence through the protections of trial. Therefore, Applicant's plea was unknowing and involuntary entered into, pursuant to the Investigator violating S.C. Code § 17-30-70 application process, and § 17-30-80 authorizing order, for the Interception of Wire, Electric, or Oral communications.

(11) Counsel failed to challenge subject matter jurisdiction of the Petitioner's guilty plea, pursuant to the Investigator's violation of S.C. Code § 17-30-70 application process, for this

(5)

M. HORN BLANKLEY

2018 SEP -4 AM 10:47

FILED  
CLERK OF COURT  
JULY 20 2018

investigation. Furthermore, the Grand Jury was improperly influenced with tainted evidence and false testimony. Therefore, the trial court lacked jurisdiction to accept Petitioner's guilty plea.

(12) Counsel failed to have a valid strategy for this case.

(13) Failure of counsel to advise and/or move for video footage to be excluded due to it being a partial and the whole story not being told and therefore inconclusive, as well as illegally obtained. And, no valid Chain of Custody.

(14) Failure of counsel to advise me and inform the court, that Investigator James Ruane illegally recorded audio and video, without processing an application or authorizing order, for a drug trafficking investigation, pursuant to S.C. Code 17-30-70 and § 17-30-80, and also conducted a unreasonable search, that violated my Fourth and

(6)

STATE OF SOUTH CAROLINA  
 CLERK OF COURT  
 2418 SEB-4 AM 10:47  
 JAMES RUANE

Fourteenth Amendment rights. Therefore, the audio / video recording and evidence was obtained in violation of Title 17, Chapter 30, of criminal procedures, and is considered "Fruit of the Poisonous Tree." (See Exhibits 1, 2, 3, incident report / buy notes for case # 16040895)

(15) Failure of counsel to investigate the evidence, to make sure the informant "David Brent Goode," was registered with the South Carolina Law Enforcement Division, for a drug trafficking investigation. Investigator James Ruane failed to register the informant "David Brent Goode," with "Sled," for this investigation. The Investigator James Ruane is in violation of Sled Policy 13.30 "Use of informants in investigations."

16(A):(B):(C): Ineffective assistance of counsel: This is the only venue I am aware of for these type of claims.

(7)

2018 SEP -4 AM 10:47  
M. HOPKINS BLACKLIE

DEPARTMENT OF CORRECTIONS  
OFFICE OF THE WARDEN

**LANCASTER, SHANNON M - Suspect**

DOB	██████████	Race	W-WHITE, NON-HISPANIC
Sex	M	Ethnicity	Non-Hispanic
Height	6'00"	Weight	175
Address	████ OLD DIRT RD; OLD DIRT RD	City	SPARTANBURG
State	SC	Zip	29307
Phone	(864)621-2376		
DL Number	██████████	DL State	South Carolina

Exhibit 1

**NARCOTICS - Complainant**

DOB		Race	
Sex		Ethnicity	
Height	6'00"	Weight	180
Address	8045 HOWARD ST	City	SPARTANBURG
State	SC	Zip	29303
Phone	(864)503-4500		
DL Number		DL State	

**Property****Drug - Evidence**

Quantity	27.6	Total Value	\$1.00
Measurement	Gram	Amount Recovered	\$0.00
IBR / UCR Code	Drug/Narc, Amphet or Methamphe	Date Recovered	04/15/2016
Status	Seized	Owner	

**Narratives****Original Narrative - Ruane, James - 04/18/2016 13:26:26**

On April 15, 2016 Investigator Ruane, acting in a undercover capacity contacted Shannon Lancaster in reference to purchasing an ounce of methamphetamine. Shannon Lancaster stated to Investigator Ruane to pick him up, and take him (Lancaster) to go get the methamphetamine. Investigator Ruane had \$1,250.00 of recorded Sheriff's Office Funds and an audio/video recording device. Investigator Ruane driving an uncover Spartanburg County vehicle was followed by other Investigators to pick up Shannon Lancaster. Once Investigator Ruane picked up Shannon Lancaster, he (Lancaster) told Investigator Ruane that he (Lancaster) had to go to Wellford for the methamphetamine. Investigator Ruane, followed by other Investigators, drove Shannon Lancaster to the buy location located at 112 Wild Oaks Drive, Wellford, SC. Investigator Ruane handed the recorded Sheriff's Office Funds to Shannon Lancaster who then exited the vehicle and walked inside the trailer. A short time later, Shannon Lancaster walked back to the vehicle and handed Investigator Ruane a plastic bag containing a pink crystal like substance. Investigator Ruane left and met with Investigators at a predetermined location. The pink crystal like substance weighed approximately 27.6 grams and did field test positive for methamphetamine. The pink crystal like was placed into Best Bag #S153095 and placed into evidence at the Sheriff's Office for further testing. The audio/video recording was transferred to a DVD for storage and still photo's were made for this case file.

This incident happened within 1/2 mile of Wellford Academy located at 684 Syphrit Road, Wellford, SC 29385.

Judge Blackley issued the following warrants on Shannon Lancaster: 2016A4210201358 PWID 1/2 Mile of School, 2016A4210201359 Trafficking Meth-2nd.

Exhibit 2

**Buy Notes for Case #16040895**

14:29—Investigator Ruane picked up Shannon Lancaster at [REDACTED] Saddle Drive, Gaffney, SC

14:24—Investigator Ruane and Shannon Lancaster leave [REDACTED] Saddle Drive, Gaffney, SC

15:05—pulled in trailer park in Wellford, SC. SC Tag [REDACTED] Jetta Volks parked at trailer. 1<sup>st</sup> trailer on right. Expedition with paper tag also parked at trailer

15:08—Investigator Ruane left Shannon Lancaster at trailer with buy money and went to Dollar General in Wellford and parked

15:28—Investigator Ruane returned to trailer to pick up Shannon Lancaster

15:40—Investigator Ruane and Shannon Lancaster left trailer. Shannon Lancaster informed Investigator Ruane that it would be about 1 hour before the methamphetamine would be at the trailer. Investigator Ruane and Shannon Lancaster decided to get something to eat in the area to wait for the methamphetamine.

15:43—Investigator Ruane and Shannon Lancaster went to Spinx/Burger King at Hwy 29 and Hwy 129. While waiting Shannon Lancaster informed Investigator Ruane that he would try to call "Chuncka", Larry Ralph White, to get the methamphetamine. Investigator Ruane informed Shannon Lancaster that Investigator Ruane would not want to purchase the methamphetamine from him. Investigator Ruane knows Larry Ralph White very well through other methamphetamine investigators and Investigator Ruane was worried that Larry Ralph White might recognize him as being a Narcotics Investigator. Shannon Lancaster also spoke with a unknown person on the phone who wanted to buy a small amount of methamphetamine that Shannon Lancaster had on his person. Shannon Lancaster told that person to meet us at the Spinx/Burger King. That person never showed up before we left.

17:05—Investigator Ruane and Shannon Lancaster left Spinx/Burger King

17:10—Investigator Ruane and Shannon Lancaster arrived back at the trailer, and left headed to Spartanburg, SC. Shannon Lancaster informed Investigator Ruane that his girlfriend would meet us on Asheville Hwy. in Spartanburg with the methamphetamine. Shannon Lancaster told Investigator Ruane that we would meet his girlfriend at the Pizza Hut on Asheville Hwy. Shannon Lancaster also called back the person who was going to buy the methamphetamine that Shannon Lancaster had on his person and told that person to meet us at the Pizza Hut on Asheville Hwy.

Exhibit 3

**Buy Notes for Case #16040895 (continued)**

17:34—Shannon Lancaster informed Investigator Ruane that the Hispanic would have the methamphetamine in Wellford, SC. Investigator Ruane turned around and headed back to Wellford, SC. Shannon Lancaster told Investigator Ruane that they would be pissed off if we didn't get the methamphetamine from Wellford since the guy was on his way. Shannon Lancaster stated that they would cut him off if we didn't get the methamphetamine from them.

17:42—Investigator Ruane and Shannon Lancaster arrived back at the Dollar General in Wellford, SC. Shannon Lancaster was attempting to meet an unknown person to sell him a small quantity of methamphetamine that Shannon Lancaster had on his person.

17:46—Investigator Ruane and Shannon Lancaster arrived back at the trailer in Wellford, SC. Shannon Lancaster informed Investigator Ruane to stay at the trailer this time and not to go back and wait at the Dollar General.

While waiting at the trailer, a Nissan Maxima bearing SC Tag [REDACTED] pulled into the trailer and parked directly behind Investigator Ruane. A dark complexed white male wearing a plaid shirt, gray slacks, clean cut, dark hair, and wearing sun glasses exited the vehicle and walked into the trailer. A female stayed in the vehicle in the drivers seat with the vehicle running. A short time later Shannon Lancaster exited the trailer and handed Investigator Ruane a plastic bag containing a pink crystal like substance and walked back into the trailer.

18:05—Investigator Ruane left the trailer alone. Shannon Lancaster stayed at the trailer.

Due to the length of time of this buy, the transaction was not recorded due to the equipment running out of battery. Investigator Ruane was able to get some of the details of the buy, but not the buy in its entirety. While Investigator Ruane was driving Shannon Lancaster to the buy, Shannon Lancaster pulled out two (2) chrome plated .25 pistols with wood grips. Shannon Lancaster informed Investigator Ruane that he (Lancaster) always carries a pistol with him during drug transactions. Shannon Lancaster also informed Investigator Ruane that he (Lancaster) was going to try to sell one of the pistols to the Hispanic male.

A handwritten signature in black ink, appearing to read "James Ruane". The signature is written in a cursive, flowing style with a large loop at the beginning.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Shannon Lancaster,	)	Case No.: 2018-CP-42-3065
S.C.D.C. No. 341546,	)	
	)	
Applicant,	)	
	)	<b>RETURN</b>
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

In response to the application for post-conviction relief filed by Shannon Lancaster (Applicant) on September 4, 2018. Respondent would show this Court:

**I. PROCEDURAL HISTORY**

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the October 2016 term of the Spartanburg County Grand Jury for Trafficking in Methamphetamine (2016-GS-42-5068). Ricky Harris, Esquire (Counsel) represented Applicant, and James Hunter (Assistant Solicitor) of the Seventh Circuit Solicitor’s Office prosecuted the case.

On March 14, 2017, Applicant pled guilty to trafficking in methamphetamine in the range of ten to twenty-eight grams. The assistant solicitor recommended a sentence between twelve and eighteen years. The Honorable J. Derham Cole sentenced Applicant to imprisonment for a term of fifteen years. On March 23, 2017, Applicant filed a *pro se* motion for reconsideration. On March 27, 2017, Judge Cole denied Applicant’s motion for reconsideration.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Robert M. Pachak, Esquire filing a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The South

Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. (2018-UP-325). The Remittitur was issued on August 10, 2018. On August 23, 2018, Applicant was denied a motion to suppress by the South Carolina Court of Appeals. On November 16, 2018, another Remittitur was issued.

## II. STATEMENT OF THE FACTS

The underlying facts of the crime(s) for which Applicant is incarcerated were articulated by the State during the plea proceeding as follows:

On April 15, 2016, a Spartanburg County Sheriff's Investigator contacted Applicant to purchase methamphetamine.<sup>1</sup> The Investigator picked Applicant up in Gaffney, drove him to a trailer park in Spartanburg, and dropped him off. They went "back and forth" for a few hours because the methamphetamine was not ready. (Tr. 12-14).

Later, the Investigator met Applicant at a Spinx and Burger King. The two went back to the same trailer park that Applicant had been dropped at earlier. At that point, Investigator gave Applicant \$1,250 in Spartanburg County Sheriff's Office recorded money. (Tr. 12-14). Applicant then entered a trailer. A Hispanic male then showed up and entered the trailer. Subsequently, Applicant returned to the vehicle and gave Investigator almost 28 grams in methamphetamine. Applicant was arrested a couple of days later with at least \$140 in marked funds from the Spartanburg County Sheriff's Office. (Tr. 12-14).

---

<sup>1</sup> The investigator had previously been introduced to Applicant "as someone who had purchased meth." (Tr. 13, L. 1-2).

Upon inquiry by the Court, Applicant confirmed the above articulated facts. (Tr. 14).

### III. CURRENT APPLICATION

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. Ineffective Assistance of Counsel (failure to investigate)
  - a. Failure to discharge his duty of due diligence to investigate the evidence, facts, and witnesses in this case
  - b. Failure of counsel to investigate the evidence and discovery, to make sure Investigator James Ruane processed an applicant for the interception of wire, electric, or oral communications, for a drug trafficking investigation, pursuant to S.C. Code §17-30-70, the investigator failed to process an application that has to be initiated by the Chief of Sled. After reviewing the application the Attorney General may authorize the application to a judge of competent jurisdiction, and the judge may grant in conformity with this chapter. Investigator James Ruane is in violation of S.C. Code §17-30-70 application process, for this case.
  - c. Failure of counsel to investigate the evidence and discovery, to make sure the Investigator James Ruane had a judge of competent jurisdiction enter an ex parte order, as modified authorizing the interception of wire, oral or electrical communications within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that: (1) there is probable cause for belief that an individual is committing, has committed, or is about to commit an offense provided in §17-30-70, pursuant to S.C. Code §17-30-80(D)(1). The investigator James Ruane is in violation of S.C. Code §17-30-80(D)(1) authorizing order for the Interception of Wire, Electric or Oral Communications.
  - d. Failure of counsel to investigate intercepted communication, and to make sure the said evidence was not illegally disclosed, pursuant to S.C. Code §17-30-75. Investigator James Ruane illegally disclosed said evidence in violation of S.C. Code §17-30-75.
  - e. Failure of counsel to investigate the evidence to make sure the informant "David Brent Goode" was registered with the South Carolina Law Enforcement Division, for a drug trafficking investigation. Investigator James Ruane failed to register the informant "David Brent Goode" with SLED for this investigation. The Investigator James Ruane is in violation of SLED policy 13.30 use of informant in investigations
2. Ineffective Assistance of Counsel (failure to provide defense)
  - a. Failure to have a proper defense for physical evidence in this case
  - b. Counsel failed to have a valid strategy for this case

- c. Failure of counsel to request and require as part of Discovery that copies of all intercepted communications be provided as they are gathered so that a proper defense for physical evidence can be built as provided for by §17-30-105.
  - d. Failure of counsel pursuant to S.C. Code §17-30-130 to ensure that no impropriety occurred in the reporting of the intercepted communications to the Administrative Office of the United States court as outlined in 18 U.S.C. section 2519
3. Ineffective Assistance of Counsel (failure to suppress)
- a. Failure of counsel to move pursuant to S.C. Code §17-30-110 to suppress this illegally gathered evidence and/or advise me of these grounds and/or the exclusive remedy
  - b. Failure of counsel to move for a motion to suppress the unlawful audio/video recording and evidence to the S.C. Court of Appeals, pursuant to S.C. Code §17-30-110. The motion must be made before the reviewing authority, before the trial, hearing or proceeding. Furthermore, the Applicant has moved to suppress the evidence after his conviction, and the S.C. Court of Appeals has ruled, that motions to suppress are not appropriate on appeal. Applicant filed the motion pursuant to the South Carolina Homeland Security Act.
4. Ineffective Assistance of Counsel (failure to advise)
- a. Failure of counsel to advise me and inform the court that none of these subsections in Chapter 30, Title 17, were adhered to, and that these actions and/or lack thereof were illegal pursuant to S.C. Code §17-30-20.
  - b. Failure of counsel to advise the court to take judicial notice that for the purpose of a criminal investigation, that Investigator James Ruane had never obtained any multiple law enforcement jurisdictional agreement as required by S.C. Code §23-1-210 and that when Investigation Ruane came to Cherokee County to pick me up for a drug investigation, he had no authority to do so, and acted illegally thus these actions and/or lack thereof constituted entrapment by law enforcement.
  - c. Counsel was ineffective for providing erroneous and incorrect advice to plead guilty instead of challenging the State's evidence through the protections of trial. Therefore, Applicant's plea was unknowing and involuntary entered into pursuant to the Investigator violating S.C. Code §17-30-80 authorizing order, for the Interception of wire, electric, or oral communications
  - d. Failure of counsel to advise and/or move for video footage to be excluded due to it being a partial and the whole story not being told and therefore inconclusive, as well as illegally obtained with no valid chain of custody.
  - e. Failure of counsel to advise me and inform the court, that Investigator James Ruane illegally recorded audio and video, without processing an application or authorizing order, for a drug trafficking investigation, pursuant to S.C. Code 17-30-70 and §17-30-80 and also conducted an unreasonable search, that violated

Fourth and Fourteenth Amendment rights. Therefore, the audio/video recording and evidence was obtained in violation of Title 17, Chapter 30 of criminal procedures and is considered “Fruit of the Poisonous Tree” (See Exh 1, 2, 3 for Case No. 16040895).

5. Subject Matter Jurisdiction
  - a. Counsel failed to challenge subject matter jurisdiction of Applicant’s guilty plea pursuant to the Investigator’s violation of S.C. Code §17-30-70 application process for this investigation. Furthermore, the Grand Jury was improperly influenced with tainted evidence and false testimony. Therefore, the trial court lacked jurisdiction to accept Applicant’s guilty plea.
6. Involuntary Plea
  - a. “Coercing the defendant into a guilty plea”

Applicant requests relief as follows:

- Vacate and Remand

Attached to and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject conviction, Applicant’s records from the South Carolina Department of Corrections, the plea transcript, Applicant’s appellate records, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

#### **IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL**

##### **Ineffective Assistance of Plea Counsel, Generally**

Applicant’s allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel's performance was deficient. Strickland, 466 U.S. at 686; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

#### **Failure to Investigate**

Applicant alleges Counsel failed to investigate a confidential informant and undercover police officer. Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant, and make an independent investigation of the facts and circumstances of the case. Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); Walker v. State, 407 S.C. 400, 405, 756, S.E.2d 144, 147 (2014). However, counsel is presumed

to have adequately assisted and exercised reasonable professional judgement in making decisions in the case. Edwards, 392 S.C. at 456, 710 S.E.2d at 64. “[W]here counsel articulates a valid reason for employing strategy, such conduct will not be deemed ineffective assistance of counsel.” Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992). Additionally, an applicant’s statements during the plea hearing are considered “conclusive unless [he] presents valid reasons why he should be allowed to depart from the truth” of them. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007).

At the plea hearing, Applicant notified the court Counsel explained pleading guilty would result in a waiving the ability to confront and examine witnesses. (Tr. 6, L. 16-9). Applicant said he understood this right, and still wished to waive it. (Tr. 6, L. 20-1). (Tr. 7, L. 3-6). Thereafter, the assistant solicitor told the court Applicant gave the undercover agent about twenty eight grams of methamphetamine. (Tr. 13, L. 12-6). The assistant solicitor then notified the court Applicant was arrested with one-hundred and forty dollars in marked funds from the transaction with the undercover agent. (Tr. 13, L. 18-22). Applicant heard and agreed with these statements of fact. (Tr. 14, L. 12-6). These statements are considered conclusive, and Applicant has not presented a valid reason to depart them. As a result, Respondent submits this allegation is without merit.

#### **Failure to provide defense**

Applicant contends Counsel failed to provide a defense through improperly intercepted communications. An applicant’s statements during the plea hearing are considered “conclusive unless [he] presents valid reasons why he should be allowed to depart from the truth” of them. Dalton v. State, 376 S.C. at 137, 654 S.E.2d at 874. At the plea hearing, Applicant told the court he discussed potential defenses with Counsel. (Tr. 5, L. 22-4). Thereafter, Applicant notified

the court he did not have a defense. (Tr. 5, L. 25) (Tr. 6, L. 1). Subsequently, Applicant told the court he understood pleading guilty meant waiving the right to present a defense. (Tr. 6, L. 2-6). This statement is considered conclusive, and Applicant has not presented a valid reason to depart from them. As a result, Respondent submits this allegation is without merit.

**Failure to suppress**

Applicant contends Counsel was deficient for failing to suppress unlawful recordings. The issue is whether counsel's ineffective performance affected the outcome of the plea process, not whether the defendant would have been successful had he gone to trial. Frierson v. State, 423 S.C. 257, 262, 815 S.E.2d 433, 436 (2018). An applicant's statements during the plea hearing are considered "conclusive unless [he] presents valid reasons why he should be allowed to depart from the truth" of them. Dalton v. State, 376 S.C. at 137, 654 S.E.2d at 874. Here, the assistant solicitor told the court Applicant gave the undercover agent about twenty eight grams of methamphetamine. (Tr. 13, L. 12-6). The assistant solicitor then told the court Applicant was arrested with one-hundred and forty dollars in funds marked for the previous transaction with the undercover agent. (Tr. 13, L. 18-22). Applicant heard and agreed with these statements of fact. (Tr. 14, L. 12-6). This statement is considered conclusive, and Applicant has not present a reason to depart from them. Therefore, an undercover agent had firsthand knowledge of Applicant engaging in the drug transaction at issue. Accordingly, Applicant fails to show how this agent's audio recording affected the outcome of the plea process.

