

Edward Anthony, Petitioner

v.

State of Aiken, Respondents,
South Carolina

CASE NUMBER: 2018-000628

RECEIVED

APR 05 2021

S.C. SUPREME COURT

Petition to VACATE

Come now, Petitioner, Edward Anthony, with material facts of the Broken Chain of Custody at this time. The Courts of Aiken, South Carolina, have erred, by convicting the petitioner.

On Exhibit 1, you see that the store receipt was entered by the prosecutor at trial. In the store receipt has a time and date of May 21, 2014 on it, see page (3) on the Broken Chain of Custody.

When the petitioner was arrested for the alleged crime on March 16, 2014, with no evidence to establish probable cause to detain him,

So on page (4), see the evidence receipt. The time and date are 3/20/2014 at 8:20:26. In on page (5), the chain of custody is on March 21, 2014. But if you look at pages (4) and (5) there are only 3 DISCS as evidence on both pages. So there is no State

Receipt as evidence entered by the Police Officer Name
Deputy Donald Smith # 288.

Now on pages (1) and (2), you see the Cop obtained evidence
on May 21 2014 at 1900 hours. IN that evidence was video and a
copy of a store receipt and a video car copy disc by #288
D. Smith of North Augusta Police Department, and at 5/21/2014
2100 hours.

When the petitioner was incarcerated and discovered the tainted
evidence at trial and by the Police Department, he sent a copy
of the Jul 27, 2016 to South Carolina Court Administration as you
can see.

ON page (2), at the top of page you 03/16/2014 that is
circled, and on the left hand side you see when Deputy Smith
entered and obtained the illegal evidence on May 21, 2014, again
on page (3), the Belks store receipt is proof with the Date of
May 21, 2014 on it.

Now go back to page (4), there is NO STORE RECEIPT as
evidence there, you only see 3 discs, but NO STORE RECEIPT
as evidence. The same on the chain of custody on page (5).

So with that being said, the evidence that was entered
at trial the evidence is tainted on Exhibit (1).

ON PAPER WORK, WITH 4th Amendment Violation of the illegal obtained evidence. Starting on page (6) Exhibit (1), you see the store receipt was entered as evidence on page (109), and go see for yourself. So if you go back to page (1) here, The store receipt has May 21, 2014, page (2), has May 21, 2014, and page (3), has May 21, 2014 as well. But at the very top you see March 16, 2014, is when the alleged crime happened.

When the accuser was questioned about the evidence receipt, she lied under oath about a store manager retrieved the items name Julian.

Now go back to page (1), the receipt has May 21, 2014 of 3 items. Under oath on page (150) or (Exhibit 34), at the top of the line (1). The accuser stated 7 items and that different from what she testified to earlier, and once again change it to 5 items.

So on page (151) or (Exhibit 35), she was questioned about the tainted evidence of 5-21-14.

Now when Deputy Smith #288 was questioned on page (167) or (Exhibit 36), there was No Evidence found on the petitioner; when he was questioned by the prosecutor. Go to page (173) Exhibit 37, there was no evidence obtain on the petitioner, but on page (174) or (Exhibit 38), Now the Deputy Smith #288 supplemental report has May 21, 2014 at 7 p.m.,

The Cop admitted to returning back to the store and obtaining to illegal evidence and a copy of the video surveillance as evidence and dropped it into the evidence department. ON page (175), he requested a copy of the in-car video, go back on pages (2) and (3)

You see everything that contradict the accusers testimony, and back on page (175) Exhibit 39. The officer finally admitted to returning to obtain the illegal evidence, when there was NO EVIDENCE, to establish probable cause of the petitioner.

When the prosecutor asked the cop earlier if he conducted any forensic stuff, that because you didn't have anything to conduct any tests on; correct?
ANSWER by Deputy Smith #288 → No SIR. I did not.
ON line (24)

Facts of Broken Chain.

