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**S.C. SUPREME COURT**

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

---

Certiorari to Greenwood County

Honorable R. Scott Sprouse, Circuit Court Judge

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DAVID SCOTT MOONEY

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2018-000052

---

APPENDIX

---

LANELLE CANTEY DURANT  
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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

EIGHTH JUDICIAL CIRCUIT  
IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA, )  
)  
PLAINTIFF, )  
)  
-VS- )  
DAVID SCOTT MOONEY, )  
DEFENDANT. )  
\_\_\_\_\_ )

2015-GS-24-0724

TRANSCRIPT OF RECORD

AUGUST 13, 2015  
GREENWOOD, SOUTH CAROLINA

BEFORE:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

APPEARANCES:

ATTORNEY FOR PLAINTIFF:  
BRIAN MORONEY, EIGHTH CIRCUIT ASSISTANT SOLICITOR

ATTORNEYS FOR DEFENDANT:  
THOMAS ADDUCCI, EIGHTH CIRCUIT PUBLIC DEFENDER

TARA T. SCOTT, CVR  
CIRCUIT COURT REPORTER

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(NO EXHIBITS WERE INTRODUCED DURING THIS HEARING)

1 THE COURT: Solicitor?

2 MR. MORONEY: Thank you, Your Honor. Standing before  
3 you this morning is the Defendant, David Mooney. He is  
4 pleading guilty on indictment 2015-GS-24-0724 for the  
5 offense of manufacturing methamphetamine. This has been  
6 reduced from the initial charge of trafficking  
7 methamphetamine. He is represented by attorney Tom Adducci  
8 of the Greenwood Public Defender's Office. In consideration  
9 of this plea the State has agreed to dismiss the additional  
10 charge of altered ephedrine and an attempted conspiracy  
11 charge. This is a straight up plea.

12 THE COURT: Mr. Adducci, you are representing Mr. Mooney  
13 who wants to plead guilty to manufacturing meth first  
14 offense. Is that correct?

15 MR. ADDUCCI: That is correct, Your Honor.

16 THE COURT: That carries from zero to fifteen years.  
17 It is also classified as a violent offense. There are no  
18 negotiations or recommendations in this case. I am assuming  
19 that you have explained the ramifications of this plea, all  
20 his constitutional rights, the penalties involved, and the  
21 elements of this offense?

22 MR. ADDUCCI: Yes I have, Your Honor.

23 THE COURT: And you agree with his decision to plead  
24 guilty; correct?

25 MR. ADDUCCI: Yes I do, Your Honor.

1                   DAVID SCOTT MOONEY, having first been duly  
2 sworn to tell the truth, testified as follows:

3                   EXAMINATION BY THE COURT

4 Q     Sir, are you David Scott Mooney?

5 A     Yes, sir.

6 Q     Mr. Mooney, they tell me you want to plead guilty to  
7 manufacturing methamphetamine. That carries up to 15 years.  
8 There are no recommendations or negotiations in this case,  
9 so I could give you 15 years, I could put you on probation,  
10 I could do anything in between. Do you understand that,  
11 sir?

12 A     Yes, sir.

13 Q     That sentence is up to me entirely. Mr. Mooney, in the  
14 last twenty-four hours have you taken any medication or any  
15 substance that affects your thinking?

16 A     No.

17 Q     Have you ever been treated for any mental illness  
18 issues or problems understanding what is taking place, or  
19 were you in special education when you were in school?

20 A     No, sir.

21 Q.    Mr. Mooney, are you in fact guilty of manufacturing  
22 methamphetamine?

23 A.    Yes, sir.

24 Q     The Solicitor is going to give me the facts. I want  
25 you to pay close attention to what he says happened, because

1 when he's done speaking I'm not going to ask you if that's  
2 what you did; okay, sir? Mr. Moroney.