**Failure to advise**

Applicant contends Counsel failed to advise him about the potential illegality of audio recorded by the undercover cop. Defense counsel's deficient performance does not prejudice an applicant where he or she does not choose to plead guilty on such advice. Goins v. State, 397

S.C. 568, 726 S.E.2d 1 (2012) (finding improper advice that drug seizure was not subject to suppression did not constitute prejudice where defendant did not choose to plead guilty on basis of such advice, but rather on basis of state's offer to dismiss two charges and recommend a 10-year sentence). Here, the record indicates Applicant pled guilty to avoid prosecution for a charge of distribution of methamphetamine in the third degree, possession with intent to distribute methamphetamine in the third degree, two counts of trafficking methamphetamine in the third degree, possession of OxyContin, and possession of lorazepam. (Tr. 11, L. 7-25) (Tr. 12, L. 1-23). Therefore, any alleged deficient advice was arguably not the reason he pled guilty. Accordingly, Respondent submits this allegation is without merit.

#### **General Denial**

Applicant can satisfy neither requirement of the Hill test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

#### **V. RESPONSE TO ALLEGATION OF INVOLUNTARY PLEA**

Applicant contends he was coerced into pleading guilty. As to Applicant's claim that his plea was not knowing and intelligent because of counsel's failure to give adequate advice about the process, this allegation is without merit. Applicant claim is a constitutional issue which falls under the ineffective assistance of counsel claim umbrella. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). Even so, if plea counsel did not adequately advise Applicant about consequences of accepting a plea, counsel's alleged deficiency was cured by the plea court. See Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1990) (stating that plea counsel's deficient performance can be cured by the plea court's colloquy). Additionally, an applicant's

statements during the plea hearing are considered “conclusive unless [he] presents valid reasons why he should be allowed to depart from the truth” of them. Dalton v. State, 376 S.C. at 137, 654 S.E.2d at 874. At the plea hearing, Applicant told the court he was not threatened, coerced, pressured, or promised anything in exchange for pleading guilty. (Tr. 8, L. 1-10). Applicant has not presented a valid reason to depart from those statements. Therefore, this allegation is without merit.

#### **VI. RESPONSE TO ALLEGATION OF NO SUBJECT MATTER JURISDICTION**

An indictment is a notice document. The primary purposes of an indictment are to put a defendant on notice, apprise him of the elements of the offense, allow him to decide whether to plead guilty or stand trial, and enable the circuit court to know what judgment to pronounce if the defendant is convicted. Edwards v. State, 372 S.C. 493, 496, 642 S.E.2d 738, 739 (2007).

Applicant alleges that counsel was ineffective for failing to challenge the indictment. However, an indictment challenge on the ground of insufficiency must be made before the jury is sworn. State v. Gentry, 363 S.C. 92, 102, 610 S.E.2d 494, 500 (2005). Applicant did not raise this issue before the grand jury was sworn. Accordingly, this allegation is without merit.

#### **VI. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS**

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCP; Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017). All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this

application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

#### VIII. GENERAL DENIAL

Respondent denies each allegation not expressly admitted, qualified, or explained.

*[Conclusion and signature on following page]*

**IX. CONCLUSION**

WHEREFORE, Respondent respectfully requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel for a failure to investigate and involuntary guilty plea.

Respectfully submitted,


ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

JACOB A. ISENBERG  
Assistant Attorney General

By:

  
ATTORNEYS FOR RESPONDENT  
Office of the Attorney General  
P.O. Box 11549  
Columbia, S.C. 29211

April 18<sup>th</sup>, 2019

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF SPARTANBURG )  
 )  
 )  
 )  
 SHANNON LANCASTER, #341546, )  
 )  
 )  
 Applicant, )  
 )  
 vs )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 )  
 Respondent. )  
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IN THE COURT OF COMMON PLEAS

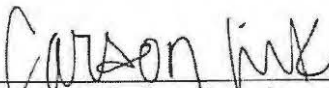
2018-CP-42-3065

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Susannah Conyers Ross, Esquire**  
**Ross & Enderlin, PA**  
**330 East Coffee Street**  
**Greenville, South Carolina 29601**

DATED this the 18<sup>th</sup> day of April, 2019.

  
 \_\_\_\_\_  
 Carson Kirk, Legal Assistant  
 For Respondent

To: Alan Wilson  
P.O. Box 11549  
Columbia, SC 29211

From: Shannon Lancaster  
Perry Corr. Inst.  
430 Oaklawn Rd.  
Pelzer, SC 29669

Re: First Admendment to PCR application  
Shannon Lancaster vs. State of South Carolina  
case no: 2018-CP-420-3065

Mr. Alan Wilson,

I am sending a copy of First Admendment for PCR application to your office.

Dated: September 18, 2018

yours truly,

s/ Shannon Lancaster

**RECEIVED**

SEP 26 2018

Referred to

Cox/1/B

Answered

State of South Carolina  
 County of Spartanburg  
 Shannon Lancaster,  
 Applicant,

vs.

State of South Carolina,  
 Defendant.

In the Court of Common Pleas  
 for the Seventh Judicial Circuit

Case No: 2018-CP-420-3065

First Admendment to Prior  
 Application for PCR

The Applicant makes the following additional claim and amendment to his prior application for post-conviction relief:

10.) State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(A.) Failure of counsel to move for a motion to suppress, the unlawful audio / video recording and evidence, to the S.C. Court of Appeals, pursuant to S.C. Code §17-30-110. The motion must be made before the reviewing authority, before the trial, hearing or proceeding. Furthermore, the Petitioner has moved to suppress the evidence after his conviction, and the S.C. Court of Appeals has ruled, that motions to suppress are not appropriate on appeal. Petitioner filed the motion pursuant to the South Carolina Homeland Security Act. (See Exhibit A)

AdmendmentDated: September 18, 2018

RespectPully Submitted,

3/ Shannon Lancaster

Shannon Lancaster

Perry Corr. Inst.

430 Oaklawn Rd.

Pelzer, SC 29669

# The South Carolina Court of Appeals

Shannon M. Lancaster, Plaintiff,

v.

The State of South Carolina, Defendant.

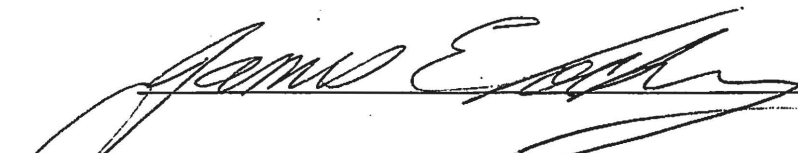
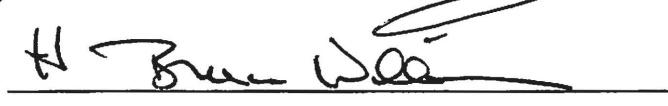

Appellate Case No. 2018-001390

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## ORDER

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Shannon M. Lancaster has filed a suppression motion pursuant to the South Carolina Homeland Security Act (the Act)<sup>1</sup> following this court's disposition of his appeal of a criminal conviction. Because motions to suppress are not appropriate on appeal, the motion is denied. See *State v. Scott*, 351 S.C. 584, 588, 571 S.E.2d 700, 702 (2002) ("The cardinal rule of statutory construction is a court must ascertain and give effect to the intent of the legislature."); *State v. Tisdale*, 321 S.C. 153, 157, 467 S.E.2d 270, 271 (Ct. App. 1996) ("A statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers."); *id.* at 157, 467 S.E.2d at 271-72 ("[A] court must avoid construing a statute so as to lead to an absurd result.").

 C.J.  
 J.  
 J.

---

<sup>1</sup> S.C. Code Ann. § 17-30-10 to -145 (2014).

Columbia, South Carolina

cc: Shannon Miles Lancaster, 341546

Exhibit A

FILED

August 23, 2018

1 STATE OF SOUTH CAROLINA )  
 2 COUNTY OF SPARTANBURG ) COURT OF GENERAL SESSIONS

3  
 4 SHANNON MILES LANCASTER, ) TRANSCRIPT  
 5 APPLICANT, ) OF  
 6 VS. ) RECORD  
 7 THE STATE OF SOUTH CAROLINA, ) 2018-CP-42-3065  
 8 DEFENDANT. )

9  
 10 February 20<sup>th</sup>, 2020  
 11 Spartanburg, South Carolina

12  
 13 B E F O R E:

14 THE HONORABLE R. LAWTON McINTOSH, Judge.

15  
 16 A P P E A R A N C E S:

17 SUSANNAH C. ROSS  
 18 ESQ.  
 Attorney for the Applicant

19 JACOB A. ISENBERG  
 20 ASSISTANT ATTORNEY GENERAL  
 Attorney for the State

21  
 22  
 23 PAMELA E. GREEN  
 24 Circuit Court Reporter  
 25 Seventh Judicial Circuit

	<u>I N D E X   O F   W I T N E S S E S</u>	
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E X H I B I T S

<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>Applicant's Exhibits</u>		
A-1	Buy Notes		9
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## P R O C E E D I N G S

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THE COURT: All right. This is -- is it Lancaster or Lancaster?

THE APPLICANT: Lancaster.

THE COURT: Okay. This is Shannon Lancaster versus State of South Carolina.

Ms. Ross, would you state your grounds for this Petition on the -- for the record please?

MS. ROSS: Thank you, Your Honor.

May it please the Court.

I am in -- standing by Mr. Lancaster's original Application. He has laid out a number of issues including failure to investigate, and, and there was a wiretap involved in his case recording made, and he's arguing it's invalid under Section 17-13-70.

THE COURT: 17-13-70?

MS. ROSS: Yes.

THE COURT: Okay.

MS. ROSS: As an invalid wiretap under the Homeland Security Act, and also under 17-30-80(D) -- (D)(1) authorizing the order for the interception of wire.

THE COURT: 17-30(D)(1)?

MS. ROSS: Yes.

THE COURT: What was the---

1 MS. ROSS: And he is very familiar with it, and he is  
2 laid these out pretty consistently in his original  
3 application.

4 THE COURT: Okay.

5 MS. ROSS: Basically it -- it comes down to his privacy  
6 rights being violated and -- due to a wiretap, and those  
7 were interstate tap with him that led to the evidence  
8 against him that he can, he can tell you about, and he's got  
9 a few exhibits as well.

10 THE COURT: Very good.

11 You ready to proceed then?

12 MS. ROSS: Yes, Your Honor.

13 THE COURT: Would you call your first witness?

14 MS. ROSS: Yes, we call Shannon Lancaster to the stand.

15 MR. ISENBERG: Your Honor, before we proceed, may I  
16 just make the Court aware that I talked to trial counsel or  
17 plea counsel, the witness. He was scheduled to be here at  
18 10:00. He was filing a motion at 9:00AM in Cherokee County.  
19 So, I just want to make the Court aware, if we finish  
20 testimony before he gets here, I may request a brief recess,  
21 recess just to figure out---

22 THE COURT: Who, who is this who's not here?

23 MR. ISENBERG: Ricky Harris.

24 THE COURT: Who?

25 MR. ISENBERG: Oh, he's here. Never mind. I just

Shannon Lancaster - Direct examination  
By Ms. Ross

1 wanted to make the Court aware that he might just be a  
2 little---

3 THE COURT: Good.

4 All right. Thank you.

5 MR. ISENBERG: Thank you. Appreciate it.

6 THE COURT: Thank you very much.

7 SHANNON LANCASTER, being first duly  
8 sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. ROSS:

11 Q All right. Mr. Lancaster, as we've discussed -- as we  
12 discussed, my first question is always do you understand  
13 your relief in PCR is being put back in the position you  
14 were in before your plea facing 30 years or possible life  
15 without parole notice?

16 A Yes, ma'am.

17 Q And how do you want to proceed?

18 A I want to proceed forward.

19 Q All right. Now, you've alleged allegations of  
20 ineffective assistance of counsel.

21 Can you explain them briefly to the Court?

22 A Yes, ma'am.

23 My first allegation is failure of counsel to  
24 investigate the evidence and discovery to make sure that  
25 Investigator James Ruane processed an application for the

1 interception of wire, alleged oral communications pursuant  
2 to a drug traffic investigation, and it's violation of South  
3 Carolina Code 17-30-70. The invest---

4 Q Do you have any exhibits in relation to that?

5 A Yes, I do. I have a incident report showing directly  
6 where the -- and his buy notes in it where he rode around  
7 with me for four or five hours -- four hours and recorded me  
8 without any authority from the Court or warrantless search  
9 basically invaded, invaded my---

10 MR. ISENBERG: Objection, Your Honor. It's  
11 speculation. I, I don't want to get into him talking with  
12 conclusions of law, making conclusions of law. Let's just  
13 keep it at -- to allegations.

14 THE COURT: All right. Overruled.  
15 Go ahead.

16 Q You can, you can go ahead, but one thing also, was this  
17 just in one county or more than one county?

18 A Okay. This---

19 Q Were lines crossed?

20 A Yes, he actually crossed over in the jurisdictional  
21 agreement, that he works in Spartanburg County, he crosses  
22 into the Cherokee County to pick me up for a ongoing drug  
23 investigation, and without any written agreement or  
24 authority to do so.

25 Q Now, what's Exhibit 1-A?

Shannon Lancaster - Direct examination  
By MS. ROSS

1 A Exhibit 1-A is a 17-30-70. It's an application process  
2 for the Judge's orders for the, for, for the interception of  
3 a drug traffic investigation or any -- it's 11 different  
4 crimes that took -- for the investigation of it -- for oral  
5 communications to be used against you in a Court of law.  
6 They must go through these procedures.

7 The procedures of is the application must be  
8 authorized, approved for interception of wire, electrical,  
9 or communication, must be initiated by the chief of SLED.  
10 After reviewing the application, the Attorney General or his  
11 designated Attorney General may authorize the submission of  
12 the application to a judge of competent jurisdiction, and  
13 the judge may grant in conformity with this chapter and  
14 order authorize in approving the interception of the wire  
15 or---

16 THE COURT: Do, do me a favor?

17 I -- I'll read the statute.

18 THE WITNESS: Okay.

19 THE COURT: I don't want you to read it---

20 THE WITNESS: Okay.

21 THE COURT: ---to me?

22 THE WITNESS: Okay.

23 THE COURT: Okay?

24 THE WITNESS: Okay. well, they didn't---

25 MS. ROSS: Thank you, Judge, and, and we have these

1 marked as exhibits, which---

2 THE COURT: Yes, ma'am.

3 MS. ROSS: ---is Applicant's Exhibit 1 and 2 or, excuse  
4 me, he has 1 and 1-A written in there, and we would offer  
5 them at this time as Applicant's Exhibits.

6 THE COURT: I note your prior objection. It's, it's  
7 admitted.

8 (WHEREUPON, the buy notes were marked as Applicant's  
9 Exhibit No. 1. The case history was marked as Applicant's  
10 Exhibit No. 1-A. Both were received into evidence at this  
11 time.)

12 MS. ROSS: If I may approach?

13 THE COURT: Yes, ma'am.

14 Q There you go.

15 Okay. Now, moving on.

16 what's your next allegation?

17 A All right. Counsel failed to investigate the evidence  
18 and discovery to make sure that the investigator had a judge  
19 of competent jurisdiction to enter an ex parte order  
20 authorizing the oral communications interception. If the  
21 judge determines, on the basis of facts, that applicant that  
22 submitted there is a probable cause belief that individual  
23 is committing or has committed offense provided to Section  
24 17-30-70. That would be pursuant to the South Carolina Code  
25 17-30-80(D)(1).

Shannon Lancaster - Direct examination  
By Ms. Ross

1 Q All right. And that's the Homeland Security Act?

2 A Right. This is -- and this was passed in, in 2002.

3 Q And your allegation is they did not follow the  
4 procedures set forth?

5 A Well, he's never -- he's never obtained any prior  
6 warrant to obtain the evidence. It's, it's, it's a  
7 warrantless search again.

8 Q All right. And do you have any further exhibits in  
9 relation to that allegation?

10 A No, ma'am, I don't.

11 Q And that was---

12 A No.

13 Q Okay. What's your next allegation?

14 A Okay. Failure -- let me get this right. Excuse me.  
15 I'm trying, Judge.

16 Q I know you've worked hard to get this prepared.

17 A Yes, I'll just -- it'll just take me a second.

18 Q All right. Failure of counsel to investigate and  
19 intercept the communication and make sure that said evidence  
20 was not illegally disclosed pursuant to South Carolina Code  
21 17-30-75. Without authority from the Court, the  
22 investigator illegally disclosed evidence to a prosecutor to  
23 prosecute me.

24 THE COURT: I note -- I'm noting your objection over  
25 here, Mr. Isenberg.

1           Go ahead.

2           MR. ISENBERG: Okay.

3   A     Number 5. Failure of counsel to request and require,  
4   as part of discovery, that copies of all intercepted  
5   communications be provided as they are gathered so a proper  
6   defense for physical evidence can be built as my---

7           THE COURT: Do me a favor again. I, I do not---

8           THE WITNESS: Okay.

9           THE COURT: ---need you to read me the statute---

10          THE WITNESS: Okay.

11          THE COURT: ---please.

12          THE WITNESS: Okay.

13          well, 10 days before any hearing and 30 days before any  
14   trial, I'm suppose to receive some application process or  
15   Court order by law, by Federal Law and State Law, provide me  
16   with any kind of authority for him to move along with the  
17   investigation.

18   Q     Okay, sir.

19   A     Okay. Number 5 will be the failure of counsel to  
20   investigate to make sure that the communications was  
21   provided to the administrative offices of the United States  
22   Court. That's provided by -- outlined in Section 18 United  
23   States Code, Section 2519. So, that's another -- okay. And  
24   Number 8.

25          Failure of counsel to move pursuant to South Carolina

Shannon Lancaster - Direct examination  
By Ms. Ross

1 Code 2 -- 17-31-10 to suppress this legal gathered evidence.

2 Okay. I filed a suppression hearing with the South  
3 Carolina Court of Appeals after my conviction to have them  
4 review that, and the motion should be made to the South  
5 Carolina Court of Appeals pursuant to South Carolina Code  
6 17-31-10. The motion must be made before the reviewing  
7 authority before any trial, hearing, or proceeding, and  
8 that's the three panel Court of the -- Court of Appeals for  
9 that remedy.

10 Q And there you're citing 17-30-110?

11 A Right.

12 Q Correct?

13 A And I did this after I was convicted because it's --  
14 they, they ruled it was a preliminary motion to be done  
15 before any trial hearing or proceeding, and I can give him  
16 Exhibit 2 for that. Then also I have a case, State versus  
17 Guerrero- Flores, and I will be citing 402 S.C. 530, 2013,  
18 with the Court of Appeals where the motion should be made to  
19 have them rule on that before any proceeding that takes off  
20 on this violation. So --.

21 Q Now let me slow you down.

22 A Okay.

23 Q Just mark your place.

24 A Okay. Yes, ma'am.

25 Q Did, did your lawyer talk to you about suppression

1 hearings or your right to have evidence---

2 A I've never been advised---

3 Q ---against you suppressed?

4 A ---of this till I got to prison and a guy on Death Row  
5 started showing me that what was wrong with my case.

6 Q Now, how many times did you meet with your lawyer prior  
7 to your plea?

8 A I think I might of seen him twice.

9 Q And did y'all -- did you have a copy of your discovery?

10 A Yes, I did have a copy of my discovery, but I never had  
11 any increment of -- that, you know what I mean, the law had  
12 statutes that provided for this kind of remedy for this, you  
13 know.

14 Q All right. So, at the time -- you're, you're sounding  
15 like you've done a lot of law research now. At the time you  
16 --

17 A Yes, ma'am.

18 Q -- you were not sophisticated like that?

19 A No, I had no -- I had no -- three and a half years ago  
20 I just knew something was wrong, and I kept reading Fourth  
21 Amendment cases over and over and over.

22 Q And how far did you -- had you gone in school?

23 A Tenth grade.

24 Q Okay. Now let's get back.

25 Do you have some exhibits for me?

Shannon Lancaster - Direct examination  
By MS. ROSS

1 A Yes, I have the Court of Appeals suppression hearing in  
2 2018 I filed, and the case that -- for the judge in the  
3 Court of Appeals.

4 Q Now, that's a Federal case, correct?

5 A No, it's a State case.

6 Q Okay.

7 A South Carolina Court of Appeals.

8 MS. ROSS: Okay. I'd ask these be marked and entered  
9 as Applicant's Exhibit 2 and 2-A.

10 (WHEREUPON, two cases were marked as State's Exhibit  
11 Nos. 2 and 2-A and received into evidence at this time.)

12 A All right. Judge, counsel failed to---

13 Q Hold on one second.

14 A Okay.

15 Q She's still writing.

16 A Okay. I'm sorry. Excuse me. I'm sorry.

17 (Pause.)

18 Q Okay.

19 A See, Number 9, failure of counsel to advise the Court  
20 to take judicial notice of -- for the purpose of a criminal  
21 investigation that Investigator James Ruane had never  
22 obtained any multiple law enforcement jurisdiction agreement  
23 as required by South Carolina Code 23-1-210, and that when  
24 Mr. Ruane came into Cherokee County and picked me up for a  
25 drug investigation, he had no authority to do so and acted

1 illegally there. His actions and/or lack thereof  
2 constituted a trap or entrapment by law enforcement.