The procedure to establish a chain of custody are

- Time and date of evidence recovered
- Condition of items
- Unique marks on items
- Recovering the evidence
- Ensuring that it is not altered
- Limit the number of people handling evidence
- Seal the evidence package
- Double check markings before submission

When an officer that is in charge, fails to show that each link in the chain of possession is accounted for, then that evidence may be suppressed. If the evidence analyzed was not the evidence originally received, then the courts must exclude it.

Evidence that can not be presented to the jury or decision maker for any of a variety of reasons: (1) it was improperly obtained, (2) it is prejudicial (the prejudicial value outweighs the probative value), (3) it is hearsay, and (4) it is not relevant to the case.

The custody violates the United States Constitution, Law, treaties. A claim of actual innocence like in the case by the petitioner are facts of newly discovered evidence that his Bill of Rights, Civil Rights, and Equal Rights have all been violated.

Constitutional Rights Violated

- ① 4th Amendment, the right of the people to be secured against UNREASONABLE searches and seizures, shall not be violated.
- ② 5th Amendment, the Constitutional prohibits anyone from being prosecuted twice.
- ③ The 6th Amendment, the Courts must dismiss the Indictment against the defendant or reverse the conviction.
- ④ 8th Amendment, the United States Constitution prohibits the government from imposing excessive fines, or cruel and unusual punishments. "Bill of Rights"
- ⑤ 10th Amendment, holding cases state constitutional or statutory provisions UNCONSTITUTIONAL, One holding state laws UNCONSTITUTIONAL or preempted by Federal law, and on for UNCONSTITUTIONAL or preemption cases, I'm No turner way Slave violation Act.
- ⑥ 13th Amendment, states, "Neither slavery nor involuntary servitude. This banned slavery
- ⑦ 14th Amendment, No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, nor deny a persons Equal protection Laws.

FACTS CHECKING

IF there was NO EVIDENCE from the start then why would the cop lie. So to cover up his wrongs, the petitioner as more facts that the Cops used Excessive force on him while he was in handcuffs with his hands behind his back on March 16, 2014, and the petitioner was sitting down in a chair. The cop used a Taser and choked the petitioner sitting down, but on his police report and when asked by the prosecutor at first, the cop stated I was not in handcuff but I was detained walking to the back of the store.

Now when the Public Defender let the cop look at the video tape at trial, it was 0. I never removed the handcuff off of the petitioner. So when the cop stated he choked the petitioner in that was ineffective, he used a taser gun, and that was while his hands was behind his back sitting down in a chair. The Cop stated yes once again to his wrong doings.

The evidence by the cop is called Tampering, and the exclusionary rule to the 4th Amendment states, A police officer acting under color of state law who violates a person 4th Amendment rights are subject to enforceable charges in Federal courts.

CONCLUSION

The petitioner states, that he has highly been disrespected in this matter. Because he has done prison time for a crime he has never commit, and time after time. The court failed to correct the matter by failing to read the trial transcript for his case. Because they would have seen the plain errors at hand. Like Johnnie Cochran said, "If it doesn't fit, you must acquit." I petitioner has proving his innocence multiple times by writting letters like a declaratory Judgment to the judge that erred in his case, and he writting lett to the former assistant attorney General Julie Ann Coleman, asking, what should he do, and the petitioner has that evidence as proof. This case had no cause and was out of Aiken, SC, jurisdiction. Its a prejudical case because it has done harm to the petitioner and his life, rights, freedom. The courts are an injustice system by failing to protect the petitioners rights that he has been deprived of

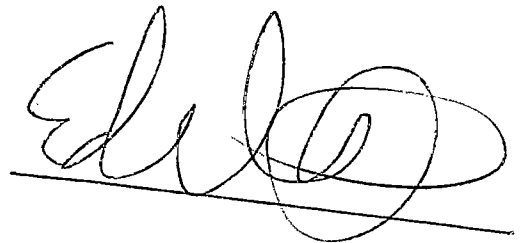
The Court have discriminated practices, that is racism on the petitioner, Due to his race that is unfair and Bias to him.