3 MR. MORONEY: On January 13, 2015 at approximately 2:45  
4 p.m. agents in the Greenwood County Drug Enforcement Unit  
5 executed a search warrant for the residence located at [REDACTED]  
6 Briggs Avenue located in the City of Greenwood, which is the  
7 residence where Mr. Mooney, the Defendant, was living at the  
8 time. Upon conducting a security sweep of the residence,  
9 agents found David Scott Mooney hiding in a compartment in a  
10 set of bunkbeds in a bedroom. Upon searching the bedroom  
11 where Mr. Mooney was located, what appeared to be a child's  
12 room, Agent Shuman located two green in color plastic soda  
13 bottles inside an armoire. One soda bottle contained a  
14 white in color sludge and the other contained a white in  
15 color sludge with a liquid and lithium strips. The bottles  
16 were removed from the residence and the bottle with the  
17 white sludge, liquid, and lithium strips was field tested  
18 and tested positive for methamphetamine and ephedrine. It  
19 had a total weight of 171 grams.

20 The contents of the second bottle also tested positive  
21 for methamphetamine and ephedrine. It had a total weight of  
22 171 grams. Upon searching the back billiards room of the  
23 residence, agents located additional items; four coffee  
24 filters containing a white powdery substance, one empty pack  
25 of twelve-hour decongestant, one empty cold pack, one bottle

1 of Crystal drain opener, and numerous coffee filters.  
2 Outside the back door of the residence agents located a  
3 yellow in color grocery bag which contained lithium  
4 batteries with the strips removed. Agents then conducted a  
5 search of the outer building of the residence and located  
6 additional items; one clear in color twenty ounce plastic  
7 soda bottle containing a white sludge, gasser, one green in  
8 color plastic twenty ounce soda bottle with a white cap  
9 which contained a white sludge which later tested positive  
10 for methamphetamine. It had a total weight of 152 grams.  
11 One clear in color soda bottle which contained a white  
12 sludge and field tested positive for methamphetamine and had  
13 a total weight of 280 grams. An additional green in color  
14 twenty ounce plastic soda bottle with white sludge which  
15 tested positive for methamphetamine and had a weight of 119  
16 grams. An additional green in color plastic bottle which  
17 tested positive for methamphetamine and had a weight of 581  
18 grams. Another bottle twenty ounces green in color with a  
19 hose coming from the cap. A one liter clear in color  
20 plastic bottle with a blue cap which contained white sludge  
21 and had a total weight of 132 grams. Two more clear in  
22 color bottles with sludge, gassers, one cold pack, six  
23 coffee filters with white powder and powder residue, empty  
24 blister packs, one empty bottle of lighter fluid, an empty  
25 container of Zippo lighter fluid, and one empty pack of

1 lithium batteries. The total weight of the items I  
2 mentioned to you is exactly 1604 grams, which is 3.54  
3 pounds.

4 THE COURT: My understanding though is this was not  
5 finished product. This was sludge, correct?

6 MR. MORONEY: Correct.

7 THE COURT: I lost -- how many bottles were involved?  
8 Six? I lost count. Six or seven?

9 MR. MORONEY: Your Honor, I have to count.

10 THE COURT: I'll let you check on that in a moment.

11 MR. MORONEY: Seven bottles.

12 THE COURT: Does Mr. Mooney have any prior criminal  
13 history?

14 MR. MORONEY: He does, Your Honor. He has a fairly  
15 extensive history that dates back to 1989 starting with a  
16 petty larceny. Convicted in June of 1989. A grand larceny  
17 convicted in August 1989 where he was sentenced to a YOA not  
18 to exceed six years. Assault and battery convicted in  
19 February 1991. Another assault and battery charge convicted  
20 in April 1991. In April of 1992 Mr. Mooney was convicted of  
21 several charges lumped together. A burglary second and  
22 grand larceny. In all these charges he was convicted and  
23 sentenced to five years suspended to five years probation.  
24 The additional associated charges receiving stolen goods, an  
25 additional burglary, larceny, receiving stolen goods,