3 MR. ISENBERG: Objection, Your Honor.

4 Might we get into the facts in this case instead of  
5 just going through the allegations?

6 THE COURT: Say that again please, sir.

7 MR. ISENBERG: Your Honor, I would just object to the  
8 relevance. All the allegations are already laid out for us.

9 Might we get into the facts instead of just going  
10 through and reading the allegation verbatim?

11 THE COURT: I'll note your objection. I'm gonna let  
12 him go ahead and have his day.

13 Go ahead.

14 A All right. The, the investigator come and picked me up  
15 at my girlfriend's house at [REDACTED] Gaffney. He didn't have no  
16 authority from the Town Council of Gaffney or Cherokee  
17 County or the County of Spartanburg. Wasn't any written  
18 agreement to provide him to working in a transfer to have  
19 arrest powers over there to do or do an investigation.

20 Q And who was he?

21 A The Investigator, James Ruane.

22 Q And he worked for the County of --?

23 A Spartanburg County.

24 Q And he came and picked you up in Gaffney?

25 A In Gaffney as we're riding around looking for drugs in

Shannon Lancaster - Direct examination  
By MS. ROSS

1 a, in a different jurisdiction.

2 Q And this is just aside.

3 was he -- you said something about it.

4 was he regulated under SLED or reported to SLED or  
5 anything like that?

6 Do you know?

7 A No, ma'am.

8 Q How do you know that?

9 A Because it would of been in the paperwork with it.

10 Q And you got nothing?

11 A Nothing. And it's also -- it's a temporary transfer of  
12 assignment of law enforcement or written agreement right  
13 here I'd like to give the Court for an exhibit.

14 MS. ROSS: All right. we'd ask this be marked and  
15 offer it as Applicant's Exhibit 3.

16 (WHEREUPON, the S.C. Code of Laws was marked as  
17 Applicant's Exhibit No. 3 and received into evidence at this  
18 time.)

19 A If you was to actually look at the buy notes where  
20 he---

21 Q when she's---

22 A I'm sorry. I don't know.

23 Q ---writing, she needs---

24 (Pause.)

25 Q Okay. what were you gonna say?

1 A You actually look at the buy notes, he starts the  
2 investigation in, in Gaffney, South Carolina at [REDACTED] Saddle  
3 Drive verbatim right off his buy notes. So -- but the next  
4 allegation I got is ineffective assistance of counsel for  
5 failing to -- for failing to challenge the State's evidence  
6 through the protections of trial. Therefore, Applicant's  
7 plea was knowing and involuntarily entered to, and I'd like  
8 to elaborate on this.

9 The Applicant would like to submit to the Court that  
10 trial counsel failed to investigate the evidence and  
11 discovery that -- and advise the Applicant that on  
12 April 15<sup>th</sup>, 2016, the investigator, James Ruane, illegally  
13 recorded audio and gather evidence without processing the  
14 application or any authorizing order for a drug traffic  
15 investigation. Pursuant to South Carolina Code 17-30 --  
16 17-30 for the interception of wire Oral Communications Acts.  
17 See South Carolina Codes anointed (sic) 17-30-10 through  
18 17-31-45, 2014.

19 Furthermore, Applicant had a due process right to be  
20 advised of any potential defense in the case before entering  
21 into a guilty plea with counsel. Then the Applicant would  
22 of insisted on going through with a jury trial, and having  
23 trial counsel move for a Motion to Suppress unlawful audio  
24 and video into evidence to the South Carolina Court of  
25 Appeals before any trial, hearing, or proceeding pursuant to

Shannon Lancaster - Direct examination  
By Ms. Ross

1 South Carolina Code 17-31-10 citing State versus  
2 Guerrero-Flores, 402 S.C. 530, 2013.

3 Q And that's what you put in as an exhibit---

4 A Right.

5 Q ---correct?

6 A That's, that's the exhibit. The investigator, James  
7 Ruane, illegally recorded audio and obtained evidence  
8 without judicial authority from the Court, and, furthermore,  
9 violated the Applicant's Fourth Amendment in Section  
10 17-30-70 of the South Carolina Code, which requires officers  
11 to process an application and obtain a Court order prior  
12 onto gathering and collecting evidence.

13 Also counsel failed to advise me that Investigator  
14 James Ruane illegally enters into the Cherokee County to  
15 pick me up for a drug investigation, and acts outside his  
16 jurisdiction without authority from the Cherokee County  
17 Council and the Spartanburg County Council entering into  
18 agreement. The investigator, James Ruane, has violated  
19 South Carolina Code 23-1-210 for multi-jurisdictional  
20 agreements citing The State versus Burgess, 408 S.C. 421,  
21 2014.

22 The evidence was obtained illegally and is fruit of the  
23 poisonous tree and unconstitutional. Further, there would  
24 be a fundamental unfairness in holding citizens to the  
25 traditional rule that ignorance of law is no excuse while

1 allowing those entrusted to enforce the law to be ignorant  
2 of it.

3 Q Okay. So, essentially, you're saying that you feel  
4 that you had a strong suit -- search and seizure issue that  
5 would of won if you'd gone to trial, and you did not  
6 understand that when you pled?

7 A Well, I had a right to have the suppression hearing to  
8 have it, have it ruled on, and preserve for any appellate  
9 review. You know, I mean for the -- be secure in my  
10 persons -- my Fourth Amendment.

11 Q And did you have a suppression hearing?

12 A No.

13 Q Did you ask for one?

14 A No, I never had---

15 Q You didn't---

16 A I never had a idea of, of the remedy for that.

17 Q Okay. So, you didn't even know you could ask for one?

18 A Right. So, after I got in there, and the reason I  
19 filed the suppression hearing myself, and the Court of  
20 Appeals turned it down, it says review if not aware of the  
21 grounds of the motion for that. You could, you could try to  
22 petition the Court on that. But they was clearly, as the  
23 exhibits says, it was a preliminary motion before a trial  
24 hearing proceeding.

25 Q Now, if you had known any of this at the time of your

Shannon Lancaster - Direct examination  
By Ms. ROSS

1 plea, what would you have done?

2 A I would of as insisted on going through with a jury  
3 trial, and trying to suppress the evidence out the case---

4 Q Okay.

5 A ---under the statutory requirements.

6 Q All right. Okay. Any other exhibits or anything else?

7 A Yes, I have a motion and notice -- well, I did  
8 discovery back in September of 2018 to the Attorney General  
9 Alan Wilson on these issues right here. I'd like to give  
10 that to the judge for --.

11 THE COURT: You have a motion for discovery?

12 THE WITNESS: Yes, I posted when I was not -- had a  
13 lawyer with me. I asked her for discovery---

14 Q This is a pro se motion?

15 A Yes, a pro se motion I filed cause I didn't want to --  
16 you, you have to prove your allegations by preponderance of  
17 the evidence. That's why I, I did that.

18 THE COURT: He's -- this is -- have you given him  
19 everything in your file?

20 MR. ISENBERG: Yes, Your Honor. I mean he's got -- all  
21 the stuff he's entered so far is from -- it's in the Clerk's  
22 records. So --.

23 THE COURT: All right.

24 MR. ISENBERG: We've given her the file. I don't know  
25 what he's saying---

1 THE COURT: We can -- we'll make it part of the Court's  
2 record. But he's not necessarily entitled to discovery in  
3 this case if you've given him everything. It's just -- it  
4 is what it is, but---

5 MR. ISENBERG: Your Honor, yeah. We, we all know that  
6 you, you're not entitled to discovery on a Post-Conviction  
7 Relief. I'm not exactly even sure what he's looking for.  
8 All I can see is that there's a motion for discovery.

9 Q Now, with this motion, are you trying to demand  
10 discovery or are you just trying---

11 A No, I was---

12 Q ---to show that you were---

13 A ---just asking for it. If the Attorney General had to  
14 be directly involved in the statutory requirements, his  
15 office, if he has any discovery on that -- on the  
16 application or order, which I, I---

17 THE COURT: We're not going into discovery. You're  
18 not---

19 MR. ISENBERG: Your Honor?

20 THE COURT: I'm denying your motion---

21 THE WITNESS: Well, that was fine.

22 THE COURT: ---going forward. So, that's -- for the  
23 record, I denied your motion. So, let's go forward.

24 MR. ISENBERG: Thank you, Your Honor, and we just  
25 object to the exhibit being entered.

Shannon Lancaster - Direct examination  
By MS. ROSS

1 THE COURT: All right. I'm gonna let it come into the  
2 record, and, if I'm wrong, somebody will tell me I am.

3 MS. ROSS: Okay. So, I would offer this as the  
4 Applicant's Exhibit 4.

5 THE COURT: Yes, ma'am.

6 (WHEREUPON, the pro se motion was marked as Applicant's  
7 Exhibit No. 4 and received into evidence at this time.)

8 Q Is there anything else you'd like to add?

9 A I believe that's it.

10 Q All right. Please answer any questions that opposing  
11 counsel has for you.

12 MR. ISENBERG: May it please the Court?

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. ISENBERG:

16 Q Morning, Mr. Lancaster.

17 A Good morning.

18 Q How are you doing today?

19 A Fair.

20 Q Good.

21 You had several charges dismissed pursuant to your plea  
22 deal, correct?

23 A Yeah. Well, after I got convicted, they dismissed or  
24 didn't pursue prosecution.

25 Q So, before you pled guilty, you knew you were gonna

1 have several charges dismissed?

2 A No, I didn't actually know before. I just know that he  
3 said he was not going to pursue them. So, I mean I --.

4 Q Okay. So, they didn't tell at your plea hearing --  
5 they didn't list those charges out that were being dismissed  
6 pursuant to your plea deal?

7 A He told me that we was going forward with a plea today,  
8 you know, on the one charge. Now, as far as them going to  
9 dismiss them, that, that was on the solicitor assigned to do  
10 that that day, and I take it, from the transcript, that's  
11 what he said. So --.

12 Q Okay.

13 A Right. Yes, sir.

14 Q So now you're saying you had no idea you were gonna  
15 have---

16 A I'm not saying---

17 Q ---all charges---

18 A ---I had no idea---

19 THE COURT: Let him finish before you answer it.

20 THE WITNESS: Okay.

21 Go ahead.

22 THE COURT: Go ahead.

23 Q So now you're saying you had no idea you were gonna  
24 have several charges be dismissed before you pled guilty?

25 A Well, my lawyer had mentioned they would -- they was

Shannon Lancaster - Cross-examination  
By Mr. Isenberg

1 thinking about just pursuing the higher charge on that, and  
2 that's what I was understanding. So --.

3 Q Okay. Then you understood, if I plead guilty, you will  
4 dismiss several charges and I will only plead to one,  
5 correct?

6 A Yes.

7 Q Okay. So, that's why you pled, right?

8 A I pled guilty because I didn't think I had a defense in  
9 the case.

10 Q Right.

11 So, you---

12 A Right. So, I, I thought that it was no -- you know, I,  
13 I was -- I had no defense. It was no other way to challenge  
14 the evidence being obtained.

15 Q And challenge the evidence, the affidavit being the  
16 drugs that you handed to an under, undercover police  
17 officer?

18 A That would be -- that would be it, yes.

19 Q Okay. And so you walked into the house and retrieved  
20 the drugs. You walked out. You handed them to the officer.  
21 Right?

22 A When the -- on the incident this day, he doesn't have a  
23 recording of that, but on the incident today, I set him up  
24 with somebody to sell him the drugs, right, and we rode  
25 around four hours while we looked for the drugs while he

1 promised me a job and everything else, you know, and he  
2 never had an implement telling me oh, you know, I -- I'm  
3 setting you up the whole time being a -- police or even had  
4 a prior warrant to do the thing.

5 Q Right.

6 And so, at the conclusion of the driving around, you  
7 walk into your house, you grab 28 grams of drugs, and then  
8 you walk out, and you hand it to the officer, right?

9 A He says I did. You know---

10 Q Okay.

11 A ---he didn't have a video of it.

12 Q So, when you had the drugs in your hand, you were in  
13 possession of them, correct?

14 A Yes.

15 Q And then you handed it to the officer---

16 A Yes, sir.

17 Q ---pursuant to the deal, correct?

18 A Yes.

19 Q Okay. So, it was his fault you walked in, and you  
20 grabbed the drugs, and you handed it to him?

21 A Well, it was the officer's fault for even picking me up  
22 in the wrong county to begin with out of his jurisdictional  
23 agreement. You know -- I mean -- he -- I wasn't---

24 Q Is that---

25 A I wasn't---

Shannon Lancaster - Cross-examination  
By Mr. Isenberg

1 Q Is that what this is all about, it's being picked up in  
2 the wrong county?

3 A Well, it, it -- if he wouldn't of violated the law by  
4 coming to me out of his jurisdiction, I would of never been  
5 with him in the first place. He took an oath to uphold the  
6 law.

7 Q Okay. So, he violated the law, but you didn't?

8 A Well, I -- yeah, and I -- if I did violate the law,  
9 obviously he was doing it before he come and picked me up.

10 Q Okay. So, you violated the law and that's why you pled  
11 guilty?

12 A That doesn't give the right -- yes, but I'm in jail for  
13 it.

14 Q Don't cut me off.

15 You violated the law and that's why you pled guilty?

16 A I violated the -- I pled guilty because I didn't think  
17 I had a defense to suppress the evidence out the case, but,  
18 besides that, I was guilty, you know.

19 Q And your -- you think your defense now is that all of  
20 his wrongdoing should overcome or undermine all of yours?

21 A I think that he should -- he failed to follow statutory  
22 law in, in this investigation. That's clearly his -- he, he  
23 was wrong doing what he did before I did my wrong. We rode  
24 around five hours searching for the drugs without any kind  
25 of prior warrant.

1           How could you justify that?

2   Q     Did you violate statutory law when you retrieved the  
3   drugs?

4   A     Yeah.  But I got prosecuted of it.

5   Q     Okay.

6   A     He's still running around free.

7   Q     Okay.  All right.  And so you said you met with your  
8   lawyer twice, correct?

9   A     Right.

10  Q     Okay.  And which, which one of those times did y'all  
11  discuss the plea deal?

12  A     I can't recall.

13  Q     Okay.  But y'all did discuss the fact that they were  
14  gonna dismiss the charge, correct?

15  A     We was -- I was scheduled to go to trial that day, and  
16  I was going to trial on the -- on not guilty verdict on the  
17  entrapment defense cause I didn't know any other defense.

18  Q     Okay.  So you wanted to go to trial on entrapment?

19  A     On the entrapment for him coming over there, and  
20  picking me up, contacting me.  You know that was my -- that  
21  was what I was --.

22  Q     Did he set you up with the person inside of the house  
23  who sold you the drugs?

24  A     Did he set me up with them?

25  Q     Yes.

Shannon Lancaster - Cross-examination  
By Mr. Isenberg

1 A No, he didn't set me up with him. But he sure  
2 contacted me encouraging me to find him drugs.

3 Q Okay. So you knew the person inside the house who sold  
4 you the drugs, correct?

5 A Yes.

6 Q The person in the car who was the undercover officer  
7 had no idea who it was?

8 A He didn't know -- he didn't know who it was. I don't  
9 understand what you're getting to me. No, he might of  
10 knew---

11 Q The officer inside the car had no idea who was inside  
12 the house?

13 A I don't know. I can't answer that.

14 Q Okay.

15 A You'd have to ask him. He's an investigator or was an  
16 investigator. I don't know. You'd have to ask him that.  
17 I'm not sure about that.

18 Q Okay. All right. I just want to make sure we're on  
19 the same page with it.

20 So, that -- so, you didn't go to trial with your  
21 entrapment defense. Instead you pled guilty, and you got 15  
22 years, correct?

23 A That would be right.

24 Q Okay. And instead of going to trial being subject to  
25 LWOP, you got 15 years, correct?

1 A That'd be right.

2 Q Okay. Did you factor that in when you decided to plead  
3 guilty?

4 A No, I, I was really wanting to go to trial that day,  
5 and -- but, no, I haven't really factored that in.

6 Q So you wanted to go to trial and risk life without  
7 parole?

8 A Well, you'd have to convict me of the charge first, who  
9 was consuming it. I mean am I just -- peers, 12 peers would  
10 of convicted me, I don't know if I got convicted. But,  
11 yeah, I was considering risking LWOP for it if that's what  
12 you want to say, yes, sir.

13 Q Okay. At the time did you think you were gonna get  
14 convicted?

15 A No, I didn't think I would get convicted.

16 Q Okay. So why didn't you go to trial?

17 A I wish I would of went to trial now.

18 Q But why didn't you at the time if you didn't think you  
19 were gonna get convicted?

20 A Why didn't I go to trial?

21 I, I didn't think I had a defense really.

22 Q Okay. And so you---

23 A If they do the---

24 Q ---didn't have a defense---

25 A ---entrapment, he said one case---

Shannon Lancaster - Cross-examination  
By Mr. Isenberg

1 Q Don't cut me off.

2 A I wasn't.

3 Q Because you didn't think you had a defense, you didn't  
4 want to go to trial, correct?

5 A I was advised that entrapment's never won but one case  
6 in the history of South Carolina. So, now, being that, I  
7 decided it would be better to enter a guilty plea.

8 Q Okay.

9 All right. I have no further questions for this  
10 witness, Your Honor.

11 THE COURT: All right. Any redirect, Ms. Ross?

12 REDIRECT EXAMINATION

13 BY MS. ROSS:

14 Q Now, in your discussions, there was no mention of  
15 anything about the wiretap law and everything that you've  
16 presented here today?

17 A No, I never even knew that till I got to Perry  
18 Correctional Institution, and, like I said, had a roommate  
19 that was formerly on Death Row started advising me of the  
20 South Carolina Constitutions and laws.

21 Q Okay. I've got no further questions.

22 THE COURT: All right. Thank you, sir. You may step  
23 down.

24 MS. ROSS: And we don't have any other witnesses.

25 THE COURT: Very good. Thank you, ma'am.

1 MR. ISENBERG: Yes, Your Honor.

2 We would call plea counsel, Mr. Ricky Harris.

3 THE COURT: Yes, sir, come round.

4 RICKY HARRIS, being first duly  
5 sworn, testified as follows:

6 MR. ISENBERG: May it please the Court?

7 THE COURT: Yes, sir.

8 MR. ISENBERG: Thank you.

9 DIRECT EXAMINATION

10 BY MR. ISENBERG:

11 Q Morning, Mr. Harris.

12 A Good morning.

13 Q Thank you for being here today. For the record, I  
14 appreciate you getting over here right after you filed that  
15 motion this morning.

16 First though, I just want to ask what is your current  
17 employment?

18 A I'm a solo practitioner, attorney at law.

19 Q Okay. And what kind of law do you practice?

20 A Primarily criminal defense.

21 Q Okay. And how long have you been practicing criminal  
22 defense?

23 A Over 30 years.

24 Q And so how -- for about how long, out of those 30  
25 years, have you been a solo practitioner?

Ricky Harris - Direct examination  
By Ms. Isenberg

1 A I think -- I believe the past 22 years.

2 Q Okay. And so in those 22 years of solo practitioner in  
3 criminal defense, have you ever had a, a client whose dealt  
4 with drug crimes or been prosecuted for drug crimes?

5 A Numerous, yes.

6 Q Okay. And those -- in those drug crimes, have you ran  
7 into cases where you've raised an entrapment defense?

8 A I know that I've had situations where clients had  
9 believed that they were entrapped, and had considered  
10 entrapment defenses. I can not recall if we -- if I have  
11 ever tried a drug case where we actively pursued an  
12 entrapment defense. It was probably a -- I, I couldn't cite  
13 you specific cases. But I, I believe there've been a  
14 handful of cases where, with out and out asserting  
15 entrapment, we, I think, through cross-examination, raised  
16 the specter of that for the jury to consider.

17 Q All right. So, it's fair to say you've researched,  
18 reviewed, and considered using an entrapment defense,  
19 correct?

20 A Yes.

21 Q You're familiar with the statute?

22 A I'm familiar with the law of entrapment.

23 Q Okay.

24 A Yes.

25 Q All right. So, what if any kind of relationship have

1 you ever had with the Applicant, Mr. Lancaster?

2 A I've represented him on his drug case in Spartanburg  
3 County a few years ago.

4 Q Okay.

5 A That's all.

6 Q And when you was -- how did you come about representing  
7 him?

8 A I don't specifically remember. But I believe that some  
9 family member would have contacted me on his behalf since he  
10 would -- he was in jail and I don't remember the family  
11 member. But somebody would have come to my office and made  
12 fee arrangements for Mr. Lancaster. I believe that's the  
13 way it happened.

14 Q And so after those fee arrangements were made, what, if  
15 any kind of meetings, personal meetings, did you have with  
16 Mr. Lancaster starting with the first?

17 A Well, I -- it might be helpful for me to refer to my  
18 memos that I made of my meetings with Mr. Lancaster. We  
19 opened a file on Mr. Lancaster on, according to my file  
20 notes, on July 6<sup>th</sup>, 2016. Pursuant to that, we would of  
21 filed the required written notice of appearance in the  
22 General Sessions Court for Spartanburg County, and  
23 contemporaneously filed a request for discovery.