So with that being said, the petitioner is asking, the courts with your powers or hands, that you correct this matter at hand, because it comes up on jobs that he cant get because of the Cop planting evidence on him to cover up there wrong doing. The petitioner was innocent from the start, when he his presented proof of the misconduct by the Cop and courts.

No with the laying of your hands vacate this VOID convict.

Please and Thank You

March 30, 2021
MOTION to vacate
CASE# 2018-000628



NOV 28 2016



State of South Carolina
The Circuit Court of the Tenth Judicial Circuit

R. Lawton McIntosh
Judge

November 23, 2016

Post Office Box 8002
100 South Main Street
Anderson, SC 29622-8002
Phone: (864) 260-4059
Fax: (864) 224-6320
lmcintoshj@sccourts.org

Ms. Julie Amanda Coleman
S.C. Attorney General's Office
P.O. Box 11549
Columbia, SC 29211

Re: State of South Carolina v. Edward Anthony
CA # 2014-GS-02-01000

Ms. Coleman,

Please find the enclosed letters received from Mr. Edward Anthony, inmate number 363714 located at Trenton Correctional Institute, 84 Greenhouse Road, Trenton, SC 29847. The case was tried in 2015. The enclosed was received by my office after November 15, 2016.

To the extent the enclosed would constitute post-trial motions, they would be untimely and I would have no jurisdiction to hear them. Out of an abundance of caution the filing may constitute an application for post-conviction relief, I am forwarding the same to the Attorney General's Office to take such steps as they see necessary and/or prudent. By copy of this letter, I am notifying Mr. Anthony of this communication as well as his former trial attorney and the assistant solicitor at the time.

With kindest regards, I remain yours truly,

A large, stylized handwritten signature in black ink, appearing to read "R. McIntosh".

R. Lawton McIntosh, Judge
Tenth (10th) Judicial Circuit

Cc: Aiken County Clerk of Court
Cc: Mr. Edward Anthony
Cc: Mr. Jeffrey Alan Slocum, Jr.
Cc: Mr. M. Bradley McMillian

The Judge see his own error, and is asking Ms. Coleman the Assistant Attorney General what to do.

E. Aiken

Study sees injustice in SC's lower courts

Defendants not told of rights, study says

Is choice of paying a fine or doing jail time creating a debtors' prison?

Beaufort woman cited for failing to appear at her trial — while she was in being held in county jail

BY TIM SMITH
tsmith@greenvillenews.com

Many defendants in South Carolina's lower courts are not advised of their constitutional rights, trials are held without any lawyer present in the courtroom and those found guilty are sometimes given the choice of paying a fine they cannot afford or going to jail, in effect creating a debtors' prison, a national study of the state's magistrate and municipal courts has found.

The study, "Summary Injustice," by the American Civil Liberties Union and the National Association of Criminal Defense Lawyers, was issued Monday following observations

by attorneys in 27 lower courts in December 2014 and July 2015.

South Carolina has about 319 magistrates and about 200 municipal courts, called summary courts, that handle misdemeanor charges ranging from traffic violations to shoplifting and drug possession.

The report paints a bleak picture of what can happen to poor and unrepresented defendants in the state's lower courts, where often no lawyer is present, cases are sometimes prosecuted by police and thousands face criminal charges that can send them to jail for 30 days with a criminal record.

Among the report's other findings are that the courts often fail to inform defendants

of their right to counsel and refuse to provide counsel to the poor at all stages of the criminal process.

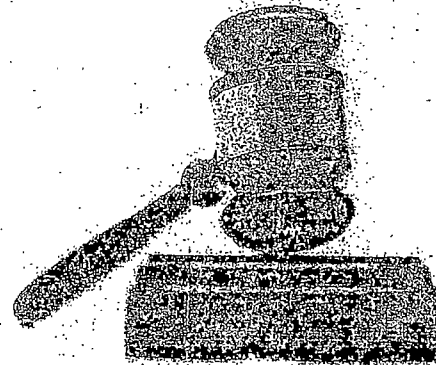
"When you go to a summary court in South Carolina, you find yourself in a judicial netherworld where the police officer who made the arrest acts as the prosecutor, the judge may not have a law degree, and there are no lawyers in sight," said Susan Dunn, legal director of the ACLU of South Carolina. "By operating as if the Sixth Amendment doesn't exist, these courts weigh the scales of justice so heavily against defendants that they often receive fines and jail time they don't deserve."