1 larceny, receiving stolen goods, burglary, larceny,  
2 receiving stolen goods, fraudulent check, and two additional  
3 fraudulent check charges lumped together under that same  
4 sentencing. Additional fraudulent check charges in January  
5 of 1992. One more fraudulent check in February 1992. A  
6 burglary second degree charge in March 1992, convicted one  
7 year to six year YOA. Five counts concurrent. A burglary  
8 third convicted indeterminate YOA, five counts one year to  
9 six year. Grand larceny. I'm showing a burglary which I  
10 believe was referenced earlier. Driving under suspension  
11 convicted April 1995. Resisting arrest and DUS in September  
12 of 1995. A failure to stop for blue light convicted of one  
13 year. In September 1995 resisting arrest, the same  
14 disposition date, sentenced to one year. Burglary second  
15 degree, convicted ten years suspended to five years  
16 probation. Five years at some kind of rehabilitation center  
17 in September 1995. A larceny in September 1995, also five  
18 years. A simple possession in October 2001, fraudulent  
19 check under \$500 convicted in March 2002. Shoplifting  
20 convicted in April 2003. Petty larceny convicted in October  
21 2003. Forgery more than \$1,000 less than \$5,000, convicted  
22 in February 2004 sentenced to four years suspended to 34  
23 days time served and three years probation plus restitution.  
24 An additional forgery conviction sentenced to two years  
25 suspended to probation, and one more forgery charge lumped

1 into that same incident. In March 2006 an additional  
2 forgery less than \$5,000 convicted and sentenced to three  
3 years, suspended to probation. In December 2008 damage to  
4 metals charge greater than \$1,000 less than \$5,000 convicted  
5 and sentenced to five years suspended to five months and  
6 probation five years. Then a burglary third degree first  
7 offense convicted in December 2009 sentenced to four years.  
8 Additional charges associated with that offense were petty  
9 larceny, burglary third degree first offense, burglary third  
10 degree first offense, and an additional burglary third  
11 degree and two grand larcenies all with that four year  
12 sentence. And then finally in May 2014 a possession of meth  
13 or cocaine base first offense convicted and sentenced to one  
14 year SCDC.

15 THE COURT: That was straight time, though? He's not on  
16 probation at this point?

17 MR. MORONEY: No, Your Honor.

18 Q Mr. Mooney, you've heard what the State alleges  
19 happened in January of this year. Is it true that you were  
20 making meth back on that occasion?

21 A Yes, sir.

22 Q I need to briefly review with you rights that you're  
23 giving up by pleading guilty. If you don't understand  
24 something stop me and I'll let you talk to Mr. Adducci.

25 A Yes, sir.

1 Q You do understand you have the right to a jury trial.  
2 You don't have to plead guilty. Do you understand that,  
3 sir?

4 A Yes, sir.

5 Q In a jury trial you and the State would pick 12 people  
6 on a jury. Those people would sit over there and the State  
7 would have the burden of proving you guilty beyond a  
8 reasonable doubt to the satisfaction of all twelve of those  
9 jurors. Do you understand, sir?

10 A Yes, sir.

11 Q All 12 jurors would have to agree on your guilt before  
12 you could be punished in any way. You would not have to  
13 prove the first thing. They would attempt to do that by  
14 calling witnesses against you. You and your attorney would  
15 have a chance to see, confront, and cross-examine those  
16 witnesses. At trial you could also call your own witnesses  
17 even though you have no burden of proof, and you could of  
18 course take the stand in your own defense. Do you  
19 understand that?

20 A Yes, sir.

21 Q So whatever issue was relevant, whatever question was  
22 relevant, whatever fact was relevant you would be able to  
23 question those facts. You could confront those witnesses.  
24 You could cross examine them. The burden is always on the  
25 State of South Carolina to prove your guilt beyond a

1 reasonable doubt, but you could call your own witnesses. If  
2 those witnesses did not want to come to court you could  
3 subpoena them. They would be forced to come in here. Do  
4 you understand, Mr. Mooney?

5 A Yes, sir.

6 Q Additionally, at trial you would be free to take the  
7 stand in your own defense if you chose to do so. By and  
8 large you would be treated the same as any other witness.  
9 The Solicitor could ask you questions. Your attorney could  
10 ask you questions. Obviously, you could be impeached if you  
11 have any convictions for crimes and the Court determined  
12 that the probative value outweighed the prejudicial effect.  
13 If you chose not to take the stand, however, I would  
14 instruct the jury that they couldn't hold that against you  
15 or even talk about it in the jury room. They couldn't use  
16 that as evidence of guilt. Do you understand that, sir?