24 Q Okay.

25 A The first documented meeting I had with Mr. Lancaster

Ricky Harris - Direct examination  
By Ms. Isenberg

1 about his case was on September 13<sup>th</sup>, 2000 -- well, I made  
2 the memo on September 13<sup>th</sup>, 2016. I met with the client at  
3 the jail on September 9<sup>th</sup>, 2016.

4 Q Okay. Do you personally recall or would your notes  
5 help you recall what y'all discussed at the first meetings?

6 A Met with the client at the jail on September 9<sup>th</sup>, 2016.  
7 We went over, in a summary fashion, the discovery in the  
8 case with a view toward trying to help him understand the  
9 seriousness of the charges that he faces, and, in  
10 particular, in reference to the undercover buys with an  
11 undercover police officer the difficulty of defending those  
12 cases.

13 We discussed his prior record, and we discussed the  
14 solicitor's offer of 18 years. He did not wish to accept  
15 the offer. He understands the solicitor has made references  
16 to seeking life without parole based on his prior  
17 convictions. He told me he has done extensive voluntary  
18 cooperation with the narcotics office of the Sheriff's  
19 Department, and they have promised to let the solicitor know  
20 the extent of his cooperation. I tried to temper his  
21 expectations by pointing out to him that suspended sentences  
22 were not available for drug trafficking offenses, and that  
23 his situation was more serious than perhaps his letters  
24 might indicate and his level of understanding. He had sent  
25 some letters to me.

1           We agreed that I would go back to the Solicitor's  
2 Office to make sure that they understand the nature of his  
3 cooperation in hopes of getting a better offer.

4 Q       So, based upon what you've just said, you had to go  
5 into that conversation and temper his expectations on what  
6 the solicitor would offer him in plea negotiations?

7 A       Yes. In a nutshell, Mr. Lancaster believed that he had  
8 some agreement or arrangement with the Sheriff's  
9 Department's narcotics officers to --.

10 Q       Was he gonna flip?

11 A       And my, my impression was Mr. Lancaster thought that he  
12 was suppose to get some sort of suspended sentence.

13 Q       Okay. And you told him that---

14 A       And, and I told him that so long as the Solicitor's  
15 Office maintained a prosecution for drug trafficking of any  
16 level of any offense, that a suspended sentence was not  
17 possible.

18 Q       And did you investigate his allegations that he was  
19 working for the Solicitor's Office and going to get a  
20 suspended sentence?

21 A       I did what I told him I would do, which is go back to  
22 the Solicitor's Office, make the Solicitor's Office aware of  
23 the alleged cooperation with a view toward getting a better  
24 plea offer.

25 Q       Right.

Ricky Harris - Direct examination  
By Ms. Isenberg

1 A So, yes, I went back to Mr. Hunter with the Solicitor's  
2 Office.

3 Q And what did they say to you after you made them aware  
4 of his allegations?

5 A My recollection is, and I may have or I have several  
6 memos, but my recollection is that Mr. Hunter essentially  
7 said he was unaware of any cooperation, and didn't believe  
8 there had been any.

9 Q And so, Mr. Hunter from the Solicitor's Office, did he  
10 make you aware that they were intending to pursue LWOP if  
11 this went to trial?

12 A Before the first meeting that I documented there had  
13 been references to that. But no out and out statement we  
14 are going to do this.

15 Q Okay.

16 A As the process leading up to the scheduling of the  
17 trial went forward, Mr. Hunter did state that if Mr.  
18 Lancaster did not accept the plea offer that the State would  
19 avail itself of filing an LWOP notice.

20 Q Just -- I just want to go down this rabbit hole just  
21 for a second.

22 Did they ever actually serve y'all with LWOP notice?

23 A No.

24 Q Okay. But back to the original conversation, you said  
25 that the Solicitor's Office had offered 18 years at that

1 point?

2 A That's correct.

3 Q Okay. All right. So, let me jump back to that.

4 what, if any, kind of understanding or motivation did  
5 he have at that point to plead to 15 -- 18 years?

6 A None.

7 Q Okay.

8 A He, he felt like his cooperation merited a far better  
9 treatment.

10 Q Okay. And is it fair to say that, going over  
11 discovery, the original plea offer, and tempering his  
12 expectations, was sort of the summary of y'all's first  
13 meeting?

14 A Yes. And, and his assertion of the cooperation.

15 Q Of course, yeah.

16 Okay. So, after that meeting, what, if any, kind of  
17 action did you take in the case in terms of investigation or  
18 maybe a follow-up meeting with your client?

19 A Well, my file indicates that, on October 27<sup>th</sup>, 2016,  
20 I visited the client in the jail. The client came out to  
21 see me wearing what appeared to be headphones or ear buds.  
22 I asked him if he could hear me and he said yes.

23 I told him I had received his letters. He had sent  
24 more letters to me. And I informed him that I was being  
25 asked to plead -- that, that he was being asked to plead

Ricky Harris - Direct examination  
By Ms. Isenberg

1 guilty to two counts of trafficking for the undercover hand  
2 to hand transactions with Detective Ruane.

3 Let me stop here and say he was charged with multiple  
4 drug offenses for multiple offense dates, but our  
5 discussions, and my primary concern, just on the evidence in  
6 the case, had to do with two discreet transactions that were  
7 alleged to have occurred where there was no anonymous  
8 cooperating informant. There was no CI. There was a hand  
9 to hand delivery between a police detective and Mr.  
10 Lancaster, and, and -- what, what I told him was any of  
11 these undercover buy, delivery type cases are difficult if  
12 the State has the witnesses in place, and can present them  
13 in Court. But they are particularly difficult when the  
14 State does not have to rely on an informant whose  
15 cooperation may wane from time to time. It's particularly  
16 difficult when the undercover operative, if you will, is a  
17 police officer.

18 Q But---

19 A So---

20 Q Just to jump on that, and part of the reason of that is  
21 because you can hammer a CI's credibility at trial if it's  
22 just a regular old CI, but if it's an, if it's an officer,  
23 it's sort of hard, a little bit harder, to hammer their  
24 credibility in front of a jury?

25 Is that what you're -- is that what you're sort of

1 getting at?

2 A No.

3 Q Okay.

4 A I---

5 Q I was curious.

6 A No, it -- a police officer's credibility can be  
7 questioned. I won't use the word hammered, but it---

8 Q Sorry. It's slang.

9 A It's the availability of the witness that, that I'm  
10 focused on based on my experience.

11 Q Okay.

12 A If you have somebody that's trying to remain  
13 anonymous---

14 Q I see.

15 A ---that his cooperation at any given time with the  
16 police depends on what he or she is getting out of it or can  
17 gain, by the time a case comes to trial, that person may or  
18 may not be willing to cooperate anymore, may be unavailable  
19 for any number of reasons.

20 Q Yeah.

21 A So, that was part of the discussion I had with Mr.  
22 Lancaster was, you know, this is -- these cases with  
23 Detective Ruane, where there's the -- what I call a hand to  
24 hand --

25 Q Uh-huh. (Affirmative).

Ricky Harris - Direct examination  
By Ms. Isenberg

1 A -- delivery, the, the State is not presented with that  
2 potential witness problem.

3 Q Right.

4 A The State doesn't have a witness problem with Detective  
5 Ruane.

6 Q I, I, I follow you now. It's the availability.

7 A It's the avail---

8 Q Okay. I thought---

9 A ---availability and the willingness of, of the witness,  
10 yes, sir.

11 Q I was trying to follow your trial strategy just in case  
12 I need to steal it one day.

13 A Well, there---

14 Q I'm kidding.

15 A I, I will just say that my review of the, the discovery  
16 in the, the multiple cases, and my advice to Mr. Lancaster  
17 consistently was these were very difficult cases to try to  
18 defend in Court in trial.

19 Q Right.

20 And I'm assuming, or without assuming, did you have  
21 that conversation with him and discuss with him, in your  
22 opinion, thoroughly that this sort of case was very hard to  
23 defend at trial?

24 A Absolutely. We, we -- I don't think I ever had a  
25 meeting with him that we didn't touch on the difficulty of

1 attempting to try these cases, and, of course, it would of  
2 had -- if we went to trial on one case and won it, for  
3 whatever reason, based on whatever defense, the State had in  
4 the -- lined up multiple cases to try him over and over on,  
5 and what are the odds of successfully defending three drug  
6 trafficking cases in a row.

7 Q All right. Had the, had the State told you that --  
8 their intention if, if it went to trial was, if we lose on  
9 one, we're probably gonna try another one?

10 A Oh, I -- the -- I can not recall if that was ever  
11 discussed. That was certainly something I discussed with  
12 Mr. Lancaster.

13 Q Right.

14 A But I, I, I didn't need the solicitor to tell me what  
15 would be coming.

16 Q Cause, traditionally, when you get cases in -- with  
17 these circumstances with multiple charges, if they lost one,  
18 they would try another one subsequently, correct?

19 A If -- unless something frustrated the prosecution that  
20 I wouldn't be able to predict, and, of course, this is why  
21 this is a tactic that is -- and this is something I  
22 discussed with Mr. Lancaster. It is a well known tactic of  
23 narcotics detectives to create multiple arrest dates,  
24 multiple incident dates, for that very purpose.

25 Q Right.

Ricky Harris - Direct examination  
By Ms. Isenberg

1 Did you ever investigate any kind of wrongdoing by law  
2 enforcement in this case on behalf of your client?

3 A Well, I didn't see any wrongdoing. I mean I certainly,  
4 throughout my discussions with Mr. Lancaster, his focus was  
5 on -- two-fold I guess. One was he was very frustrated that  
6 nobody recognized his alleged cooperation --

7 Q Uh-huh. (Affirmative).

8 A -- and that he wasn't getting any consideration for  
9 that.

10 The second thing was he felt like that he had been  
11 entrapped. We discussed the law of entrapment, what the  
12 State would have to prove, to prove -- to, to overcome an  
13 entrapment defense. We've discussed that I, I think  
14 virtually every time we met.

15 Q Did you investigate his entrapment allegations?

16 A Well, by reviewing the discovery, I mean that's the way  
17 you do it. I --.

18 Q And---

19 A Again, in a nutshell, I mean we, we, we talked and  
20 talked and talked about entrapment. He had all kinds of  
21 theories about it, but basically I -- what it came down to  
22 was I said, look, you know, certainly we could probably make  
23 a pretty strong argument to a jury that the State, you know,  
24 involved you in a scheme to get -- to catch you trafficking  
25 in drugs. But I see no way that we can prove that you're --

1 that you had a lack of predisposition to commit the crime.

2 You, you are one of the most willing participants I've  
3 ever seen. You -- I mean I think Mr. Lancaster's right  
4 that, on one occasion, maybe more, he was just buddying  
5 around with Detective Ruane for hours. I mean that doesn't  
6 show me a lack of predisposition. It actually shows strong  
7 predisposition to commit the crime.

8 Q Right. I just---

9 A So, that -- that's basically the discussion about  
10 entrapment. I, I just couldn't -- I couldn't see that we  
11 could make that out as a legal matter in Court.

12 Q Right.

13 And so, in summary, you review the discovery. You  
14 pondered the facts. You pondered the fact that the rode  
15 around with the officer. He willingly did this and you  
16 discussed with him the fact that you didn't think the  
17 entrapment would be a good defense to present.

18 Correct?

19 A I -- yes, I told him I thought it was a long shot.

20 Q Okay.

21 A Yes.

22 Q Do you -- just for purposes of the record, do you know  
23 about how many times y'all met?

24 I don't think I asked you that question.

25 A I have memos.

Ricky Harris - Direct examination  
By Ms. Isenberg

1 Q Uh-huh. (Affirmative).

2 A So, we've already indicated I met with him September of  
3 2016. I met again with him October 25<sup>th</sup>, 2016. Visited him  
4 in the jail, once again, on November 29<sup>th</sup>, 2016. I went  
5 to the jail to visit again on March 9<sup>th</sup>, 2017. This was  
6 when we were really in the throws of preparing for trial.

7 Q So, it's fair to say y'all met more than two times  
8 according to your records?

9 A Oh, absolutely.

10 Q Okay. I want to jump to that March 9<sup>th</sup>, 2017, meeting.

11 A Right.

12 Q What, if any, kind of conversations did y'all have in  
13 preparation for trial or potential plea negotiations?

14 A Okay. We discussed the scheduling of his case. I  
15 informed the client of the State's intention to seek the  
16 mandatory minimum 25 to 30 year sentence as a third offense.  
17 I informed the client that I had received and read his  
18 letters, that I was aware of his intent to pursue a defense  
19 of entrapment, and we discussed the legal difference between  
20 the concepts of entrapment, and, and I put in quotations if  
21 you were reading my memo, "sentencing entrapment" and  
22 "sentencing manipulation."

23 The client seemed to finally appreciate the differences  
24 in those things. Well, I don't know if you need me to -- by  
25 sentence entrapment, I mean multiple -- getting multiple

1 arrests for the purpose of elevating the level of  
2 seriousness of the offense.

3 Q Basically putting him at risk of LWOP for---

4 A Well -- or, or, or putting him, putting him at risk of  
5 getting sentenced at least as a third offense as opposed to  
6 some lesser offense.

7 Q Okay. And is that something that traditionally  
8 happens, something you're use to?

9 A I see it all the time.

10 Q Okay.

11 A But the, the reason that was important to Mr. Lancaster  
12 at that point in time was that he, he felt it was very  
13 unfair for him to have allegedly committed a crime, and not  
14 gotten arrested right away for it. But then they just  
15 continued to let him involve himself in criminal activity to  
16 worsen his situation and increase his legal jeopardy.

17 Q Okay.

18 A And, and I told him that's absolutely true. That it  
19 looks to me like that's absolutely what happened. But I  
20 didn't know of anything---

21 Q But you---

22 A ---that really could -- we could do about it. I  
23 researched cases in other jurisdictions where sentencing  
24 defenses had been raised based on that. But I told him that  
25 it was my pretty strong opinion that that concept of -- it's

Ricky Harris - Direct examination  
By Ms. Isenberg

1 not double jeopardy, but it's repetitive jeopardy, if you  
2 will, to, to invent a phrase for it, that I, I did not  
3 believe our Appellate Courts would be inclined to adopt that  
4 theory, and that he should be very cautious about proceeding  
5 to trial and subjecting himself to enhanced punishment on  
6 the hope that he could---

7 Q Right.

8 A ---break that ground in South Carolina.

9 Q So, in summary, you, you told him that there was  
10 precedent out there, but, if you went to trial based upon  
11 that, there was a major risk?

12 A Well, I want to be careful here because precedent has a  
13 unique meaning that, you know, as you know---

14 Q True.

15 A ---in our Courts. So, not precedent. That the --  
16 these theories about sentencing manipulation and sentencing  
17 entrapment had been written about, and talked about, and  
18 presented in other jurisdictions.

19 Q Okay.

20 A I mean I read Law Review articles and---

21 Q Right.

22 A ---the like, you know, scholarly articles about that  
23 theory.

24 Q Right, and you basically---

25 A But, but not precedent.

1 Q I follow you. So you -- and you told him that that --  
2 what you had read about theories and stuff like that, that  
3 was not binding for you in South Carolina, and there was---

4 A Well, my opinion -- I told him my opinion was I did not  
5 believe the Courts in South Carolina would be ready to adopt  
6 that --

7 Q Okay.

8 A -- concept.

9 Q When did, when did the Solicitor's Office approach you  
10 with the 15 year plea offer?

11 A Well, there was no 15 year plea offer.

12 Q Okay.

13 A As we counted down to trial -- I, I can read the memos.  
14 They're lengthy. But at -- my recollection is, as we  
15 counted down to trial, there was always the threat there  
16 would be no plea offer, that, that any plea offer would be  
17 withdrawn. We had discussion -- I believe it is we had the  
18 chambers discussion with Judge Cole where I was bringing to  
19 the judge a situation that concerned me about Mr. Lancaster  
20 asserting that there was a person in the Department of  
21 Corrections who could be a possible favorable witness for  
22 him. I -- we had actually had that person brought to  
23 Spartanburg. I interviewed that person.

24 Q Uh-huh. (Affirmative).

25 A But he basically said that he, he wasn't gonna say

Ricky Harris - Direct examination  
By Ms. Isenberg

1 anything in Court. I mean he was not gonna put himself in  
2 jeopardy.

3 Q Okay.

4 A He was gonna assert his Fifth Amendment rights. And so  
5 I went back and told Mr. Lancaster that Mr. -- that that  
6 person would not give him any testimony favorable to him,  
7 wouldn't give any testimony at all.

8 Q Okay.

9 A He was gonna assert the Fifth, and Mr. Lancaster  
10 insisted that I go back and talk to the person. And I said  
11 I'm not going to do that. He's already told me that he's  
12 gonna assert his Fifth Amendment rights. That's it. I'm  
13 not going to go back and press him in any way or, or be in a  
14 position where he could say that I was trying to press him  
15 to give up his Fifth Amendment right, and I -- my  
16 recollection is myself, Mr. Hunter, and Judge Cole had a  
17 discussion in chambers. This is on the eve of trial --

18 Q Right.

19 A -- where I said judge, I'm very concerned. This is  
20 what's happened. I do not believe -- my understanding of  
21 the law is I can not call a witness to the witness stand who  
22 I know will assert his Fifth Amendment rights for the  
23 purpose of having him assert his Fifth Amendment rights.  
24 That's improper. At least that was my understanding of the  
25 law.

1           Out of all of that came an offer by the State to plead  
2 to one count of trafficking for a negotiated sentencing  
3 range of 12 to 18 years.

4 Q       And how did that---

5 A       So, there was never an offer to plead to 15. It was a,  
6 a range of 12 to 18.

7 Q       Right.

8 A       So --.

9 Q       The original offer was 18 and you worked them down to a  
10 range of 12 to 18, right?

11           MS. ROSS: And I object to leading. Just amended  
12 questions.

13           MR. ISENBERG: Oh.

14           THE COURT: I'll note your objection.

15           Go ahead.

16 A       The, the -- well, to be---

17 Q       Go ahead.

18 A       The original offer I received from the State, according  
19 to my notes, was 18 years. That was rejected. Right before  
20 trial, ever how it happened, okay, the, the State saw fit to  
21 offer a negotiated range of 12 to 18 which I thought was  
22 plenty enough incentive for Mr. Lancaster to seriously  
23 consider it. In addition to that, he was gonna be pleading  
24 to only one count---

25 Q       Uh-huh. (Affirmative).

Ricky Harris - Direct examination  
By Ms. Isenberg

1 A ---of drug trafficking and all other charges against  
2 him would be dismissed.

3 Q Okay. So, it's, it's fair to say that, in this offer  
4 they presented to you, the negotiated range, they also  
5 offered to drop all charges but one?

6 A Correct.

7 Q Okay. So, after this offer from the State, what, if  
8 any, kind of conversation did you have with your client  
9 about pleading?

10 A Okay.

11 Q Feel free to elaborate.

12 A On the morning of March 14<sup>th</sup>, 2017, I visited the  
13 client at the jail, and that's when I informed him that this  
14 potential witness was gonna assert the Fifth, that I  
15 couldn't go back to him. I wasn't going -- I didn't think  
16 it was appropriate for me to go back to that person to try  
17 to get him to change his mind. We talked about potential  
18 sentences, range of sentences, so on, and, at that point,  
19 again, told him that I thought that we might be able to show  
20 government inducement. But the problem would be showing  
21 lack of predisposition, that client, at that point in time,  
22 this was the morning of March 14<sup>th</sup>, was saying that he  
23 wanted a trial.

24 Q Okay.

25 A My notes indicate that I appeared for trial at 2:30PM,

1 as instructed, before Judge Cole. Prior to trial, there was  
2 a chambers conference---

3 Q Uh-huh. (Affirmative).

4 A ---that I described. I relayed my concerns about the  
5 witness. I note here we discussed whether Judge Cole would  
6 consider this a second or a third offense, and Judge Cole  
7 indicated, without saying how he would rule, that he was  
8 inclined to think it would probably be considered a third  
9 offense.

10 Q Okay.

11 A Eddie Hunter agreed to consider a sentencing range of  
12 12 to 18 years on a negotiated sentence. I went to the jail  
13 room. So, this is the afternoon of March 14<sup>th</sup>, 2017. I  
14 went to the jail room to discuss with the client the  
15 potential of pleading guilty to the 12 to, to 18 sentencing  
16 range. That was the first time that had been offered. So,  
17 we had a new offer.

18 Q Okay.

19 A We discussed again the entrapment defense was a long  
20 shot. We discussed that he would have to serve  
21 significantly less time on a 12 to 18 plea than if he were  
22 sentenced as a third offense to 25 to 30 mandatory minimum  
23 or if he were to be subject to subsequent further  
24 prosecution for life without parole. In the end he agreed  
25 to plead to the 12 to 18 sentencing range. We entered the

Ricky Harris - Direct examination  
By Ms. Isenberg

1 plea in front of Judge Cole and he received a sentence of 15  
2 years.

3 Q Okay. So, in your opinion, throughout that  
4 conversation, what conversation point or topic that you just  
5 went over made him flip from trial to plea?

6 A Well, I mean that would -- I can't say what was in his  
7 mind.

8 Q Okay.

9 A He, he -- for me --

10 Q Uh-huh. (Affirmative).

11 A -- I think it was significant that the witness that he  
12 thought could be of benefit to him had refused to testify.