Magistrates and municipal judges are not required to hold law degrees in South Carolina. Newly appointed magistrates must have a four-year degree and both types of judges must undergo

training and certification exams. Magistrates who are not attorneys must observe 10 trials before handling one of their own.

Summary judges are provided with a manual that offers information about procedures, how the court system works and a defendant's rights. In fact, the state requires all magistrates and municipal judges to use a checklist when handling criminal cases. In those cases in which a jail sentence is likely, judges are required to inform defendants of their right

SEE COURTS, 7A



FILED Feb 2 2017

Robert H. White
Clerk & C.S.

Sherry D. ...
Deputy Clerk of ...

Exhibit

1

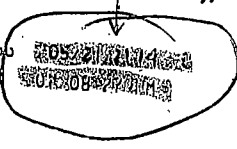
**4th
amendment
violation with
illegally
obtained
evidence**



1163 KNOX AVE
 1163 KNOX AVE
 NORTH AUGUSTA, SC 29041
 (803) 279-4420
 STORE MANAGER: WILL BATTLE

May 21, 2014

STORE: 0299 REG: 5064 V01.60
 TRAN#: 2373 ASSOC: 003778



when the Alleged
 Crime happen on
 March 16, 2014 and
 NOT on May 21, 2014

ASSOCIATE NAME: JULIAN

SALE

DENIM PANTS
 690742516534 1 39.99
 62 00 PERM MKDN
 KNIT TOPS
 888132374813 1 49.99
 89 50 PERM MKDN
 59.99 NEW PRICE 49.99
 KNIT TOPS
 888132374813 1 49.99
 89 50 PERM MKDN
 59.99 NEW PRICE 49.99

QUANTITY: 003 SUB-TOTAL 139.97
 SC 7% TAX 19.80
 TOTAL \$ 149.77

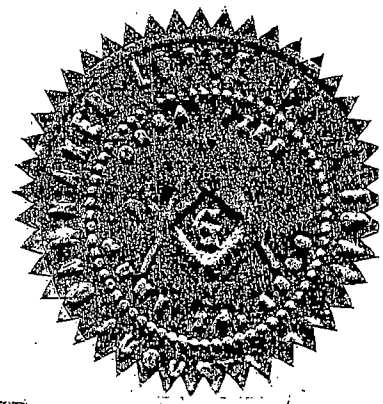
CASH 149.77

see

YOU SAVED \$ 101.03

Shop Belk.com 24/7
 For Great gift ideas
 Free Shipping everyday
 See Belk.com for details
 Thank you for shopping at Belk. Please
 retain receipt for return or exchange

** REPRINT COPY **



page
 (1)

Agency: North Augusta Department of Public Safety
Officer ID/Name:
Date:

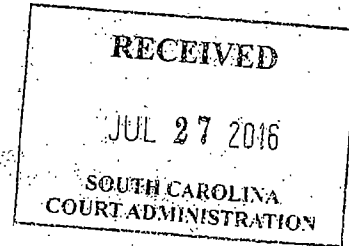
Incident
Incident Number: 14-000676
Case Number: 14-000676

Narrative Title: SUP

14-000676
SHOPLIFTING 3RD OR SUBSEQUENT OFFENSE
DISORDERLY CONDUCT
SUBJECT: EDWARD ANTHONY
SUPPLEMENT

ON 05/21/2014 AT 1900 HOURS, PSO D. SMITH OBTAINED VIDEO AND A COPY OF THE RECEIPT OF THE STOLEN ITEMS FROM BELK. PSO D. SMITH WILL DROP THE VIDEO INTO EVIDENCE AND TURN THE RECEIPT IN TO THE RECORDS DIVISION. PSO D. SMITH ALSO REQUESTED THAT A COPY OF THE IN-CAR VIDEO OF THIS INCIDENT BE OBTAINED. PSO D. SMITH HAS NO FURTHER.