17 A Yes, sir.

18 Q If you plead guilty though you waive your presumption  
19 waive your right to present any defense that you have or to  
20 challenge any of the State's evidence like the search of  
21 your house. If you plead guilty though you waive your right  
22 to present a defense, challenge any of the State's evidence,  
23 or assert any of the rights that I've just described to you.  
24 Do you understand that, sir?

25 A Yes, sir.

1 Q All of these are very important rights guaranteed to  
2 you under the laws of our State and our country. Are you  
3 sure you want to waive them or give them up and plead  
4 guilty?

5 A Yes, sir.

6 Q Are you happy with Mr. Adducci?

7 A Yes, sir.

8 Q Any complaints to make against him?

9 A No, sir.

10 Q He's done everything that you've wanted him to do?

11 A Yes.

12 Q Any complaints to make against the Solicitor's Office,  
13 law enforcement, court personnel, or anyone involved in this  
14 case?

15 A No, sir.

16 Q Aside from the dismissal of the trafficking charge, has  
17 anyone promised you anything else or held out any other hope  
18 or reward to get you to plead guilty?

19 A No, sir.

20 Q Has anyone tried to force you, coerce you, threaten you  
21 in any way to make you plead guilty?

22 A No, sir.

23 Q You are pleading guilty of your own free will because  
24 you did commit this offense?

25 A Yes, sir.

1 Q Do you understand that if you get in trouble for drugs  
2 again, Mr. Mooney, the penalty is going to get a lot more  
3 severe. I didn't really hear much in the way of narcotics  
4 convictions on your record. It sounded like mostly  
5 financial type stuff, burglaries, and maybe some driving  
6 offenses. If you do get in trouble with drugs again,  
7 especially manufacturing meth, there's a minimum of five  
8 years and I think a maximum of twenty, twenty-five years or  
9 something like that. Do you understand that, sir?

10 A Yes, sir.

11 THE COURT: I do find there is a substantial factual  
12 basis for this plea. It is freely, voluntarily, knowingly,  
13 and intelligently made. Mr. Mooney is satisfied with  
14 counsel. I will accept his plea. Mr. Adducci, happy to  
15 hear from you, sir.

16 MR. ADDUCCI: Your Honor, my client has been  
17 incarcerated since January 13 of this year, which by my  
18 count gives him 181 days. He's here with his sister. He's  
19 44 years old and he has spent the last 30 years doing drugs.  
20 Started when he was 14 with a little pot and alcohol,  
21 quickly later on in high school doing pills. Pills led to  
22 cocaine, cocaine led to crack. All that led to shooting  
23 pills, shooting heroin, morphine. He didn't start using  
24 meth until 2012. I was asking him about his drug use and  
25 how are you using it and he said just about every drug I can

1 get my hands on and just about any way I can take it, up my  
2 nose, in my arm, smoked it, everything. His record looks  
3 like somebody who has lived that lifestyle for that long.  
4 He has children and his sister behind me was telling me his  
5 daughter is down at the beach with some friends. They're at  
6 the beach and she was watching her friend there with her  
7 parents and taking them down to the beach for a vacation and  
8 she sent her aunt a message saying, "I wish my family was  
9 like that." When Mr. Mooney heard that I could see it  
10 really crushed him because he saw -- he's been to prison.  
11 Not that it's nothing, but he's handled that before. But  
12 watching his family fall apart and watching the damage that  
13 he's brought and the disappointment he's been to his  
14 children I think is the hardest thing for him. We had him  
15 in court last term and I spoke with his sister. The whole  
16 family is supporting him, really supporting his children.  
17 They want him to get better for those kids. They've been in  
18 touch with the Lighthouse. There's a gentleman here from  
19 the Lighthouse that has a bed date available for him. What  
20 we would ask the Court to do is hang 15 years over his head,  
21 give him his last shot to get clean and get straight. Have  
22 him go to Lighthouse. I asked him specifically are you okay  
23 with telling the people that are at your facility and he  
24 said absolutely. We have a great relationship with  
25 probation. We keep open lines of communication so they know

1 everything that's going on at the house and they will know  
2 if Mr. Mooney is doing anything that he shouldn't be doing.  
3 He'd be getting drug tested. He would be going to meetings.  
4 The Court can hang that hammer over his head and say look,  
5 you had a lot of chances, but here's the last one. You've  
6 got fifteen years hanging over your head. Choose not to  
7 take the Court's grace. I know his sister had a letter that  
8 she wanted to read to the Court if the Court will allow her  
9 to.