13 Q Okay.

14 A So that was, that was a -- one thing. I think he  
15 finally understood how difficult an entrapment defense would  
16 be, that would probably be unsuccessful, that he had no  
17 other defense, and that we would receive a new and much more  
18 favorable plea offer, and we were down to it. There was no  
19 more wiggle room. We were either gonna accept the plea  
20 offer or pick a jury.

21 Q Okay. So, now -- just to summarize, you laid out this  
22 more favorable plea offer to him, and then you sort of  
23 rehashed all the issues that y'all had been facing  
24 throughout, entrapment, the witness, the subsequent offense  
25 issues, and, at that point, he decided to plead?

1 A That's right.

2 Q Okay.

3 A Yes.

4 Q And, in your opinion, when he walked into the plea  
5 hearing that he decided to plead guilty at, at that point he  
6 realized he did not really have any favorable defenses?

7 I'm sorry. I'm choking.

8 A Well, I haven't read the plea colloquy. But I -- I'm  
9 (sic) believe, if he did read it, he would have affirmed to  
10 the Court that he had no defenses.

11 Q Okay.

12 A That's a -- I don't think I've ever done a plea with  
13 Judge Cole where he didn't affirmatively inquire as to  
14 whether the defendant believed he had any defenses to the  
15 charge.

16 Q Right.

17 And, and, for the record, Judge Cole did -- I was just  
18 making sure it was your opinion, when he was walking in  
19 right before that plea hearing, that he, he knew where he  
20 stood in terms of not having a, a good defense?

21 A Well, again, you know, and I'd have to get inside his  
22 mind for that, but I, I think -- to me, I think he  
23 understood that it was 12 to 18 years or a mandatory minimum  
24 25 to 30, and he could count. I'm not trying to be curt  
25 about that. But he probably didn't -- I'll -- if I did

Ricky Harris - Cross-examination  
By MS. ROSS

1 crawl inside of Shannon Lancaster's mind, I would probably  
2 have to say he didn't want to have to go plead guilty, but  
3 he knew that that was in his best interest.

4 Q Okay.

5 All right. Well, I have no further questions. Thank  
6 you.

7 CROSS-EXAMINATION

8 BY MS. ROSS:

9 Q Now, two of the three charges involved, involved  
10 Investigator Ruane, correct?

11 Does that sound right?

12 A I, I -- at least two.

13 Q Okay. So, there could of been -- how many charges  
14 total?

15 A Well, I represented him on distribution of  
16 methamphetamine from March 2<sup>nd</sup>, 2016, trafficking of meth,  
17 possession of narcotics, and possession of controlled  
18 substances from May 12<sup>th</sup>, 2016, trafficking in  
19 methamphetamine from April 11<sup>th</sup>, 2016, PWID meth from  
20 March 15<sup>th</sup>, 2016, possession of an -- unlawful possession  
21 of a firearm from April 19<sup>th</sup>, 2016, distribution of  
22 controlled substances in proximity to a school, April 15<sup>th</sup>,  
23 2016, and trafficking methamphetamine second offense from  
24 April 15<sup>th</sup>, 2016. The last of which is the one he pled  
25 to.

1 Q All right. And you think that---

2 A But how many of those directly involved Detective Ruane  
3 I can not -- I'd have to go back and review the entire file.

4 Q All right.

5 A But I do know that the trafficking he pled to and  
6 another trafficking charge involved hand-to-hand  
7 transactions with Detective Ruane.

8 Q With Ruane.

9 Okay. And, and do you -- was he going over county  
10 lines?

11 Was he going into Gaffney riding around?

12 A Please forgive me. Again, I haven't gone back and read  
13 all of the incident reports. But for the offense to which  
14 he pled, I believe that the buy notes in that case from  
15 Detective Ruane indicates that Detective Ruane, on that  
16 date, went to a location in Gaffney, South Carolina to pick  
17 up Mr. Lancaster, and that subsequently they wound up at a  
18 location in Wellford, South Carolina, which is in  
19 Spartanburg County where Mr. Lancaster consummated a drug  
20 buy.

21 Q All right. And did Mr. Lancaster mention to you that  
22 Ruane had told him he'd be working for him, that Ruane had  
23 told Lancaster that Lancaster would be working for Ruane?

24 A That sounds right. Yeah, I can't remember exactly.  
25 But there was -- there was something about a job in there,

Ricky Harris - Cross-examination  
By MS. ROSS

1 yes.

2 Q All right. And then there's something in the incident  
3 report about recordings that were made, that there, there  
4 were recordings made during this entire period, correct?

5 A There, there were some videos, yes.

6 Q And did you research or look into any prior subpoenas  
7 or permission to set up a recording device pursuant to SLED  
8 orders or just the County of Spartanburg kind of rules of  
9 the Sheriff's Department?

10 A I did not.

11 Q Okay. All right. I have no further questions.

12 THE COURT: Redirect?

13 MR. ISENBERG: Nothing, Your Honor.

14 THE COURT: All right. Thank you.

15 Any objection to this witness being excused?

16 MR. ISENBERG: No, Your Honor.

17 THE WITNESS: Thank you.

18 THE COURT: Thank you, sir.

19 Any other witnesses from the State?

20 MR. ISENBERG: No, Your Honor. I just request a brief  
21 close, closing argument.

22 THE COURT: All right. Any reply, Ms. Ross?

23 MS. ROSS: No, Your Honor.

24 THE COURT: Be glad to hear from the Applicant first.

25 MS. ROSS: well, Judge, I think the Applicant has set

1 forth pretty clearly his position in the application.

2 His assertion is that these wire recordings in the car  
3 are essentially a wiretap, and, therefore, would come under  
4 this Homeland Security Act. I have not run into that  
5 before. We've talked about it. But that is a question for  
6 the Court, and I would leave it in -- up to the Court at  
7 this time, and stand by his arguments that I think he fairly  
8 eloquently made from the stand.

9 THE COURT: All right. Thank you, ma'am.

10 All right, sir.

11 MR. ISENBERG: May it please the Court.

12 THE COURT: Uh-huh. (Affirmative).

13 MR. ISENBERG: Your Honor, with all due respect, I mean  
14 this Applicant's full of it. He willingly engaged in  
15 several drug transactions. They charged him with all of  
16 them. He, he wanted, begged, and pleaded for an entrapment  
17 defense. His attorney advised him several times it wasn't a  
18 good idea. He finally got a favorable plea offer, and they  
19 had a heart to heart about the entrapment defense not being  
20 a good idea. He decided it was in his best interest to  
21 plead guilty, walk -- his attorney said he walked into that  
22 plea hearing knowing he didn't have a good defense. They  
23 already vetted this entrapment thing several times.

24 All of these allegations are centered around wrongdoing  
25 by law enforcement. It's obvious that was well vetted by

1 all parties including several conversations with the  
2 solicitor about the Applicant's role with the Spartanburg  
3 County Police, Police Department as a, I guess, a CI  
4 subsequent to his arrest.

5 Nothing came to fruition, and he decided to plead  
6 guilty. They dismissed several charges as a result of his  
7 guilty plea, and he got a favorable deal considering the  
8 fact that he was facing 25 to 30 or potentially LWOP on  
9 future -- at future trials.

10 For that reason, his case should be dismissed with  
11 prejudice.

12 THE COURT: All right. Thank you.

13 MR. ISENBERG: Okay.

14 THE COURT: All right. I'm gonna read through all your  
15 submissions. I just got them this morning, and I have not  
16 had the opportunity to look through them. So, I want to  
17 give you the opportunity for me to do that. So---

18 THE APPLICANT: Yes, sir.

19 THE COURT: ---I don't want to make a decision off the  
20 top of my head.

21 Thank you, Mr. Lancaster, for being here, and I'll give  
22 you my decision as soon as I get through all the materials.

23 Good luck.

24 MS. ROSS: Thank you, Your Honor.

25 THE COURT: Uh-huh. (Affirmative.)

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MR. ISENBERG: Thank you, Your Honor.

\* \* \*END OF REQUESTED TRANSCRIPT OF RECORD\* \* \*

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 20<sup>th</sup> day of February, 2019.

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

August 10<sup>th</sup>, 2020

\_\_\_\_\_  
PAMELA E. GREEN, Court Reporter

Exhibit 1

**LANCASTER, SHANNON M - Suspect**

<b>DOB</b>	██████████	<b>Race</b>	W-WHITE, NON-HISPANIC
<b>Sex</b>	M	<b>Ethnicity</b>	Non-Hispanic
<b>Height</b>	6'00"	<b>Weight</b>	175
<b>Address</b>	██████ OLD DIRT RD; OLD DIRT RD	<b>City</b>	SPARTANBURG
<b>State</b>	SC	<b>Zip</b>	29307
<b>Phone</b>	(864)621-2376	<b>DL State</b>	South Carolina
<b>DL Number</b>	██████████		

Applicant's Exhibit 1

Conviction

**NARCOTICS - Complainant**

<b>DOB</b>		<b>Race</b>	
<b>Sex</b>		<b>Ethnicity</b>	
<b>Height</b>	6'00"	<b>Weight</b>	180
<b>Address</b>	8045 HOWARD ST	<b>City</b>	SPARTANBURG
<b>State</b>	SC	<b>Zip</b>	29303
<b>Phone</b>	(864)503-4500	<b>DL State</b>	
<b>DL Number</b>			

**Property**

**Drug - Evidence**

<b>Quantity</b>	27.6	<b>Total Value</b>	\$1.00
<b>Measurement</b>	Gram	<b>Amount Recovered</b>	\$0.00
<b>IBR / UCR Code</b>	Drug/Narc, Amphet or Methamphe	<b>Date Recovered</b>	04/15/2016
<b>Status</b>	Seized	<b>Owner</b>	

**Narratives**

**Original Narrative - Ruane, James - 04/18/2016 13:26:26**

On April 15, 2016 Investigator Ruane, acting in a undercover capacity contacted Shannon Lancaster in reference to purchasing an ounce of methamphetamine. Shannon Lancaster stated to Investigator Ruane to pick him up, and take him (Lancaster) to go get the methamphetamine. Investigator Ruane had \$1,250.00 of recorded Sheriff's Office Funds and an audio/video recording device. Investigator Ruane driving an uncover Spartanburg County vehicle was followed by other Investigators to pick up Shannon Lancaster. Once Investigator Ruane picked up Shannon Lancaster, he (Lancaster) told Investigator Ruane that he (Lancaster) had to go to Wellford for the methamphetamine. Investigator Ruane, followed by other Investigators, drove Shannon Lancaster to the buy location located at 112 Wild Oaks Drive, Wellford, SC. Investigator Ruane handed the recorded Sheriff's Office Funds to Shannon Lancaster who then exited the vehicle and walked inside the trailer. A short time later, Shannon Lancaster walked back to the vehicle and handed Investigator Ruane a plastic bag containing a pink crystal like substance. Investigator Ruane left and met with Investigators at a predetermined location. The pink crystal like substance weighed approximately 27.6 grams and did field test positive for methamphetamine. The pink crystal like was placed into Best Bag #S153095 and placed into evidence at the Sheriff's Office for further testing. The audio/video recording was transferred to a DVD for storage and still photo's were made for this case file.

This incident happened within 1/2 mile of Wellford Academy located at 684 Syphrit Road, Wellford, SC 29385.

Judge Blackley issued the following warrants on Shannon Lancaster:2016A4210201358 PWID 1/2 Mile of School, 2016A4210201359 Trafficking Meth 2nd.

Exhibit 1

conviction

**Buy Notes for Case #16040895**

14:29—Investigator Ruane picked up Shannon Lancaster at [REDACTED] Saddle Drive, Gaffney, SC

14:24—Investigator Ruane and Shannon Lancaster leave [REDACTED] Saddle Drive, Gaffney, SC

15:05—pulled in trailer park in Wellford, SC. SC Tag [REDACTED] Jetta Volks parked at trailer. 1<sup>st</sup> trailer on right. Expedition with paper tag also parked at trailer

15:08—Investigator Ruane left Shannon Lancaster at trailer with buy money and went to Dollar General in Wellford and parked

15:28—Investigator Ruane returned to trailer to pick up Shannon Lancaster

15:40—Investigator Ruane and Shannon Lancaster left trailer. Shannon Lancaster informed Investigator Ruane that it would be about 1 hour before the methamphetamine would be at the trailer. Investigator Ruane and Shannon Lancaster decided to get something to eat in the area to wait for the methamphetamine.

15:43—Investigator Ruane and Shannon Lancaster went to Spinx/Burger King at Hwy 29 and Hwy 129. While waiting Shannon Lancaster informed Investigator Ruane that he would try to call "Chuncka", Larry Ralph White, to get the methamphetamine. Investigator Ruane informed Shannon Lancaster that Investigator Ruane would not want to purchase the methamphetamine from him. Investigator Ruane knows Larry Ralph White very well through other methamphetamine investigators and Investigator Ruane was worried that Larry Ralph White might recognize him as being a Narcotics Investigator. Shannon Lancaster also spoke with a unknown person on the phone who wanted to buy a small amount of methamphetamine that Shannon Lancaster had on his person. Shannon Lancaster told that person to meet us at the Spinx/Burger King. That person never showed up before we left.

17:05—Investigator Ruane and Shannon Lancaster left Spinx/Burger King

17:10—Investigator Ruane and Shannon Lancaster arrived back at the trailer, and left headed to Spartanburg, SC. Shannon Lancaster informed Investigator Ruane that his girlfriend would meet us on Asheville Hwy. in Spartanburg with the methamphetamine. Shannon Lancaster told Investigator Ruane that we would meet his girlfriend at the Pizza Hut on Asheville Hwy. Shannon Lancaster also called back the person who was going to buy the methamphetamine that Shannon Lancaster had on his person and told that person to meet us at the Pizza Hut on Asheville Hwy.

Exhibit 1

conviction

### Buy Notes for Case #16040895 (continued)

17:34—Shannon Lancaster informed Investigator Ruane that the Hispanic would have the methamphetamine in Wellford, SC. Investigator Ruane turned around and headed back to Wellford, SC. Shannon Lancaster told Investigator Ruane that they would be pissed off if we didn't get the methamphetamine from Wellford since the guy was on his way. Shannon Lancaster stated that they would cut him off if we didn't get the methamphetamine from them.

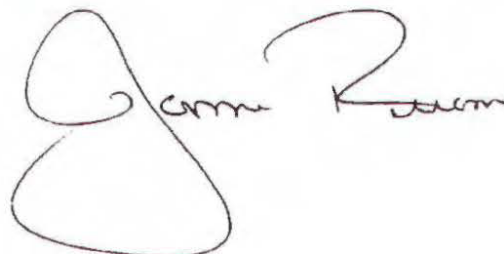
17:42—Investigator Ruane and Shannon Lancaster arrived back at the Dollar General in Wellford, SC. Shannon Lancaster was attempting to meet an unknown person to sell him a small quantity of methamphetamine that Shannon Lancaster had on his person.

17:46—Investigator Ruane and Shannon Lancaster arrived back at the trailer in Wellford, SC. Shannon Lancaster informed Investigator Ruane to stay at the trailer this time and not to go back and wait at the Dollar General.

While waiting at the trailer, a Nissan Maxima bearing SC Tag [REDACTED] pulled into the trailer and parked directly behind Investigator Ruane. A dark complexed white male wearing a plaid shirt, gray slacks, clean cut, dark hair, and wearing sun glasses exited the vehicle and walked into the trailer. A female stayed in the vehicle in the drivers seat with the vehicle running. A short time later Shannon Lancaster exited the trailer and handed Investigator Ruane a plastic bag containing a pink crystal like substance and walked back into the trailer.

18:05—Investigator Ruane left the trailer alone. Shannon Lancaster stayed at the trailer.

Due to the length of time of this buy, the transaction was not recorded due to the equipment running out of battery. Investigator Ruane was able to get some of the details of the buy, but not the buy in its entirety. While Investigator Ruane was driving Shannon Lancaster to the buy, Shannon Lancaster pulled out two (2) chrome plated .25 pistols with wood grips. Shannon Lancaster informed Investigator Ruane that he (Lancaster) always carries a pistol with him during drug transactions. Shannon Lancaster also Informed Investigator Ruane that he (Lancaster) was going to try to sell one of the pistols to the Hispanic male.



trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the State, or a political subdivision thereof, if the disclosure of that information would be in violation of this chapter. The prohibition of use as evidence provided in this section does not apply in cases of prosecution for criminal interception in violation of the provisions of this chapter.

(B) The contents of any wire, oral, or electronic communication intercepted pursuant to this chapter and the contents of any application for an order and an order of authorization issued pursuant to this chapter are not included in the definition of a public record contained in Section 30-4-20(c), and may only be disclosed in a manner provided by this chapter.

HISTORY: 2002 Act No. 339, Section 14, eff July 2, 2002.

\*SECTION 17-30-70. Orders authorizing interception; application process; agencies and individuals authorized to conduct interception.

\*(A) An application for an order authorizing or approving the interception of wire, oral, or electronic communications must be initiated by the Chief of SLED. After reviewing the application, the Attorney General or his designated Assistant Attorney General may authorize the submission of the application to a judge of competent jurisdiction for, and the judge may grant in conformity with this chapter, an order authorizing or approving the interception of wire, oral, or electronic communications by:

\*(1) the South Carolina Law Enforcement Division for the investigation of the offense as to which the application is made when the interception may provide or has provided evidence of the commission of the offenses of murder (Section 16-3-10); assault and battery with intent to kill (Section 16-3-620); kidnapping (Section 16-3-910); voluntary manslaughter (Section 16-3-50); armed robbery (Section 16-11-330(A)); attempted armed robbery (Section 16-11-330(B)); drug trafficking as defined in Sections 44-53-370(e) and 44-53-375(C); arson in the first degree (Section 16-11-110(A)); arson in the second degree (Section 16-11-110(B)); accessory before the fact to commit any of the above offenses (Section 16-1-40), or attempt to commit any of the above offenses (Section 16-1-80). This interception may also be authorized when it may provide or has provided evidence of any conspiracy or solicitation to commit any violation of the offenses specified in this subsection,

(2) the South Carolina Law Enforcement Division for the investigation of the offense as to which the application is made when the interception may provide or has provided evidence of the commission of any offense related to terrorism or the commission of a terrorist act, any offense related to bombs, destructive devices, bacteriological and biological weapons, and weapons of mass destruction as provided for in Article 7, Chapter 23, Title 16 or evidence of any conspiracy or solicitation to commit any crime specifically enumerated in this subsection; or

\*(3) an individual operating under a contract with the South Carolina Law Enforcement Division for the investigation of an offense listed in subsection (1) or (2). Any interception conducted under this chapter by persons authorized by this subsection must conduct the interception under the direct supervision of an agent or officer of the South Carolina Law Enforcement Division.

\*(B) Any person authorized to intercept wire, oral, or electronic communications pursuant to this section must have completed training provided by SLED pursuant to Section 17-30-145.

Applicant's  
Exhibit 1-A

HISTORY: 2002 Act No. 339, Section 14, eff July 2, 2002.

**\*SECTION 17-30-80.** Application for interception order; contents; establishing allegations of fact; additional evidence; basis for entry of order.

(A) Each application for an order authorizing or approving the interception of a wire, oral, or electronic communication under this chapter must be made in writing upon oath or affirmation to a judge of competent jurisdiction and must state the applicant's authority to make the application. Each application must include the following information:

- (1) the identity of the SLED agent making the application and the person authorizing the application;
- (2) a full and complete statement of the facts and circumstances relied upon by the applicant to justify his belief that an order should be issued, including:
  - (a) details as to the particular offense that has been, is being, or is about to be committed;
  - (b) except as otherwise provided, a particular description of the nature and location of the facilities from which or the place where the communications are to be intercepted;
  - (c) a particular description of the type of communications sought to be intercepted;
  - (d) the identity of the person, if known, committing the offense and whose communications are to be intercepted;
- (3) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;
- (4) a statement that the communications sought to be intercepted are not otherwise legally privileged;
- (5) a statement of the period of time for which the interception is required to be maintained and, if the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter;
- (6) a full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to a judge for authorization to intercept, or for approval of interceptions of, wire, oral, or electronic communications involving any of the same persons, facilities, or places specified in the application, and the action taken by the judge on each of the applications; and
- (7) when the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception or a reasonable explanation of the failure to obtain the results.

(B) Allegations of fact in the application may be based either upon the personal knowledge of the applicant or upon information and belief. If the applicant personally knows the facts alleged, this knowledge must be stated in the application. If the facts stated in the application are derived in whole or in part from the statements of persons other than the applicant, the sources of these facts must be

either disclosed or described, and the application must contain the facts establishing the existence and reliability of the informants or the reliability of the information supplied by them. The application must also state, so far as possible, the basis of the informant's knowledge or belief. Affidavits of persons other than the applicant may be submitted in conjunction with the application if they tend to support any fact or conclusion alleged in the application. An accompanying affidavit may be based either on the personal knowledge of the affiant, or information and belief with the source of the information and the reason for belief specified.

(C) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application. Any hearing ordered by the judge regarding the application must be tape recorded.