05/21/2014 2100 HOURS
PSO D. SMITH 288



*Evidence obtained on May 21, 2014
and not for March 16, 2014.*

*(2)
pages*

ADDITIONAL NARRATIVE

Name: North Augusta Department of Public Safety	ORI #: SC0020300	Report Date/Time: 03/16/2014	18:52	OCA #: 14-000676
--	---------------------	---------------------------------	-------	---------------------

SUP

↑
alleged crime date

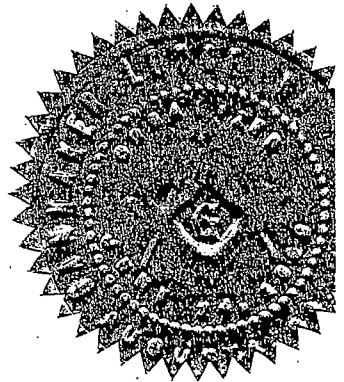
14-000676
 SHOPLIFTING
 DISORDERLY CONDUCT
 SUBJECT: EDWARD ANTHONY
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05/21/2014 2100 HOURS
 PSO D. SMITH 282

↑
 obtained evidence
 that was on May 21, 2014
 which is illegal, and
 was entered at trial
 the judge overruled too.

RECEIVED
 JUL 27 2016
 SOUTH CAROLINA
 COURT ADMINISTRATION



03/20/2014

Evidence Receipt

Location: BA03

Description: Evidence Permanent Assignment Receipt

Entered By: GEORGE A SHAW

Transaction Date: 03/20/2014 08:20:26

Case Number: 14-000676

Date/Time of Storage: 03/20/2014 08:20:19

Folder Number : EVMAR2014	Evidence Number : 14-000185-EV	Jurisdiction : SC0020300
Recovery Location : BELK		
Recovery Address : 1163 KNOX AVE NORTH AUGUSTA	SC 29841	
Recovery Date : 03/19/2014 10:53:41	Recovery Officer : 197- BUSBEE, CLINT	
Released By : JC BUSBEE	Released To : EVIDENCE CUSTODIAN	
Other Agency ORI :		
Associated Numbers :		

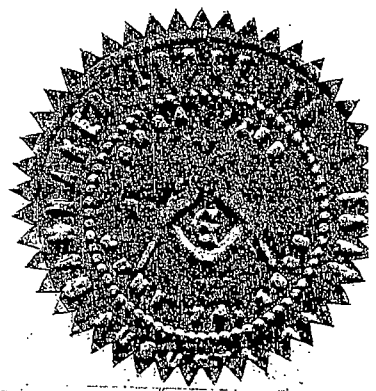
Barcode : 14-000185-EV0001	Property Classification : General	Category : OTHER ITEMS
Property Code/		
Description : THREE DISCS CONTAINING VIDEO SURVEILLANCE	<i>ONLY 3 DISCS and NO STORE RECEIPT as EVIDENCE</i>	
Description : THREE DISCS CONTAINING VIDEO SURVEILLANCE		
Make :	Model :	Serial :
Narcotics Type :		
Quantity :	Measure :	
Item Status : Evidence		
Involvement Type : VICTIM		
Name :		
Address : 1163 KNOX AVENUE NORTH AUGUSTA SC 29841		
Phone : 803-279-4421		

Received By : *George Shaw*

Date Received : 3/20/14

Released To : _____

This is illegal



page (4)

Chain of Custody Report

Report Date: March 21, 2014

Barcode: 14-000185-EV0001
Case Number: 14-000676
Folder Number: EVMAR2014

Description: THREE DISCS CONTAINING VIDEO SURVEILLANCE
Jurisdiction: SC0020300
Evidence Number: 14-000185-EV