10 THE COURT: Yes, ma'am. What is your name. You look  
11 familiar.

12 MS. CLARK: I was here yesterday.

13 THE COURT: Oh, yes. You were the victim on that other  
14 case involving the young man who --

15 MS. CLARK: It was kind of weird I took vacation this  
16 week and the kids are in school and I ended up with two days  
17 in court.

18 MS. CLARK: I'm sorry, ma'am. Do give me your name,  
19 again, please.

20 MS. CLARK: Kim Clark. I'm standing here today not on  
21 my own behalf or my brother's behalf, but on behalf of my  
22 nieces, my mother, and society. Back when this incident  
23 occurred, which affected my dad in the worst of ways, I  
24 vowed to never forgive my brother, and decided then that I  
25 had no brother and he was dead to me.

1 THE COURT: Take your time, ma'am.

2 MS. CLARK: But I made a promise to my mom before she  
3 passed away that I would stay strong and take care of  
4 everyone, and I mean to keep that promise. I cannot live  
5 with myself knowing that I did nothing to set things right.  
6 My brother has been in and out of jail for most of my life  
7 and his nieces, since he was 13 years old. This is the only  
8 life he knows. He has kids, a father, a sister, nieces, and  
9 nephews that he does not know how to be a father, a son, a  
10 brother, an uncle. He has never learned to put others  
11 first. This is due to drugs totally running his life for  
12 years. They have destroyed his marriage and his kid's life,  
13 a life they do not deserve. I am standing her today hoping  
14 you will do one thing that no other judge has ever done  
15 before, to give him the help he so desperately needs. Any  
16 judge can put him in jail, throw away the key, and sleep at  
17 night, but that is not what he needs. He needs to be  
18 rehabilitated so he can fit into society as a member when he  
19 gets back. He has never been or had any type of drug  
20 rehabilitation, no step programs, or anything. That is what  
21 he really needs for him and his family. There is a place  
22 for him to go called the Lighthouse, which Mr. Mitchell has  
23 already said they would take him if he is serious. It's up  
24 to you.

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

1           MR. ADDUCCI: The Court is familiar with the Lighthouse,  
2 but if you would like to hear any specifics about the  
3 program?

4           THE COURT: I am extremely familiar with the Lighthouse.  
5 They do very fine work out there.

6           MR. ADDUCCI: Mr. Mooney, is there anything else you  
7 would like to add?

8           MR. MOONEY: It's hard to talk now. What she said is  
9 basically correct. It's been a revolving door for all my  
10 life and I'm tired. I want to do something different with  
11 my life. I really want to try to repair the gap between me  
12 and my kids. If I get more time it's just going to create  
13 more resentment that they have for me. I've stood here  
14 numerous times and never really spoken for myself, but I  
15 don't think that any place in there is going to help me  
16 learn how to make it out here. I pray that you will give me  
17 this opportunity that's been placed in front of me.

18           THE COURT: Thank you, Mr. Mooney. Mr. Mooney, I assure  
19 you, sir, that I am hearing what you are saying and what  
20 your sister is saying. I don't know that it's possible to  
21 find another judge who is more in favor of seeing people get  
22 their lives straight, seeing them get off the drugs, off the  
23 alcohol, whatever the case may be. Whatever demon it is  
24 that tortures people. I hate to see it. I hate to see  
25 lives squandered in the way that you have squandered yours