\* (D) Upon application, the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire, oral, or electronic communications within the territorial jurisdiction of the court in which the judge is sitting, and outside the jurisdiction but within the State of South Carolina in the case of a mobile interception device authorized by the judge within the jurisdiction, if the judge determines on the basis of the facts submitted by the applicant that:

\* (1) there is probable cause for belief that an individual is committing, has committed, or is about to commit an offense as provided in Section 17-30-70;

(2) there is probable cause for belief that particular communications concerning that offense will be obtained through the interception;

(3) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

(4) except as otherwise provided, there is probable cause for belief that the facilities from which, or the place where, the wire, oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of the offense, or are leased to, listed in the name of, or commonly used by that person.

HISTORY: 2002 Act No. 339, Section 14, eff July 2, 2002.

**SECTION 17-30-85.** Information to be specified in order.

Each order authorizing or approving the interception of any wire, oral, or electronic communication must specify:

(1) the identity of the person, if known, whose communications are to be intercepted;

(2) the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(3) a particular description of the type of communication sought to be intercepted and a statement of the particular offense to which it relates;

(4) the identity of the agency authorized to intercept the communications and of the person authorizing the application; and

HISTORY: 2002 Act No. 339, Section 14, eff July 2, 2002.

**SECTION 17-30-110.** Pretrial motion to suppress; grounds; appeals by State; exclusive remedy.

**(A)** Prior to any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority, any aggrieved person may move to suppress the contents of any intercepted wire, oral, or electronic communication, or evidence derived therefrom, on the grounds that the:

**(1)** communication was unlawfully intercepted;

**(2)** order of authorization or approval under which it was intercepted is insufficient on its face; or

**(3)** interception was not made in conformity with the order of authorization or approval.

The motion must be made before the trial, hearing, or proceeding unless there was no opportunity to make the motion or the person was not aware of the grounds of the motion. The motion must be made before the reviewing authority and must be decided on an expedited basis. Upon receiving the motion, the reviewing authority must notify the issuing judge who must transfer copies of the contents of all recordings, applications, orders, and other documents relating to the issuance of the order of authorization. Disclosure of the contents of these materials must only be to the extent necessary to effectively render a decision or to the extent authorized by this chapter. The issuing judge also must designate the portions of these materials that were made available to the aggrieved person. After reviewing the materials, the reviewing authority must first determine whether all materials otherwise discoverable under South Carolina law were made available to the aggrieved person. If a majority of the members of the reviewing authority determines that not all of the necessary materials were made available, the reviewing authority may order that those additional portions be made available and allow the aggrieved person appropriate time to review the materials. The aggrieved person may then amend his motion to include any additional grounds derived from the additional materials. If a majority of the members of the reviewing authority determine that all necessary materials were made available, the reviewing authority must decide whether the order of authorization was issued and the communications were intercepted in conformity with the requirements of this chapter. If the reviewing authority does not unanimously determine that the order of authorization was issued and the communications were intercepted in conformity with the requirements of this chapter, the contents of the intercepted wire or oral communication or evidence derived therefrom must be treated as having been obtained in violation of this chapter. Unless otherwise provided by federal law or Rules of Court, all South Carolina Rules of Evidence apply. The reviewing authority may, in its discretion, conduct a hearing and require additional testimony or documentary evidence. All proceedings requiring the use of the contents of any intercepted communication that are the subject of the motion to suppress pursuant to this section are automatically stayed pending the determination of the motion to suppress.

**(B)** The State has the right to appeal an order granting a motion to suppress made under subsection **(A)**. The judges of the South Carolina Court of Appeals en banc have initial appellate jurisdiction over the appeal. All other appellate procedures remain in force and effect.

**(C)** The State has the right to appeal the denial of the application of an order of authorization or approval. The appeal must be directed to the reviewing authority and must be conducted in a manner consistent with subsection **(A)**. In addition to the requirements of subsection **(A)**, the reviewing

authority must unanimously determine that the issuing judge abused his discretion in denying an application for an order of approval before the decision of the issuing judge may be overturned. Upon a determination of an abuse of discretion, the reviewing authority must order that the application of authorization or approval be granted and an order of authorization or approval be issued. The State has no further right to appeal the decision of the reviewing authority. For purposes of the aggrieved person, an order granted pursuant to this subsection is considered interlocutory. The appeal must be taken within thirty days after the date the order was entered and must be diligently prosecuted.

(D) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for violations of those sections involving the communications.

HISTORY: 2002 Act No. 339, Section 14, eff July 2, 2002.

**SECTION 17-30-115.** Interception of communications; requirements relating to specifications of facilities; exceptions.

The requirements relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if:

(1) in the case of an application with respect to the interception of an oral communication the:

(a) application is initiated by the Chief of the South Carolina Law Enforcement Division (SLED) and is approved by the Attorney General or his designated Assistant Attorney General;

(b) application contains a full and complete statement as to why the specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

(c) judge finds that the specification is not practical; and

(2) in the case of an application with respect to a wire or electronic communication the:

(a) application is initiated by the Chief of SLED and is approved by the Attorney General or his designated Assistant Attorney General;

(b) application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing that there is probable cause to believe that the person's actions could have the effect of thwarting interception from a specified facility;

(c) judge finds that such showing has been adequately made; and

(d) order authorizing or approving the interception is limited to interception only for such time as it is reasonable to presume that the person identified in the application is or was reasonably proximate to the instrument through which the communication will be or was transmitted.

HISTORY: 2002 Act No. 339, Section 14, eff July 2, 2002.

**SECTION 17-30-120.** Determination of facility as prerequisite to interception when facility not specified in order; petition by provider to modify or quash.

# The South Carolina Court of Appeals

Shannon M. Lancaster, Plaintiff,

v.


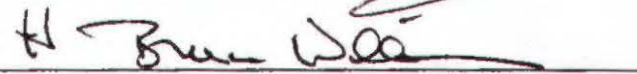

The State of South Carolina, Defendant.

Appellate Case No. 2018-001390

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2018 SEP 21 AM 11:50  
M. HOPE BLACKLEY

ORDER

Shannon M. Lancaster has filed a suppression motion pursuant to the South Carolina Homeland Security Act (the Act)<sup>1</sup> following this court's disposition of his appeal of a criminal conviction. Because motions to suppress are not appropriate on appeal, the motion is denied. *See State v. Scott*, 351 S.C. 584, 588, 571 S.E.2d 700, 702 (2002) ("The cardinal rule of statutory construction is a court must ascertain and give effect to the intent of the legislature."); *State v. Tisdale*, 321 S.C. 153, 157, 467 S.E.2d 270, 271 (Ct. App. 1996) ("A statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers."); *id.* at 157, 467 S.E.2d at 271-72 ("[A] court must avoid construing a statute so as to lead to an absurd result.").

 C.J.  
 J.  
 J.

<sup>1</sup> S.C. Code Ann. § 17-30-10 to -145 (2014).

Applicant's  
Exhibit 2  
r

"Admendment"

(Exhibit A)

Columbia, South Carolina

**FILED**

August 23 2018

cc: Shannon Miles Lancaster, 341546

CLERK OF COURT  
SPARTANBURG COUNTY  
2018 SEP 21 AM 11:50  
M. HOPE BLACKLEY

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# STATE v. GUERRERO-FLORES

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No. 2013-03-06-01.

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402 S.C. 530 (2013)

741 S.E.2d 577

STATE of South Carolina, Plaintiff, v. Francisco GUERRERO-FLORES, Defendant.

Court of Appeals of South Carolina. <https://leagle.com/images/logo.png>

March 6, 2013.

March 6, 2013.

Court of Appeals of South Carolina.

Applicant's  
Exhibit 2-A  
v

## ORDER

Francisco Guerrero-Flores has been indicted on drug charges and is awaiting trial. He filed a motion to suppress the contents of phone calls intercepted pursuant to section 17-30-110 of the South Carolina Code (Supp.2012), a part of the South Carolina Homeland Security Act. *See* S.C.Code Ann. §§ 17-30-10 to -145 (Supp.2012). Sections 17-30-110 and 17-30-15 require that this court hear the motion to suppress. *See* § 17-30-110(A) (requiring motions to suppress the contents of intercepted wire or oral communications be made to the "reviewing authority"); § 17-30-15(9) (defining "[r]eviewing authority" as "a panel of three judges of the South Carolina Court of Appeals"). Guerrero-Flores raises two arguments in support of suppression.<sup>1</sup> First, he contends the orders authorizing the interceptions violated subsection 17-30-80(D) because they authorized interception outside of the state of South Carolina. Second, he asserts the intercepted communications should be suppressed because neither the South Carolina Law Enforcement Division (SLED) nor an individual operating under a contract with SLED intercepted the communications as required under section 17-30-70. We deny the motion to suppress.

### I. Facts

In September 2009, SLED, the Lexington County Sheriff's Department, and the United States Drug Enforcement Administration

(DEA) began investigating a large heroin trafficking organization operating in Columbia and other parts of South Carolina. The organization used multiple cellular phones in the following manner: a purchaser would call one number to place an order, and the "dispatcher" would use a different phone to direct his "couriers" to the purchase location. Between March 5 and June 17, 2010, the Attorney General filed four applications in circuit court seeking authorization to intercept these communications. Each of the applications was based on an affidavit submitted by SLED agent Jack Rushing. The Honorable G. Thomas Cooper Jr. granted each application in a written order.

Based in part on communications intercepted pursuant to the orders, the State Grand Jury indicted Guerrero-Flores and several co-defendants for conspiracy, possession with intent to distribute, two counts of distribution, and several counts of trafficking, all related to heroin. This court held a hearing on Guerrero-Flores's motion in which we took testimony, received documentary evidence, and heard argument.

### II. Interpretation of the Homeland Security Act

The Homeland Security Act is patterned after Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. §§ 2510-22 (2002) (Federal Act). *State v. Whitner*, 399 S.C. 547, 552, 732 S.E.2d 861., 863 (2012). Because no South Carolina cases have addressed the issues Guerrero-Flores raises in his motion to suppress, we find that federal cases analyzing comparable provisions of the Federal Act are persuasive in interpreting the provisions of the Homeland Security Act applicable to this case. *See Whitner*, 399 S.C. at 553, 732 S.E.2d at 864 (explaining "we look to the federal courts' interpretations" of the Federal Act when interpreting comparable provisions of the Homeland Security Act).

### III. Compliance with Subsection 17-30-80(D)

Subsection 17-30-80(D) provides that "the judge may enter an ex parte order ... authorizing or approving interception of wire, oral, or electronic communications within the territorial jurisdiction of the court in which the judge is sitting...." Guerrero-Flores contends Judge Cooper's orders

[402 S.C. 535]

do not comply with subsection 17-30-80(D) because they authorize interception of communications outside of the state of South Carolina. We find that each of the orders complies with the subsection because each authorizes interception of phone calls within South Carolina.

The interception of a phone call can occur in two locations — the place where the tapped phone is located and the place where law enforcement officers first overhear the phone call. *See United States v. Luong*, [471 F.3d 1107](#), 1109 (9th Cir.2006) (stating "interception occurs where the tapped phone is located *and* where law enforcement officers first overhear the call"); *United States v. Rodriguez*, [968 F.2d 130](#), 136 (2d Cir.1992) (providing interception occurs at the place where "the to-be-tapped telephone is located" and "at the place where the redirected contents are first heard"). Thus, pursuant to subsection 17-30-80(D), a judge has the power to order interception within South Carolina on the basis of either the phone being located in South Carolina or law enforcement officers listening to the call in South Carolina. In this case, we find the orders comply with subsection 17-30-80(D) for both reasons: (1) they are directed at phones located in South Carolina, and (2) they direct law enforcement officers to listen to the intercepted communications in real time in South Carolina.

First, the orders are directed at phones located in South Carolina. Although these are cellular phones, the applications and supporting affidavits set forth extensive facts demonstrating that the phone users were located in South Carolina. Notably, all but two of the phones had South Carolina area codes.<sup>2</sup> Further, the applications and supporting

[402 S.C. 536]

affidavits provide details to support the fact that the phones were being used in South Carolina as an integral part of heroin trafficking occurring here. Therefore, the orders complied with subsection 17-30-80(D) because they authorized interception of phone calls made to and from phones located in South Carolina.

Second, the orders directed SLED to listen to the intercepted calls in South Carolina.<sup>3</sup> Each order contains the following language: "interception shall be conducted at the secure regional facility maintained by the DEA in Atlanta, Georgia, then routed to a secure listening post at the DEA office in Columbia, South Carolina (which is networked to the Atlanta, Georgia facility)." Thus, by requiring SLED agents to listen to the communications at "a secure listening post ... in Columbia, South Carolina," the orders authorized the interception of the communications in South Carolina. *See Luong*, [471 F.3d](#) at 1109 (providing "interception occurs ... where law enforcement officers first overhear the call"). Accordingly, the orders comply with subsection 17-30-80(D).

Guerrero-Flores contends, however, the requirement that SLED use a DEA facility outside South Carolina violates subsection 17-30-80(D). We disagree. Guerrero-Flores focuses on the following language in each order: "interception shall be conducted at the secure regional facility maintained by the DEA in Atlanta, Georgia...." While Guerrero-Flores is correct that this provision allows interception outside "the territorial jurisdiction of the court," he is not correct that this provision violates subsection 17-30-80(D). His argument ignores the remainder of the quoted sentence: "... then routed to a secure listening post at the DEA office in Columbia, South Carolina (which is networked

to the Atlanta, Georgia facility)." As explained above, we hold this language complies with subsection 17-30-80(D) because it "authorizes] ... interception

[402 S.C. 537]

... within the territorial jurisdiction of the court." The mere fact that the order also authorizes interception in another state does not violate subsection 17-30-80(D). In fact, the State presented testimony of DEA telecommunication specialist Herman Jenkins indicating it is not practically possible for a law enforcement agency to intercept phone calls in South Carolina without using the DEA's regional intercept system facility in Atlanta. Jenkins explained that the DEA's Atlanta facility supports Georgia, South Carolina, North Carolina, and Tennessee. Therefore, all phone calls intercepted by law enforcement in those states are necessarily intercepted in Atlanta, in addition to the forum state.

Guerrero-Flores also argues that a two to three second delay in routing the calls to South Carolina requires a finding that the orders violated subsection 17-30-80(D). He argues that as a result of this brief delay, the calls were not intercepted in South Carolina because officers did not "first overhear" the calls here. *See Luong*, 471 F.3d at 1109 (providing "interception occurs ... where law enforcement officers first overhear the call"). We disagree. Jenkins testified this delay in routing the calls from Atlanta to Columbia was a necessary consequence of the distance between the two cities, and that the technological limitations made the delay unavoidable. He also testified, although there was a slight delay, the calls were being broadcast to the Atlanta and Columbia offices in such a way that officers in both locations were listening to the communications in real time. In explaining how communications were received by both offices, Jenkins stated, "Whatever happen[ed] in Atlanta, w[ould] happen in Columbia ... in real time."

Guerrero-Flores argues the use of the word "then" in the circuit court's orders, coupled with the necessary two to three second delay in routing the calls to South Carolina, indicates that the orders authorized calls to be intercepted only in Georgia because they were first heard there. His argument is based on a misreading of *Rodriguez* and *Luong*, and in particular the Second and Ninth Circuits' use of the phrases "first heard" and "first overhear."

In *Rodriguez*, the order authorizing the interception of phone calls was entered in the Southern District of New York,

[402 S.C. 538]

but four of the five phones to be tapped were located in New Jersey. 968 F.2d at 134. Because these phones were not located within the jurisdiction of the court that entered the order, the court did not have authority to enter the order based solely on the location of the phones. *Id.* at 134-35. Analyzing whether the order was nevertheless valid, the Second Circuit focused on the statutory definition of "interception." *Id.* at 135-36. The Federal Act defines the term precisely as the Homeland Security Act defines "Intercept." *Compare* 18 U.S.C. § 2510(4) with S.C.Code Ann. § 17-30-15(3) (both defining "intercept" as "the aural or other acquisition of the contents of any wire ... or oral communication"). The court reasoned that because "the definition of interception includes the 'aural' acquisition of the contents of the communication, the interception must also be considered to occur at the place where the redirected contents are first heard." 968 F.2d at 136.

*Rodriguez* is based on the location of "aural acquisition of the contents" of the calls, not on the specific timing of that event in one jurisdiction compared to its timing in another jurisdiction where interception might also have occurred. In *Rodriguez*, there was no need to address the significance of a delay between one listening location and another because the only place the calls were "first heard" was New York. *See* 968 F.2d at 135 (stating "[t]he order was entered on the government's

representation ... that *all* of the interception equipment for these five telephones would be ... in the Southern District of New York" (emphasis added)).<sup>4</sup> The *Rodriguez* court used the term "first heard" to distinguish the situation

[402 S.C. 539]

in that case from one in which the calls were not listened to in real time in the forum state, but were initially listened to *only* in another state beyond the court's jurisdiction.

In *Luong*, the Ninth Circuit described the narrow issue before it as "whether this statute authorized the district court in the Northern District of California to authorize interception of communications to and from a mobile phone ... located outside of the court's territorial jurisdiction but the government's listening post was located within it." 471 F.3d at 1108. The defendants argued that interception could not occur "where the government sets up a listening post where it is first able to hear the intercepted conversation." *Id.* at 1109. Focusing as the Second Circuit did in *Rodriguez* on the statutory definition of "interception," and not on the timing of what happened in the forum as opposed to some other location, the Ninth Circuit upheld the interception, stating "interception occurs ... where law enforcement officers first overhear the call." *Id.* Importantly, there was only one listening post in *Luong*. *See id.* (stating the government's "affidavit indicated that ... all of the intercepted conversations would 'first be heard in the Northern District of California'"). Therefore, the phrase "first overhear" as used in *Luong* cannot be read to apply to the situation we face here — where officers listened to the conversations in real time in South Carolina, but there was a several second delay in routing the calls from the DEA post in Atlanta.

Thus, a several second delay between Atlanta and Columbia is immaterial because the reasoning of *Rodriguez* and *Luong* requires us to focus on the location of the "aural acquisition" of the call. In this case, because law enforcement officers listened in real time in both cities, "aural acquisition" occurred simultaneously in both places.<sup>5</sup> Therefore, under the reasoning

[402 S.C. 540]

of *Rodriguez* and *Luong*, the orders complied with subsection 17-30-80(D).

#### IV. Compliance with Section 17-30-70

Subsections 17-30-70(A)(1) and (A)(3) provide that a "judge may grant ... an order authorizing or approving the interception of wire, oral, or electronic communications by: [SLED] ... or an individual operating under a contract with [SLED]" for the investigation of certain criminal offenses. Guerrero-Flores contends the orders were not carried out in compliance with section 17-30-70 because neither SLED nor an individual operating under a contract with SLED intercepted the communications. Because SLED listened to the phone calls in real time in South Carolina, we find that SLED intercepted them.<sup>6</sup> *See Luong*, 471 F.3d at 1109 (providing "interception occurs ... where law enforcement officers first overhear the call"). Accordingly, we find that SLED complied with subsection 17-30-70(A)(1) in carrying out the orders.

#### V. Conclusion

Subsection 17-30-110(A) provides that "[i]f the reviewing authority does not unanimously determine that the order of authorization was issued and the communications were intercepted in conformity with the requirements of [the Homeland Security Act]," the contents of the calls and evidence derived from them were "obtained in violation of [the Act]." As we have explained, we unanimously find the

Last  
of  
Guerrero-Flores 136

orders were issued and the calls were intercepted in compliance with the Act. Accordingly, Guerrero-Flores's motion to suppress is denied.<sup>7</sup>

[402 S.C. 541]

/s/John Cannon Few, C.J. /s/H. Bruce Williams, J. /s/Daniel F. Pieper, J.