Category: Y Classification: General

Prop Code/Description: THREE DISCS CONTAINING VIDEO

Make: Model:
Serial No: VIN:
Narcotics Type: Quantity:
Measure: Color:

*No store receipt as
evidence here*

Item Status: Evidence

Temporary Location:

Temporary Location Date:

Recovery Date: 03/19/2014 10:53:00

Recovery Officer: 197 BUSBEE, CLINT

Recovery Address: 1163 KNOX AVE NORTH AUGUSTA SC 29841

Released By: JC BUSBEE

Released To: EVIDENCE CUSTODIAN

Other Jurisdiction:

Associated Numbers:

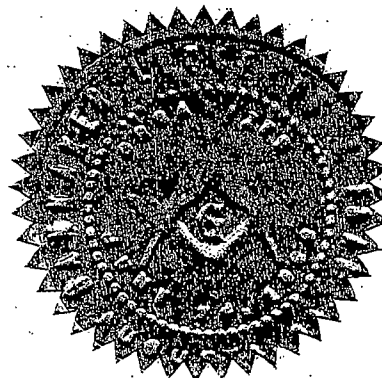
Involved Parties

Involvement Type	Name	Address	Phone
SUSPECT	EDWARD RODRIQUEZ ANTHONY	2210 BUNGALOW ROAD AUGUSTA GA 30906-	
VICTIM	BELK	1163 KNOX AVENUE NORTH AUGUSTA SC 29841-	803-279-4421

Location/Movement History

Location ID	Officer	Reason	Transaction Date	Entered By
BA03: BASKET 03	SHAW, GEOR 122	evidence	03/20/2014 08:20:19	GEORGE A SHAW
LO003: LOCKER 003	197 BUSBEE, CLINT	EVIDENCE	03/19/2014 11:00:55	CLINT BUSBEE

*So go to pages (1) (2) (3) (4), here is
proof of the tainted evidence entered at the
on Exhibit (1) page (6)*



*pages
(5)*

of No
14 Returned Back to Belks See pages.
Time Dont Reflect

Illegal obtained evidence

Objection
tampered
Evidence

109

May 21, 2014
False Testimonys

PATSY SINGLETARY-SISO - DIRECT BY SLOCUM

1 MR. SLOCUM: Okay. Your Honor, at this time the
2 State moves to enter Exhibits Two and Four into evidence?

3 THE COURT: Any objection?

4 ★ MR. McMILLIAN: Yes, sir, Your Honor. There's been
5 no testimony about when those pictures were taken.

6 THE COURT: Lay a little more foundation, please,
7 sir.

8 BY MR. SLOCUM:

9 Q. ★ When did you take those pictures?

10 A. ★ Immediately. After every case we have to
11 photograph the evidence.

12 ★ THE COURT: Okay. They'll be admitted subject to
13 objection.

14 ★ (State's Exhibit Nos. 2 and 4, photographs,
15 received into evidence.)

16 BY MR. SLOCUM:

17 Q. Can you please tell the jury what you see in
18 Exhibit Number Two?

19 A. ★ Yes, sir. The receipt. Once we retrieve the items
20 I had Julian which is the store manager, go and make a
21 receipt because we have to submit a receipt along with
22 pictures of the evidence for our records. ★

23 Q. And what about State's Exhibit Number Four?

24 A. ★ These are the Polo shirts I described that I
25 photographed. I positioned them to where I could get the

Exhibit
(34)

Illegal Obtained Evidence at Trial

EXHIBIT INDEX

MAR ADM

State's:

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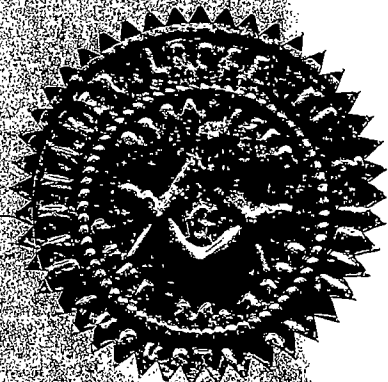
Court's:

1	1	Miranda	45
2	2	Note from the jury	256

Defendant:

1	1	Report	149
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Exhibit (1)



Lying Under Oath. false testimony

5 items

Low

150

She lied
False testimony
Don't Reflect.