1 for the last 30 years. I know full well from personal  
2 experience the pain from having a loved one that suffers  
3 from addiction. The pain that that can cause. And I know  
4 what it can do to children. And I sincerely hope, Mr.  
5 Mooney, that at some point in your life you are able to make  
6 peace with these demons and you are able to overcome these  
7 issues. I promise you I will pray, just like your sister  
8 and just like you, that you will be able to rehabilitate  
9 yourself and get the help that you need so that you can be a  
10 father. I'm sorry that this is hurting your kids. I truly  
11 am. And to a degree, Mr. Mooney, you make a valid point  
12 that repeatedly locking yourself up over and over and over  
13 again does not seem to be accomplishing anything for you,  
14 but please understand, sir that two things are driving this  
15 sentence. First of all is your criminal history which I  
16 think you will admit is abysmal, sir. And the second is  
17 just the sheer amount of drugs. I realize it's unfinished  
18 product. I realize if the process had continued we would be  
19 dealing with a much much smaller amount of drugs, but when  
20 you have several bottles going at the same time that  
21 indicates for the Court that this was not just for your own  
22 personal amusement or medication. This was something a  
23 little bit more substantial, Mr. Mooney. Honestly, sir, at  
24 some point in time society has got the right to defend  
25 itself. I do not like to send people to prison simply to

1 incapacitate them. I more often than not prefer to see that  
2 they get an appropriate punishment and an opportunity at  
3 rehabilitation. That is certainly a component of this  
4 sentence. But Mr. Mooney it gives me no pleasure in passing  
5 down this sentence on you. I am giving you credit and  
6 respecting the fact that you are accepting responsibility  
7 for this, so I have not sentenced you to the full fifteen  
8 years that I could have. But with this record and this  
9 amount of drugs involved, Mr. Mooney, the only choice that  
10 this Court has is to sentence you to twelve years. I have  
11 recommended the addictions treatment unit for you while you  
12 are in SCDC and I am giving you credit for 181 days in jail.  
13 The Lighthouse will be there when you get out, Mr. Mooney.  
14 You may not feel it, but you are catching somewhat of a  
15 break. I wish you luck, sir.

16 (END OF REQUESTED TRANSCRIPT OF RECORD.)

17

18

19

20

21

22

23

24

25



IN THE COURT OF  
General Sessions  
Greenwood County

FILED GENERAL SESSIONS  
8th JUDICIAL CIRCUIT  
GREENWOOD, SC

In RE:  
The State of  
South Carolina Affiant

V.S.

David Scott Mooney  
Defendant

2015 SEP 22 AM 11:07  
MOTION

To Reconsider Sentencing

Comes now, the Defendant in the above Captioned, by and thru Pro-se, To move before this Honorable Court, In good faith and respectfully ask That the sentence handed down in this case be reconsidered. The grounds for reconsideration are as follows:

1) Miscommunication from the Solicitor in this case to The Honorable Judge Addy, whereas the description of the search that took place at 215 Briggs Ave, Greenwood, S.C. on Jan 13<sup>th</sup>, 2015, stated that seven (7) bottles were found, containing a white sludge that tested positive for Meth-Amphetamine, leading The Honorable Judge Addy to assume that those same seven (7) bottles were "Active", when in fact the opposite was true. All of the aforementioned bottles were in fact an accumulation of several months, that had already been used and improperly disposed of

2) Ineffective assistance of Council; In that the Public Defender Thomas Adducci Never discussed with me the contents of my motion of discovery in this case which would've allowed me a more clear view of how it would've been interpreted by your Honor.

ATTEST A TRUE COPY  
*Angela L. Goodhurst*  
ANGELA L. GOODHURST  
CCCP AND GS  
GREENWOOD COUNTY  
S.C.

David Scott Morney says that the court will reconsider  
the sentence of Twelve years.

Date: 8-27-2015

Signed: Scott Morney

DEVERLE ALBERT  
Notary Public, State of South Carolina  
My Commission Expires May 3, 2023

STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

STATE OF SOUTH CAROLINA,

vs.

DAVID SCOTT MOONEY,

Defendant.

THE COURT OF GENERAL SESSIONS  
Case No. 15-GS-24-724

ORDER DENYING MOTION FOR  
RECONSIDERATION OF SENTENCE  
IMPOSED

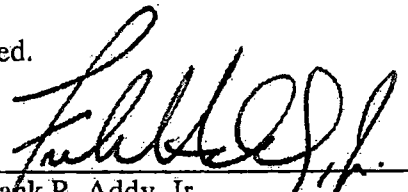
2016 JUL 5 11 53 AM  
CLERK OF COURT

**THIS MATTER** was recently brought to the court's attention by Ms. Nelson of the Public Defender's Office. On September 22, 2015, Mr. Mooney filed a pro se motion dated August 27, 2015 for reconsideration of his twelve (12) year sentence which was imposed on August 13, 2015. This motion was never forwarded to the court until Ms. Nelson did so via email on June 27, 2016.