**FootNotes**

1. Guerrero-Flores raised additional arguments in his motion to suppress, which he conceded or withdrew at the suppression hearing. First, he argued the State failed to provide any evidence that it complied with the statutory requirements of the Homeland Security Act as to "Target Phone # 3 and Target Phone # 4." Guerrero-Flores conceded this issue at the suppression hearing. Additionally, Guerrero-Flores conceded his argument that a progress report for "Target Phone # 5" was not in date compliance. Finally, Guerrero-Flores argued the order of authorization is insufficient on its face because it was issued based on information obtained through a "hand off" involving a criminal investigation in Tennessee. Guerrero-Flores withdrew this argument at the suppression hearing.
2. Two of the phones had 773 area codes and subscriber addresses in Irvine, California. The following facts, however, indicate these two phones were being used in South Carolina for the purpose of heroin trafficking. The State presented evidence that, according to Sprint Nextel, the California address is the default address Sprint uses if the subscriber does not provide one when activating the service. Additionally, the State provided the circuit court information from the Department of Motor Vehicles for one of the phone users, which indicated the user had a current South Carolina address. As to the other phone, the State provided the circuit court information showing that both phones were being used by the same person. Finally, the application indicated law enforcement officers physically located one of the phones at a residence in Lexington County using a global positioning system.
3. We find it necessary to the resolution of this motion that we address this second reason the orders complied with subsection 17-30-80(D) because the evidence indicates that some of the phone calls were intercepted at a time when the cellular phones were not physically located in South Carolina.
4. Other courts have used phrases similar, if not identical, to "first heard." *See, e.g., Luong*, 471 F.3d at 1109 (using the phrase "first overhear the call"); *United States v. Denman*, 100 F.3d 399, 403 (5th Cir.1996) (using the phrase "original listening post"); *United States v. Tavaréz*, 40 F.3d 1136, 1138 (10th Cir.1994) (quoting *Rodriguez* for the phrase "first to be heard"). In each of those cases, however, there was only one listening place. *See Luong*, 471 F.3d at 1109 (stating "all of the intercepted conversations would 'first be heard in the Northern District of California[,]" the forum); *Denman*, 100 F.3d at 401 (stating "the FBI intercepted, monitored, and recorded the calls ... in Nacogdoches, Texas," within the forum); *Tavaréz*, 40 F.3d at 1138 (stating the calls were listened to in Cleveland County, Oklahoma, the forum). None of those cases involved the simultaneous routing of the call to a distant jurisdiction causing a delay in the call being heard in the forum.
5. One federal district court has been presented with a similar situation to this case. *See United States v. North*, No. 3:09-CR-92-TSL-FKB, 2011 WL 653864 (S.D.Miss. Feb. 14, 2011). In *North*, the order authorizing the interception of phone calls from North's cell phone was entered in Southern District of Mississippi. *Id.* at \*1 North's cell phone was located outside of Mississippi. "the monitoring post was located in Louisiana, [and] a simultaneous feed and aural acquisition station was located in the wire room of the DEA's Jackson, Mississippi office in the Southern District of Mississippi, so that aural

6

acquisition was occurring in both jurisdictions simultaneously[.]” *Id.* at \*3. The *North* court stated that the statute would have authorized interception in Mississippi based on the simultaneous feed; however, “while agents in the Jackson office apparently had the *capability* to hear conversations at the same time as the agents manning the Louisiana monitoring post, this did not occur.” *Id.* at \*4.

6. Because we find that SLED intercepted the phone calls in compliance with subsection 17-30-70(A)(1), we need not address Guerrero-Flores’s issue of whether the orders were carried out in compliance with subsection 17-30-70(A)(3).

7. As to any issue raised concerning a violation of section 17-30-145, this court need not address it because Guerrero-Flores presented no evidence that SLED failed to provide the proper training for conducting the interception.

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- [399 S.C. 547](#)

#### From S.E.2d, Reporter Series

- [732 S.E.2d 861](#)

#### From F.3d, Reporter Series

- [471 F.3d 1107](#)
- [100 F.3d 399](#)
- [40 F.3d 1136](#)

Exhibit 3

[View the 2016 South Carolina Code of Laws](#) | [View Previous Versions of the South Carolina Code of Laws](#)

## 2013 South Carolina Code of Laws Title 23 - Law Enforcement and Public Safety

### CHAPTER 1 - GENERAL PROVISIONS

#### SECTION 23-1-210. Temporary transfer or assignment of law enforcement officer; written agreement; compensation.

Applicant's  
Exhibit 3  
~

**Universal Citation:** SC Code § 23-1-210 (2013)

(A) Any municipal or county law enforcement officer may be transferred or assigned on a temporary basis to work in law enforcement within multijurisdictional task forces established for the mutual aid and benefit of the participating jurisdictions, or in any other municipality or county in this State under the conditions set forth in this section, and when so transferred or assigned shall have all powers and authority of a law enforcement officer employed by the jurisdiction to which he is transferred or assigned.

(B) Prior to any transfer or assignment as authorized in subsection (A), the concerned municipalities or counties shall enter into written agreements stating the conditions and terms of the temporary employment of officers to be transferred or assigned. The bond for any officer transferred or assigned shall include coverage for his activity in the municipality or county to which he is transferred or assigned in the same manner and to the same extent provided by bonds of regularly employed

officers of that municipality or county.

(C) Agreements made pursuant to subsection (B) shall provide that temporary transfers or assignments shall in no manner affect or reduce the compensation, pension, or retirement rights of transferred or assigned officers and such officers shall continue to be paid by the county or municipality where they are permanently employed, with the sending county or municipality being reimbursed for their services by the county or municipality to which they are transferred or assigned.

**HISTORY:** 1981 Act No. 109, Section 1; 2007 Act No. 3, Section 1, eff March 28, 2007.

**Disclaimer:** These codes may not be the most recent version. [South Carolina](#) may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

Exhibit ~~1~~ 4

To: Hope Blachley  
P.O. Box 3483  
Sptbg, SC 29304

From: Shannon Lancaster  
Perry Corr. Inst.  
430 Oaklawn Rd.  
Pelzer, SC 29669

Re: Notice and Motion of Discovery  
Shannon Lancaster vs. State of South Carolina  
Case No: 2018-CP-420-3065

Dear Ms. Blachley,

I'm filing a Notice and Motion of Discovery, pursuant to S.C. Code Ann § 17-27-150 (A), with your office.

Further, I have sent the Motion through Certified Mail so I can verify your office received the mail. Please send me a clocked stamped copy back for my records. Also, thank the Clerk of Court for their assistance with this matter.

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CLERK OF COURT  
SPARTANBURG COUNTY  
SEP 28 PM 2:24  
H. BLACHLEY

Dated: September 24, 2018

Sincerely,

S/ Shannon Lancaster

Shannon Lancaster  
Perry Corr. Inst.  
430 Oaklawn Rd.  
Pelzer, SC 29669

cc: Alan Wilson

Applicant's  
Exhibit 4  
✓

State of South Carolina  
 County of Spartanburg  
 Shannon Lancaster,  
 Applicant,

vs.

State of South Carolina,  
 Respondent.

In the Court of Common Pleas  
 Seventh Judicial Circuit  
 Case No: 2018-CP-420-3065

Petitioner's Notice and Motion  
 for Discovery

To: The Honorable Alan Wilson, Attorney General for the  
 State of South Carolina:

I, Shannon Lancaster, respectfully come before this court seeking discovery in this matter pursuant to S.C. Code Ann. § 17-27-150(A). The Applicant request that "Alan Wilson, Attorney General" produce for inspection and copying the following documents.

1.) The complete S.C. Code § 17-30-70 application process and § 17-30-80 authorizing order, that Investigator James Ruane and the Attorney General's office had to process to a judge, for a § 44-53-375(c) drug trafficking investigation, for the Interception of Wire, Electric, or Oral communications, on indictment no: 2016-GS-420-5068.

2.) The complete S.C. Code § 23-1-210 multi jurisdictional Net agreement, that Investigator James Ruane had to process between the two county councils, to have authority to come into Cherokee county to pick me up for a drug investigation.

(1)

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 M. HOPKINS

### Motion for Discovery

3.) The complete Sled Policy 13.30 "Use of informants in investigations" and "informant agreement", that Investigator James Ruane had to process through Sled, to use informant "David Brent Goode", for a drug trafficking investigation.

### Conclusion

Therefore, the Applicant would respectfully ask this court to grant the request for discovery and production of documents. The discovery is directly related to the issues on the PCR application, and furthermore the Applicant has the burden of proof at the hearing.

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SARASOTA COUNTY  
SEP 28 2018  
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H. P. L. KILBY

Dated: September 24, 2018

Respectfully Submitted,

by Shannon Lancaster

Shannon Lancaster  
Perry Corr. Inst.  
430 Oaklawn Rd.  
Pelzer, SC 29669

Certificate of Service

I, "Shannon Lancaster", hereby certify on this day, that I have served a "Notice and Motion for Discovery," upon the "Clerk of Court" and "Alan Wilson, Attorney General", through the Perry Correctional legal mail system and the United States postal service.

1.) M. Hope Blachley, Clerk  
P.O. Box 3483  
Sptbg, SC 29304

2.) Alan Wilson, Attorney General  
P.O. Box 11549  
Columbia, SC 29221

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SPARTANBURG COUNTY  
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M. HOPE BLACKLEY

Subscribed and Sworn to before me  
This 24<sup>th</sup> day of September 2018  
Notary: Nancy C Merchant  
Expires: 1-23-2023

Shannon Lancaster ✓  
Shannon Lancaster  
Perry Corr. Inst.  
430 Oaklawn Rd.  
Pelzer, SC 29669

Shannon Lancaster # 341546 Q1B-209  
Perry Correctional Institution  
430 Oaklawn Road  
Pelzer, SC 29669

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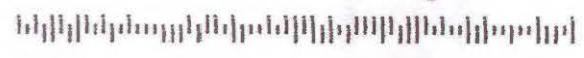
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Hope Blackley, Clerk  
P.O. Box 3483  
Spartanburg, SC 29304-3483

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29304-348383



STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 COUNTY OF SPARTANBURG ) FOR THE SEVENTH JUDICIAL CIRCUIT  
 )  
 Shannon Lancaster, #341546, ) Case No.: 2018-CP-42-03065  
 Applicant, )  
 v. ) **ORDER OF DISMISSAL**  
 )  
 State of South Carolina, )  
 Respondent, )

This matter comes before this Court by way an application for post-conviction relief filed September 4, 2018, and amended September 18, 2018, by Applicant Shannon Lancaster. Respondent made its Return on April 18, 2019, requesting an evidentiary hearing be convened. An evidentiary hearing was held on February 20, 2020, at the Spartanburg County Courthouse. Susannah Ross, Esquire, represented Applicant. Assistant Attorney General Jacob A. Isenberg of the South Carolina Attorney General's Office represented Respondent. Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel, Ricky Harris, Esquire, also testified. Following the hearing, this Court took this matter under advisement.

After a thorough review of all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Specific findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. During the October 2016 term, the Spartanburg County Grand Jury indicted Applicant for distribution of Trafficking in Methamphetamine, Second Offense (2016-GS-42-5068). Ricky Harris, Esquire, represented

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Applicant. Assistant Solicitor James Hunter of the Seventh Circuit Solicitor's Office prosecuted the case.

On March 14, 2017, Applicant pled guilty to one count of trafficking between ten and twenty eight grams of methamphetamine before the Honorable J. Derham Cole. Pursuant to negotiations between Applicant and the State for a sentence of twelve to eighteen years' imprisonment, Judge Cole sentenced Applicant to fifteen years' imprisonment. On March 23, 2017, Applicant filed a *pro se* motion for reconsideration, which was denied by Judge Cole on March 27, 2017.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Robert M. Pachak, Esquire, though filing a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967). The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion, (2018-UP-325). The Remittitur was issued on August 10, 2018. On August 23, 2018, Applicant was denied a motion to suppress by the South Carolina Court of Appeals. On November 16, 2018, another Remittitur was issued.

#### Statement of Facts

On April 15, 2016, a Spartanburg County Sheriff's Investigator contacted Applicant to purchase methamphetamine.<sup>1</sup> (Plea Tr. 12-13). The Investigator picked Applicant up in Gaffney, drove him to a trailer park in Spartanburg, and dropped him off. (Plea Tr. 13). They went "back and forth" for a few hours because the methamphetamine was not ready. (Plea Tr. 13)

Later, the Investigator met Applicant at a Spinx and Burger King. (Plea Tr. 13) Applicant went back to the same trailer park that Applicant had been dropped at earlier. (Plea Tr. 13)

<sup>1</sup> The investigator had previously been introduced to Applicant "as someone who had purchased meth." (Plea Tr. 13).

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SOUTH CAROLINA

that point, Investigator gave Applicant \$1,250 in Spartanburg County Sheriff's Office recorded money. (Plea Tr. 13). Applicant then entered a trailer. (Plea Tr. 13). A Hispanic male then showed up and entered the trailer. (Plea Tr. 13). Subsequently, Applicant returned to the vehicle and gave Investigator almost twenty-eight grams in methamphetamine. (Plea Tr. 13). Applicant was arrested a couple of days later with at least \$140 in marked funds from the Spartanburg County Sheriff's Office. (Tr. 13). Upon inquiry by the Court, Applicant confirmed the above articulated facts. (Tr. 14).

Applicant retained Counsel who met with Applicant on multiple occasions, engaged in discovery with the state, and prepared the Applicant's case for trial. The State initially offered Applicant a recommended sentence of eighteen years as to one of the trafficking charges, dismissing the other charges. Applicant was a candidate for life without the possibility of parole if he decided to go to trial. The prosecutor hinted at this possibility in negotiations, even though they never filed a formal notice to that effect. On March 14, 2017, the Applicant's intention was to go to trial but, instead, took a last minute plea deal to one count of trafficking between ten and twenty-eight grams of methamphetamine with a negotiated range of twelve to eighteen years. The trial court sentenced Applicant to fifteen years total.

Action before this Court

In his PCR application, Applicant alleges he is being held in custody unlawfully on the following grounds:

- 1. Ineffective Assistance of Counsel (failure to investigate):
  - a. Failure to discharge his duty of due diligence to investigate the evidence and witnesses.
  - b. Failure to investigate the evidence and discovery, to make sure Investigator James Ruane processed an applicant for the interception of wire, electric, or oral communications, for a drug trafficking investigation. Pursuant to S.C. Code Section 17-30-70, the investigator failed to process an application that has to be

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initiated by the Chief of SLED. After reviewing the application the Attorney General may authorize the application to a judge of competent jurisdiction, and the judge may grant in conformity with this chapter. Investigator James Ruane is in violation of S.C. Code Section 17-30-70 application process, for this case.

- c. Failure to investigate the evidence and discovery, to make sure the Investigator James Ruane had a judge of competent jurisdiction enter an ex parte order, as modified authorizing the interception of wire, oral or electrical communications within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that: (1) there is probable cause for belief that an individual is committing, has committed, or is about to commit an offense provided in Section 17-30-70, pursuant to S.C. Code Section 17-30-80(D)(1). The investigator James Ruane is in violation of S.C. Code Section 17-30-80(D)(1) authorizing order for the Interception of Wire, Electric or Oral Communications.
  - d. Failure to investigate intercepted communication, and to make sure the said evidence was not illegally disclosed, pursuant to S.C. Code Section 17-30-75. Investigator James Ruane illegally disclosed said evidence in violation of S.C. Code Section 17-30-75.
  - e. Failure to investigate the evidence to make sure the informant "David Brent Goode" was registered with the South Carolina Law Enforcement Division, for a drug trafficking investigation. Investigator James Ruane failed to register the informant "David Brent Goode" with SLED for this investigation. The Investigator James Ruane is in violation of SLED policy 13.30 use of informant in investigations.
2. Ineffective Assistance of Counsel (failure to provide defense):
- a. Failure to have a proper defense for physical evidence in this case.
  - b. Failure to have a valid strategy for this case.
  - c. Failure to request and require as part of discovery that copies of all intercepted communications be provided as they are gathered so that a proper defense for physical evidence can be built as provided for by Section 17-30-105.
  - d. Pursuant to S.C. Code Section 17-30-130, failure to ensure that no impropriety occurred in the reporting of the intercepted communications to the Administrative Office of the United States court as outlined in 18 U.S.C. section 2519.
3. Ineffective Assistance of Counsel (failure to suppress):
- a. Pursuant to S.C. Code Section 17-30-110, failure to move to suppress this illegally gathered evidence and/or advise me of these grounds and/or the exclusive remedy.
  - b. Failure to move for a motion to suppress the unlawful audio/video recording evidence to the S.C. Court of Appeals, pursuant to S.C. Code Section 17-30-110. The motion must be made before the reviewing authority, before the final hearing.

or proceeding. Furthermore, the Applicant has moved to suppress the evidence after his conviction, and the S.C. Court of Appeals has ruled, that motions to suppress are not appropriate on appeal. Applicant filed the motion pursuant to the South Carolina Homeland Security Act.

4. Ineffective Assistance of Counsel (failure to advise):
  - a. Failure to advise Applicant and inform the court that none of these subsections in Chapter 30, Title 17, were adhered to, and that these actions and/or lack thereof were illegal pursuant to S.C. Code Section 17-30-20.
  - b. Failure to advise the court to take judicial notice that for the purpose of a criminal investigation, that Investigator James Ruane had never obtained any multiple law enforcement jurisdictional agreement as required by S.C. Code Section 23-1-210 and that when Investigation Ruane came to Cherokee County to pick me up for a drug investigation, he had no authority to do so, and acted illegally thus these actions and/or lack thereof constituted entrapment by law enforcement.
  - c. Failure by providing erroneous and incorrect advice to plead guilty instead of challenging the State's evidence through the protections of trial. Therefore, Applicant's plea was unknowing and involuntary entered into pursuant to the Investigator violating S.C. Code Section 17-30-80 authorizing order, for the interception of wire, electric, or oral communications.
  - d. Failure to advise and/or move for video footage to be excluded due to it being a partial and the whole story not being told and therefore inconclusive, as well as illegally obtained with no valid chain of custody.
  - e. Failure to advise me and inform the court, that Investigator James Ruane illegally recorded audio and video, without processing an application or authorizing order, for a drug trafficking investigation, pursuant to S.C. Code 17-30-70 and Section 17-30-80 and also conducted an unreasonable search, that violated Fourth and Fourteenth Amendment rights. Therefore, the audio/video recording and evidence was obtained in violation of Title 17, Chapter 30 of criminal procedures and is considered "Fruit of the Poisonous Tree" (See Exh 1, 2, 3 for Case No. 16040895).
5. Subject Matter Jurisdiction:
  - a. Failure to challenge subject matter jurisdiction of Applicant's guilty plea pursuant to the Investigator's violation of S.C. Code Section 17-30-70 application process for this investigation. Furthermore, the Grand Jury was improperly influenced with tainted evidence and false testimony. Therefore, the trial court lacked jurisdiction to accept Applicant's guilty plea.
6. Involuntary Plea:
  - a. "Coercing the defendant into a guilty plea."

Further, Applicant alleges that this is the only venue he is aware of for these claims.

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Regarding relief, Applicant requests the case be vacated and remanded.

This Court interprets Applicant's allegations, as addressed at the PCR hearing and in the application, as follows:

I. Counsel was ineffective for:

- a. failure to discharge his duty of due diligence to investigate the evidence, facts, and witnesses.
- b. letting him take an involuntary plea.
- c. failure to have a proper defense for physical evidence.
- d. coercing Applicant into a guilty plea.
- e. failure to properly and fully investigate the case.
- f. failure to make sure investigator James Ruane processed an application for interception of wire, electric, or oral communications, for a drug trafficking investigation pursuant to S.C. Code Section 17-30-70.
- g. failure to make sure a judge of competent jurisdiction entered an order authorizing the interception of communications.
- h. failure to investigate the intercepted communication to ensure it was not illegally disclosed.
- i. failure to request as part of discovery that all copies of intercepted communications are gathered so that a proper defense for physical evidence can be built.
- j. failure to ensure that no impropriety occurred in the reporting of the intercepted communications as outlined in 18 U.S.C. Section 2519.
- k. failure to advise and inform the court that the actions taken were illegal under S.C. Code Annotated Section 17-30-20.
- l. failure to suppress the illegally gathered evidence. Applicant asserts investigator James Ruane's recording of their conversations while riding in a car to facilitate Applicant's drug purchases is in violation of S.C. Code Section 17-30-70.
- m. failure to advise the court to take judicial notice that there was no multiple law enforcement jurisdictional agreement as required by S.C. Code Annotated Section 23-1-210 and that it was unlawful for Investigator Ruane to pick up Applicant in Cherokee County for a drug investigation.
- n. providing erroneous and incorrect advice to plead guilty instead of challenging the State's evidence through the protections of trial, which rendered his plea was unknowing and involuntary.
- o. failure to challenge subject matter jurisdiction of Applicant's guilty plea pursuant to the Investigator's violation of S.C. Code Section 17-30-70 application process for this investigation.
- p. failure to have a valid case strategy.
- q. failure to advise and move for video footage to be excluded due to partial and the whole story not being told and therefore inconclusive and illegally obtained with no valid chain of custody.

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- r. failure to inform the court that the investigator illegally recorded Applicant in violation of federal, state, and constitutional law.
  - s. failure to investigate the evidence to make sure the informant was registered with the South Carolina Law Enforcement Division for a drug trafficking investigation.
  - t. failure to pursue a defense of entrapment. Applicant's assertion stems from law enforcement driving Applicant around to make various drug purchases while promising him employment.
2. Applicant alleges he was illegally picked up by Spartanburg County law enforcement in Cherokee County in violation of federal, state, and local law.
  3. Applicant alleges that this is the only venue he is aware of for these types of claims.<sup>2</sup>

This Court addresses these allegations below based upon this interpretation of Applicant's allegations.

Summary of Testimony Presented at the Evidentiary Hearing

*Applicant's Testimony*

At the PCR hearing, Applicant recited the aforementioned allegations listed in his application verbatim. He alleged police and prosecutorial misconduct in getting the phone records without a warrant. He testified that Counsel was ineffective for failing to raise an entrapment claim. He also alleged that the police were acting outside their jurisdiction in staging a drug buy that involved them picking him up in Gaffney and dropping him off in Spartanburg. Applicant stated that Counsel failed to investigate and failed to file a motion to suppress over an alleged search and seizure issue pursuant to the unwarranted phone records seizure.