*PATSY SINGLETARY-SISO - CROSS BY McMILLIAN

1 Q. * That's different from what you testified to
2 earlier, the seven ^{7 items} items; correct? ✓

3 A. * That's five. ^{5 items} It could have been a typo there.
4 This report, again, it is used to kind of do the case
5 report, get the information in but -- *

6 MR. McMILLIAN: Permission to approach, Judge?

THE COURT: Yes, sir.

8 BY MR. McMILLIAN:

9 Q. * And then there inside your report there, there is a
10 smaller version of this same picture. I believe it's on
11 the third page. *

12 A. Uh-huh.

13 Q. * And as a part of that report there's a date on that
14 file name. Can you read that date for the jury?

15 A. Where about? I'm sorry.

16 Q. On the third page. It's here.

17 A. Uh-huh.

18 Q. * Just under the date there: *

19 A. * 3-31-14. * March 31, 2014.

20 Q. * Is that the date you would have taken the picture
21 or the date you added the file? *

22 A. * It could have been the date I added the file, but I
23 took the picture immediately.

24 Q. Okay.

25 A. But we go back, we make -- add more notes and

Exhibit
(34)

100% OBTAINING Evidence
Tainted Evidence. L0812 * Yes

151

False testimony
lying Under Oath.
Planting Evidence

PATSY SINGLETARY-SISO - REDIRECT BY SLOCUM

1 whatnot. But the official report is the report we give to
2 North Augusta.

3 Q. * Okay. And I believe the State did move the receipt
4 for the goods in which is I believe the fourth page of
5 that report?

6 A. Uh-huh.

7 Q. * What's the date of that receipt again? Up in the
8 upper right-hand corner.

9 A. * This says 5-21-14 *

10 Q. * So those items weren't rang up until May 21st?

11 A. * No, they were rung that day. I'm not for sure why
12 that date is indicating.

13 Q. * But you would agree that receipt that was part of
14 this report that was provided to us reflects that they
15 were rung up on May 21st?

16 A. * Well, the system, the cash register could have been
17 off or (Julian probably) -- I'm not for sure. I can't
18 answer for him, but we submit every time a receipt of
19 items and video. I'm not for sure why the receipt reads
20 that date.

21 MR. McMILLIAN: Okay. One more time, Judge.

22 (Pause.) I don't have any further questions, Your Honor.

23 THE COURT: Redirect?

24 MR. SLOCUM: Briefly, Judge.

25 REDIRECT EXAMINATION

Exhibit
(35)

five. See pages. 166, 112, 164

No Evidence Look *
167
False Statement
False Claims. Combative

DANIEL DAVID SMITH - DIRECT BY SLOCUM

1 A. In this case because the Defendant was being
2 combative, for our safety and his safety, we determined
3 that we should transport him directly to the Aiken County
4 Detention Center.

5 Q. And at this point did you ever take the pliers and
6 the magnet off of his person?

7 A. No, sir. They were left on him.

8 Q. ★ Okay. Did you ever take any pictures of the,
9 quote, articles of clothing that he alleged to have
10 concealed?

See page 173 No Evidence page 175

11 A. ★ No, sir. I did not.

12 Q. ★ Did you ever find any on his person?

13 A. ★ No, sir. I did not.

14 Q. ★ Did you do any type of forensic testing, any DNA or
15 fingerprints on any type of evidence in this case?

16 A. ★ No, sir. I did not.

17 Q. ★ Was there any reason to?

18 A. ★ No, sir.

19 Q. What, if anything, was said on the way to the jail?

20 A. On the way to the jail the Defendant stated -- he
21 was in the back of my patrol vehicle -- that, and I quote,
22 Could have would have thought about it was not the same as
23 shoplifting.