Assuming that Mr. Mooney's motion was timely, the court declines to reconsider his sentence. The court has reviewed the notes from the plea in order to refresh the court's memory. Based upon Mr. Mooney's substantial prior criminal history, the court believes the sentence imposed was appropriate. Although the court is sympathetic with Mr. Mooney's professed desire to receive drug treatment, his criminal history and long history of addiction indicate sufficient opportunities to seek counseling. To the extent Mr. Mooney alleges ineffective assistance of counsel in his motion, those allegations will need to be addressed via post-conviction relief. Accordingly, the court declines to alter the sentence imposed on August 13, 2015.

**WHEREFORE**, Mr. Mooney's motion is denied.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
Frank R. Addy, Jr.  
Circuit Court Judge, Eighth Judicial Circuit

July 5, 2016  
Greenwood, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
 County of Greenwood )  
 )  
David Scott Mooney )  
 Full name and prison number (if any) of Applicant )  
 )  
 v. #186128 )  
 )  
 State of South Carolina )  
 )  
 )  
 )

IN THE COURT OF COMMON PLEAS

2016-CP-24 01732

APPLICATION FOR

POST-CONVICTION RELIEF

2016 NOV -1 PM 3:55  
 CLERK OF COURT  
 GREENWOOD COUNTY  
 S.C.

**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 Waterlee Correctional

---

2. Name and location of Court which imposed sentence General Sessions Court, In Greenwood S.C.

---

3. Name(s) of co-defendant(s) (if any) Karen Mooney

---

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: unknown! I have warrant numbers
  - (a) 2015A2420100042
  - (b) 2015A2420100043

ATTEST A TRUE COPY  
 ANJELLA WOODHURST  
 CLERK OF COURT  
 CCCP AND GS  
 GREENWOOD COUNTY  
 S.C.

- (c) \_\_\_\_\_
- 5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) August 13, 2015
  - (b) 12 years
  - (c) manufacturing meth Amphetamine 1<sup>st</sup>
- 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. 8<sup>th</sup> ~~Court~~ Circuit - General Sessions Greenwood
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (b) the result in each such Court to which you appealed:
    - i. Denied - "Motion to Reconsider"
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (c) the date of each such result:
    - i. July 5<sup>th</sup>, 2016
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
  - (d) if known, citations of any written opinion or orders entered pursuant to such results:
    - i. N/A
    - ii. \_\_\_\_\_
    - iii. \_\_\_\_\_
- 9. If you answered "no" to (7), state your reasons for not so appealing:
  - (a) \_\_\_\_\_
  - (b) \_\_\_\_\_

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

(a) Ineffective Assistance of Counsel →

(b) \_\_\_\_\_

(c) \_\_\_\_\_

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

(a) on Reverse (And on previous page)

(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? yes

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? \_\_\_\_\_

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? \_\_\_\_\_

(d) any other petitions, motions or applications in this or any other Court? \_\_\_\_\_

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. Motion to Reconsider

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

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

i. General Sessions Greenwood SC.

ii. \_\_\_\_\_

iii. \_\_\_\_\_

iv. \_\_\_\_\_

11. (A) Continued - Detectives in my case since 27 resigned with drug charges, Brandon Strickland and Robby Byrd. Mr. Adducci had relocated to another court in Laurens County prior to my court date and came back just to do my case. I do not feel he represented me to the fullest of ~~his~~ <sup>his</sup> abilities. I feel like I was rushed through just to be gotten out of the way. I was made to believe that the 8 months I had already been detained plus 8 months in rehab would be enough to satisfy the courts. Evidence that was found inside the house & I believe was planted there by my co-defendant Karen Mooney. I believe this because I had seen her throw that same evidence in the trash outside the Home that morning. My attorney never allowed any of this into the record. And he was aware of these facts.