On cross-examination, Applicant walked through the events on the day of the staged drug buy, resulting in him selling drugs to an investigator that ultimately cumulated to him being charged with trafficking methamphetamine. Applicant stated he knew other charges were dismissed because of the plea deal. He stated he took the plea deal because he did not think

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<sup>2</sup> No response is required as to this ground.

had a defense. Applicant said that he wanted to go to trial on an entrapment defense, but his attorney discussed the plea deal with him, which he ultimately decided to take.

*Plea Counsel*

Ricky Harris (hereafter "Counsel") also testified at the evidentiary hearing. On direct, Counsel testified that he did not assert an entrapment defense because he did not think it was viable. Counsel testified that he met with Applicant several times leading up to trial. Counsel testified that during these meetings, Counsel discussed the discovery with Applicant, discussed the charges against him, and attempted to temper his expectations concerning the type of deal he would be offered. Counsel stated that Applicant had multiple charges against him and, initially, the Solicitor's Office was offering eighteen years. Counsel said that Applicant wanted a more lenient sentence, and Counsel felt obligated to temper his expectations. Counsel testified that Applicant insisted on trial. Counsel said he knew Applicant would face a chance of life without possibility of parole if it proceeded to trial, even though a formal notice was not given. Counsel said that if a life sentence was not given, Applicant would be looking at least twenty-five to thirty years' imprisonment if the case went to trial.

Counsel said he made Applicant aware that a police officer with firsthand knowledge was going to testify at trial if he did not plead out and, if that happened, his case would be very weak. Counsel testified that the State had multiple cases lined up and Counsel, through experience, knew that if one case failed at trial the State would attempt to prosecute the next one. Counsel said that Applicant was frustrated with this and contended that he thought he was entrapped. Counsel stated that they discussed the entrapment defense at every meeting and that Counsel consistently told him the defense was ineffective because they could not show he had not had a predisposition.

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Counsel said that, on the day of the trial, the Solicitor's Office gave Applicant an offer of twelve to eighteen years for one count of trafficking methamphetamine. Counsel testified that he told Applicant about the offer, told him again that entrapment was a weak defense, that there were no other defenses available to him, and strongly urged him to take the plea. Counsel stated that ultimately, Applicant did so, presumably because he did not think he had a better option available to him. Counsel acknowledged that the investigator had crossed jurisdictional lines to engage in the drug buy. Counsel stated that he did not check if the discovery videos provided to him from the scene were proper.

**Findings of Fact and Conclusions of Law**

This Court has reviewed the pleadings, records submitted by the parties, and applicable law. Before this Court are the Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea transcript, and the PCR action records. Pursuant to South Carolina Code Annotated, Sections 17-27-70 and -80, this Court dismisses the application based upon the following findings:

***Ineffective Assistance of Counsel***

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, which the Supreme Court expanded upon through developing the pronged test outlined in *Strickland v. Washington*.

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Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by the preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71, 1(e), SCRCP ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant" and the scope limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome," *Strickland*, 466 U.S. at 693. The court makes this determination based upon the totality of the evidence. *Id.* at 693. Realistically, this matters "only in the rarest case" because "[t]he likelihood of a different result must be substantial, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

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In the context of a guilty plea, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he or she would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Applicant's right to contest the validity of a plea is usually, but not invariably, foreclosed because of the inherent solemnity and truthfulness included in the guilty plea process. See *Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

For a guilty plea to be valid, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against her. *Dalton v. State*, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Boykin v. Alabama*, 395 U.S. 238, 242 (1969)). Further, an applicant can attack the voluntary, knowing and intelligent character of a guilty plea entered on advice of counsel by showing counsel's advice in taking the plea fell below an objective standard of reasonableness. *Porter v. State*, 368 S.C. 378, 629 S.E.2d 330 (2006). "That a guilty plea must be intelligently made is not a requirement that already offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing. *McMann v. Richardson*, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is intelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range

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of competence demanded of attorneys in criminal cases." *Id.* at 771.

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." *Roddy v. State*, 339 S.C. at 34, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." *Dalton*, 376 S.C. at 138, 654 S.E.2d at 874 (quoting *Harres v. Leake*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, "guilty pleas, freely and voluntarily entered, act as a waiver of all non-judicial defects and defenses, including claims of a violation of a constitutional right prior to the plea." *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

#### *Invalid Guilty Plea*

Applicant argued that his plea was invalidly entered because Counsel coerced him into pleading. However, this Court finds that the plea hearing transcript reflects that the Applicant freely and voluntarily pled guilty after receiving a complete and thorough plea colloquy by the plea court. Specifically, he stated that he discussed his decision to plead guilty with Counsel, he went over the indictment and charges with Counsel, the possible penalties that could be imposed, and the facts surrounding the allegations. (Plea Tr. 5). Applicant stated that he discussed any potential defenses, discovered there were none, and knew he would have to waive defenses when taking the plea. (Plea Tr. 6). Applicant stated that Counsel discussed the constitutional rights he was waiving by entering a plea, including the right to confront witnesses, remain silent, and right to a jury trial. (Plea Tr. 6-7). Other than the sentencing range of twelve to eighteen years, he agreed

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upon, Applicant was not offered or promised anything in exchange for a guilty plea. (Plea Tr. 7-8). At the hearing, Applicant stated "I'm pleading guilty freely and voluntarily" and admitted he was guilty of all the charges pled to. (Plea Tr. 8).

Applicant presented no evidence of coercion from Counsel into accepting the plea. Further, it appears Applicant freely and voluntarily chose to plea instead of facing a potential trial sentence of twenty-five to thirty years, and potential life without the possibility of parole sentence on his other pending charges. Thus, this Court finds that Applicant entered his plea freely, voluntarily, knowingly, and intelligently.

#### ***Failure to Investigate***

Applicant raised several allegations of failure to investigate, including:

1. failure to discharge his duty of due diligence to investigate the evidence, facts, and witnesses.
2. failure to properly and fully investigate the case.
3. failure to make sure investigator James Ruane processed an application for interception of wire, electric, or oral communications, for a drug trafficking investigation pursuant to S.C. Code Section 17-30-70.
4. failure to make sure a judge of competent jurisdiction entered an order authorizing the interception of communications.
5. failure to advise and inform the court that the actions taken were illegal under S.C. Code Annotated Section 17-30-20.
6. failure to suppress the illegally gathered evidence. Applicant asserts investigator James Ruane's recording of their conversations while riding in a car to facilitate applicant's drug purchases is in violation of S.C. Code Section 17-30-70.
7. failure to investigate the intercepted communication to ensure it was not illegally disclosed.
8. Failure to investigate the evidence to make sure the informant was registered with the South Carolina Law Enforcement Division for a drug trafficking investigation.
9. failure to request as part of discovery that all copies of intercepted communications are gathered so that a proper defense for physical evidence can be built.

The evidence presented at the evidentiary hearing reveals that Counsel properly investigated and prepared Applicant's case for trial. Thus, Applicant fails to meet his burden of proof on all nine of these allegations, as addressed below.

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Regarding the first two allegations, Applicant did not meet his burden of proof in showing that Counsel failed to discharge his duty of due diligence to investigate the evidence, facts, and witnesses in this case and that Counsel failed to properly and fully investigate the case. Specifically, the evidence presented reveals that Counsel properly investigated and prepared Applicant's case for trial. Applicant was facing trial with a sentencing range of twenty-five to thirty years. Counsel negotiated a sentence range of twelve to eighteen years and the dismissal of the other charges. Counsel was prepared to have a trial on the case. Thus, the Court finds that Counsel was not deficient regarding his duty to investigate and present evidence.

Regarding the allegation of failure to investigate a potential witness specifically, Counsel contacted an individual, at the direction of the Applicant, who said if called to testify he would assert his Fifth Amendment right to remain silent. Thus, Counsel was not deficient in investigating the potential witness.

Regarding allegations three through six, Applicant also failed to show Counsel failed to make sure investigator James Ruane processed an application for interception of wire, electric, or oral communications, for a drug trafficking investigation pursuant to S.C. Code Section 17-30-7D. Additionally, Applicant did not meet his burden of proof in showing that Counsel failed to make sure a judge entered an order authorizing the interception of communications. Applicant did not meet his burden of proof in showing that Counsel failed to advise and inform the court that the actions taken were illegal under S.C. Code Annotated Section 17-30-20. Additionally, Applicant failed to show that Counsel failed to suppress the illegally gathered evidence. Applicant asserts investigator James Ruane's recording of their conversations while riding in a car to facilitate applicant's drug purchases is in violation of S.C. Code Section 17-30-20.

Applicant asserted that investigator James Ruane's recording of their conversations while

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riding in a car to facilitate Applicant's drug purchases is in violation of S.C. Code Section 17-30-70, S.C. Code Annotated Section 17-30-15 defines wire and oral communications and Section 17-30-20 defines what acts are prohibited. While 18 U.S.C. Section 2519 requires the reporting of the intercept of oral communication and 18 United States Code Section 2511 prohibits the intercept of oral communications, 18 United States Code Section 2510(2) defines oral communications as "any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation."

No evidence was presented that Applicant had an expectation that his oral communication was not subject to intercept or that the circumstances justified such an expectation. Thus, these communications do not fall under the definition in 2510(2). Further, because the recording of Applicant does not fall under these definitions or the prohibited acts, Counsel was not deficient in failing to investigate into an application by the investigator, to make sure a judge entered an order, to advise to Court of allegedly illegal actions or to investigate a search and seizure issue, because the conduct did not fall under the statute requiring these actions on Counsel's part. Furthermore, through his free and voluntary guilty plea, Applicant waived any right to claim illegal searches and seizures.

Seventh, Applicant did not meet his burden of proof in showing that Counsel failed to investigate the intercepted communication to ensure it was not illegally disclosed. Counsel engaged in discovery, obtained the recordings, and credibly testified he reviewed them. Thus, this Court finds that Counsel did properly investigate for the case and was not deficient on this ground.

Eighth, Applicant did not meet his burden of proof in showing that Counsel was deficient in

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investigate the evidence to make sure the informant was registered with the South Carolina Law Enforcement Division for a drug trafficking investigation. This Court finds that, regarding this matter specifically, Counsel contacted an individual, at the direction of Applicant, who said if called to testify he would assert his Fifth Amendment right to remain silent. In addition, Applicant did not produce the witness at the hearing. Thus, Counsel was not deficient here.

Finally, Applicant alleged that Counsel failed to request as part of discovery that all copies of intercepted communications are gathered so that a proper defense for physical evidence can be built. For the reasons above, this Court finds this allegation is also without merit.

All allegations concerning failure to present witnesses, assert a defense in favor of Applicant to the court, and failure to suppress allegedly illegally seized communications were waived when Applicant freely, voluntarily, knowingly, and intelligently entered his plea. Additionally, this Court finds Applicant has failed to present a sufficient reason why this Court should disregard his sworn testimony and waiver given at the plea hearing.

Further, to demonstrate prejudice, Applicant was required to present the evidence or witnesses he alleges Counsel did not properly investigate. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Applicant failed to present any evidence or witnesses at the PCR hearing and, thus, this Court finds that Applicant has failed to meet his burden of proof. Therefore, because Applicant has failed to meet his burden of proving either deficiency or prejudice, relief is denied on this ground.

#### *Failure to Present Defenses*

Applicant also made several allegations concerning failure to raise a defense, including:

1. failure to have a proper defense for physical evidence in this case,
2. failure to develop a valid case strategy.
3. failure to pursue a defense of entrapment. Applicant's assertion stems from law enforcement driving applicant around to make various drug purchases while providing

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- him employment.
- 4. failure to ensure that no impropriety occurred in the reporting of the intercepted communications as outlined in 18 U.S.C. Section 2519.
- 5. failure to inform the court that the investigator illegally recorded Applicant in violation of federal, state, and constitutional law.
- 6. failure to advise and move for video footage to be excluded due to it being a partial and the whole story not being told and therefore inconclusive, as well as illegally obtained with no valid chain of custody.

The evidence presented at the evidentiary hearing and before this Court reveals that Counsel did not act deficiently in neglecting his duty to investigate and present a defense. Thus, Applicant fails to meet his burden of proof on all six of these allegations, as addressed below.

First, Applicant did not meet his burden of proof in showing that Counsel failed to have a proper defense for physical evidence in this case. Applicant presented no argument or evidence of this ground and it is therefore denied. Second, Applicant's ground that Counsel failed to develop a valid case strategy is denied as addressed in the previous section and below.

Third, Applicant's assertion that trial counsel was ineffective for failing to pursue a defense of entrapment. An entrapment defense is available where the "conception and planning of an offense by an officer, and his procurement of its commission by one who would not have perpetrated it except for trickery, persuasion, or fraud of the officer." *State v. Jacobs*, 238 S.C. 234, 244, 119 S.E.2d 735, 740 (1961). This defense is not available to criminal defendants who have a predisposition to commit the crime independent of government involvement. *State v. Johnson*, 295 S.C. 215, 217, 367 S.E.2d 700, 701 (1988). Further, if an officer "merely afford[s] opportunities or facilities for the commission of the offense", an entrapment is not available. *Sherman v. United States*, 356 U.S. 369, 372 (1958). Applicant's assertion of entrapment stems from law enforcement driving applicant around to make various drug purchases while promising him employment. Counsel credibly testified that the issue was discussed with Applicant in depth and Applicant was advised of Counsel's belief that entrapment was not a viable defense in that

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Applicant voluntarily made multiple drug purchases.

Fourth, Applicant did not meet his burden of proof to show Counsel failed to ensure that no impropriety occurred in the reporting of the intercepted communications as outlined in 18 U.S.C. Section 2519. While 18 U.S.C. Section 2519 requires the reporting of the intercept of oral communication and 18 U.S.C. Section 2511 prohibits the intercept of oral communications, 18 U.S.C. Section 2510(2) defines oral communications as "any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation." No evidence was presented that applicant had an expectation that his oral communication was not subject to intercept or that the circumstances justified such an expectation. Therefore, Counsel was not ineffective for ensuring that there was no impropriety because 18 U.S.C. Section 2519 does not require the reporting of this type of electronic audio recording.

Fifth, Applicant did not meet his burden of proof in showing Counsel failed to inform the court that the investigator illegally recorded Applicant in violation of federal, state, and constitutional law. As addressed above, the communication as not intercepted illegally and Counsel was not deficient in investigating, reviewing discovery, interviewing witnesses and otherwise examining potential witnesses. Thus, Counsel was not deficient for failing to obtain intercepted communications to build a defense.

Sixth, Counsel failed to advise and move for video footage to be excluded due to it being only part of the story and therefore inconclusive, as well as illegally obtained with no chain of custody. Applicant presented no evidence of this ground at the hearing. Further, if Applicant freely and voluntarily chose to plea instead of facing a potential trial sentence of twenty-five to thirty years, and potential life without the possibility of parole sentence on this

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other pending charges.

Further, Applicant explicitly waived his right to assert defenses at his plea hearing and, after explicitly waiving this right, stated on record that he still wanted to proceed with entering the plea. (Plea Tr. 5-6). Thus, based on the combined record of the guilty plea transcript and Counsel's credible testimony at the PCR hearing, this Court finds that the plea was voluntarily, knowingly, and intelligently entered by Applicant and any defenses were waived and cannot be asserted now, Counsel was not deficient in any way. Additionally, because Applicant failed to present any new evidence of factors that would have caused him to change his mind about entering a plea and, instead, would have driven him to proceed to trial, this Court does not find Applicant was prejudiced by Counsel's alleged failure. Thus, Applicant's allegations are dismissed and relief is therefore denied.

*Improper Jurisdiction*

Applicant makes several allegations concerning lack of or improper jurisdiction, including:

1. Counsel was ineffective for failure to advise the court to take judicial notice that there was no multiple law enforcement jurisdictional agreement as required by S.C. Code Annotated Section 23-1-210 and that it was unlawful for Investigator Ruane to pick up applicant in Cherokee County for a drug investigation.
2. Applicant was illegally picked up by Spartanburg County law enforcement in Cherokee County in violation of federal, state, and local law.
3. Counsel failed to challenge subject matter jurisdiction of Applicant's guilty plea pursuant to the Investigator's violation of S.C. Code Section 17-30-70 application process for this investigation.

Generally, officers cannot act outside their assigned jurisdiction. *State v. Harris*, 299 S.C. 157, 159, 382 S.E.2d 925, 926 (1989) (citing 62 C.J.S. *Municipal Corporations* § 5 (1949 & Supp.1988)). That said, this rule does not "affect an officer's right to act as a private citizen beyond his jurisdiction." *Id.* An officer's actions "are lawful if they could

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undertaken by an ordinary citizen." *Id.*

In *State v. Harris*, police conduct was not unlawful when, acting undercover, officers attached microphones to informants who then crossed jurisdictions and engaged in a drug buy that ultimately led to the arrest of the seller. *Id.* The court concluded this was not unlawful because the only extra-jurisdictional activity officers engaged in was monitoring conversations between Applicant and informants; something the court found could have been done by private citizens. *Id.*

Although Applicant raised the above enumerated grounds for relief on his application and in the hearing, the main thrust of his argument at the hearing was that on at least two of the charges, he was illegally picked up by Spartanburg County Law Enforcement in Cherokee County in violation of federal, state, and local law. All the charges against Applicant resulted from conduct occurring in Spartanburg County. Additionally, there was nothing illegal or improper for the investigator to pick up applicant in Cherokee County and bring him to Spartanburg County for an undercover drug operation. The officers were acting like private citizens while acting outside of their assigned jurisdiction, rendering any extra-jurisdictional activities lawful, as per *State v. Harris*, 299 S.C. at 159, 382 S.E.2d at 926. Much like in *Harris*, giving someone a ride to a house in another county is something private citizens can engage in and, as such, officers did not act unlawfully when doing so while representing themselves as private citizens. Further, all the charges against Applicant resulted from conduct occurring in Spartanburg County. Additionally, because unlawful activity did not occur, Counsel was not ineffective for failing to challenge challenging the jurisdiction nor for bringing judicial notice to the fact that a multi-jurisdictional agreement did not exist at the time of the arrest. Therefore, this contention is without merit.

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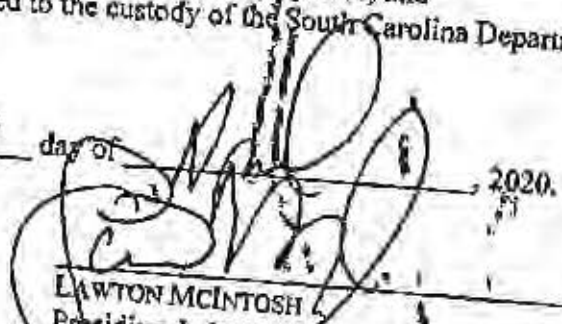
Conclusion

Based on all the forgoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations before or during his trial and guilty plea. This Court finds, as to Applicant's allegations concerning ineffective assistance of counsel, invalid plea, and police misconduct, that Applicant has not met his burden of proof. The Court notes Applicant must file and serve a notice of appeal within thirty days from receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRPC, provides that if Applicant wishes to seek appellate review, Applicant must serve and file a notice of appeal on his own behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. The PCR Application be denied and dismissed with prejudice; and
2. Applicant shall remain remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 29 day of May 2020.

  
 LAWTON MCINTOSH  
 Presiding Judge  
 Seventh Judicial Circuit

Anderson South Carolina

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WITNESSES

DOCKET NO. 16-03-42-5068

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

SPTG CO. SHERIFF'S OFFICE

*Jimmy W. Smith*

COURT OF GENERAL SESSIONS

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TERM

ARREST WARRANT NUMBER

2016A4210201359

THE STATE  
vs.

ACTION OF GRAND JURY

SEP 30 2016

SHANNON MILES LANCASTER

Foreperson of Grand Jury  
Date:

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VERDICT

Indictment for

TRAFFICKING IN METHAMPHETAMINE

SC Code: 44-53-375

Foreperson of Petit Jury  
Date:

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STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF SPARTANBURG )

INDICTMENT

At a Court of General Sessions, convened on SEP 30 2016, the  
Grand Jurors of Spartanburg County present upon their oath:

**TRAFFICKING IN METHAMPHETAMINE**

That Shannon Miles Lancaster did in Spartanburg County on or about April 15, 2016, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess more than (10) ten grams of Methamphetamine, a schedule II controlled substance, in violation of §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

  
\_\_\_\_\_  
ASSISTANT SOLICITOR

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STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS. Shannon Miles Lancaster
AKA:
Race: WHITE Sex: M Age: 42
DOB: SS#:
Address: Saddle Dr
City, State, Zip: Gaffney, SC 29341
DL#: SID#:

INDICTMENT/CASE#: 2016GS4205068
A/W#: 2016A4210201359
Date of Offense: 4/15/2016
S.C. Code § : 44-53-0375(C)(1)(b)
CDR Code #: 0451

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Drugs / Trafficking Meth 10-28 2nd (5-30 & \$50K) NS NP Neg: 12-18 year sentence

in violation of § 44-53-0375(C)(1)(b) of the S.C. Code of Laws, bearing CDR Code # 0451
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

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

ATTEST: HUNTER, JAMES EDWARD SC Bar# Defendant
Shannon Lancaster Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

PTUP
days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$.

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk
Court Reporter:
SCCA/217 (07/2016)

Presiding Judge
Judge Code:
Sentence Date: March 14, 2017