24 Q. And did you ask a question to give this response?

25 A. No, sir. I did not.

Look

X 173
False testimony
Under oath
No Evidence

1 Q. And he, in fact, immediately said, I didn't do
2 anything?

3 A. Yes, sir.

4 Q. And he immediately started lifting his shirt?

5 A. Yes, sir.

6 Q. In fact, he exposed his bare belly --

7 A. Yes, sir.

8 Q. -- to you?

9 A. Yes, sir.

See page 167, and 175

10 Q. ★ There was no merchandise in his waistline?

11 A. ★ No, sir.

12 Q. ★ None in his jacket?

13 A. ★ No, sir.

14 Q. ★ None in his underwear?

15 A. ★ No, sir.

16 Q. ★ You further searched him; correct?

17 A. ★ Yes, sir. I did.

18 Q. ★ Did you find any merchandise in that search?

19 A. ★ No, sir. I did not.

20 Q. ★ Now, obviously during your search you didn't add
21 anything to his person, you didn't put anything in his
22 pockets?

23 A. ★ No, sir. I didn't.

24 Q. ★ You didn't take anything out?

25 A. ★ No, sir.

l-page.

1 Date and time Don't Recheck
with the Crime or Evidence

False testimony LOOK

Evidence See page.

* 174
May 21, 2014 (KNO)
March 16, 2014

DANIEL DAVID SMITH - CROSS BY McMILLIAN

Planting of Evidence, faked evidence, illegally obtained evidence.

1 Q. And you never did --

2 A. I apologize. I'm sorry. I did remove -- once I
3 located the adjustable channel-lock pliers and what
4 appeared to be a magnet, I did remove those to see what
5 they were.

6 Q. Okay. But at some point you put those back in his
7 pocket?

8 A. Yes, sir. They remained on his person.

9 Q. Okay. So, everything he had on his person is the
10 same stuff he would have had when he got to the jail?

11 A. Yes, sir.

12 Q. * Did you ever go back out to Belk's to collect any
13 photographs?

14 A. * I did go back out. I'm unsure of the exact date.
15 I have a report if you'd like for me to check.

16 Q. Would you reference that?

17 A. * Yes, sir. (Looking at document.)

18 ** Okay. According to my supplemental report to my
19 original incident, on ⁴May 21st, 2014, at seven p.m., I
20 returned to Belk. I obtained a copy of the receipt of the
21 items in question and obtained a video surveillance,
22 dropped it into evidence.

23 Q. May I see what you're referencing?

24 A. Absolutely.

25 MR. McMILLIAN: Permission to approach, Judge?

Exhibit
(38)

Dash-Cam Look
withheld. * 175 *
by Department. No Evidence *
False Statement *
False testimony *

DANIEL DAVID SMITH - CROSS BY McMILLIAN

1 THE COURT: Yes, sir.

2 * THE WITNESS: Here's the supplemental.

3 BY MR. McMILLIAN:

4 Q. * And in that supplemental you also requested that a
5 copy of your in-car video be added? - Dash - Cam

6 A. * Yes, sir. I did. "Brady Violation".

7 Q. * We were never provided any of that, though, were
8 we?

9 A. * No, we were not.

10 Q. So we don't have any proof of this alleged
11 statement that you say he made in the car?

12 A. No, sir.

13 Q. * You went back out and collected the video on May
14 21st? Turn Evidence May, illegal obtained. Planting Evidence

15 A. * Yes, sir. True. It unconstitutional. "Rights Violated".

16 Q. * Did you collect any other evidence, any broken
17 security tags?

18 A. * No, sir. I did not.

19 Q. * Any merchandise?

See page 173, and 167

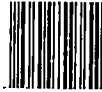
20 A. * No, sir. I did not.

21 Q. * So when the solicitor asked you earlier if you
22 conducted any forensic stuff, that's because you didn't
23 have anything to conduct any tests on; correct?

24 A. * No, sir. I did not.

25 Q. Let's talk for a minute. After he exposed his

Edward Anthony
2210 Bungalow Rd
Augusta, Ga 30906



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