10. (A) In that my attorney (Mr. Adducci) could not or would not tell me on what grounds that a search warrant for my father's house was obtained. All he said was that "they have her (Karen Mooney) statement." The whole 8 months that I was detained prior to my court date no one ever took a statement from me. The whole thing was one sided. The day that I went to court and was sentenced I was supposed to be going to a Bond Hearing. Mr. Adducci had my sister, whom I had not spoken to for months, there along with the Director of a live in Rehab facility called the ("Light House"). Together with Mr. Adducci, they had me believing in a plea of 10 years suspended to 3 years probation with 8 months ~~detention~~ Rehab at the Light House. MR. Adducci never asked about the sled drug <sup>ANALYSIS</sup> ANALYSIS, I informed him that some of the items confiscated during the search warrant were too old to belong to me, being that I had only been there 3 months. My wife ~~and~~ (Karen Mooney) and co-defender was responsible for most of the contraband that was found as she was visiting my father's residence while I was incarcerated. The Detectives that arrested me Brandon Strickland, Chad Cox, Robby Byrd, never allowed me to <sup>make</sup> a statement to this context. I made repeated attempts to make a statement. No one ever responded to me. Mr. Adducci knew these things: Since my conviction, two of <sup>the</sup> lead

(c) the disposition thereof:

- i. Denied
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(d) the date of each such disposition:

- i. July 5<sup>th</sup> 2016
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_
- iv. \_\_\_\_\_

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. \_\_\_\_\_
- 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?

yes

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. Ineffective Assistance of Counsel
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(b) the proceedings in which each ground was raised:

- i. The Motion For Reconsideration
- 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) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes
- (b) your trial, if any? \_\_\_\_\_
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? \_\_\_\_\_
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?  
\_\_\_\_\_

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. Thomas Adducci  
Address unknown
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. The Plea on August 13, 2015 in  
General Sessions Court - Greenwood
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

I ~~don't~~ believe my charges should've been based on the evidence, and the charge should've been (Improper disposal) at the most, →

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

NO

STATE OF SOUTH CAROLINA )  
County of Sumter )

VERIFICATION

I, David Scott Mooney, 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.

David Mooney

SWORN to and subscribed before me this 11th day of October 2016.  
Pamela D Hatfield (L.S.)  
Notary Public

My Commission Expires: 3/15/2021

1982 being that they recovered no drugs, only trash and sludge that tested positive for meth. Said trash was an accumulation from more than a year. I would accept a sentence of 5 years for this. It is my understanding that the most anyone has been sentenced for manufacturing 1st offense has been 4 years. I feel like a sentence of 12 years is really unjust in terms of the circumstances.

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

I, David Scott Mooney, 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.

David Mooney  
Applicant

SWORN or affirmed to and subscribed before me this

11<sup>th</sup> day of October, 2016.

Pamela D. Hatfield  
Notary Public

My Commission Expires: 3/15/2021

Returned  
10-20-16  
for  
CP Coverages...

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	FOR THE 8 <sup>th</sup> JUDICIAL CIRCUIT
COUNTY OF GREENWOOD	)	Case No.: 2016-CP-24-01732
David Scott Mooney, #186128,	)	
	)	
Applicant,	)	<b>AMENDED POST-CONVICTION</b>
	)	<b>RELIEF APPLICATION</b>
v.	)	
	)	
State of South Carolina.	)	

---

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on November 1, 2016, to add the following allegations:

1. Ineffective Assistance of Counsel as to Thomas J. Adducci, Esquire:

a. Counsel never moved to challenge the search warrant affidavit, and furthermore, Counsel never discussed or showed Applicant the search warrant affidavit.

b. Counsel failed to present to the judge as mitigation during sentencing that the amount of drugs the State asserts were at the house was not consistent with the amount that SLED verified as drugs, nor did Counsel present evidence about the amount of drugs in the house the Applicant actually knew about. Had Counsel done so, the outcome of the sentence would have been different.

c. But for Counsel's presentation to the Applicant regarding his strategy for a guilty plea, Applicant would not have pled guilty and would have insisted on going forward with a trial. The day the Applicant was in court for a bond hearing, Counsel presented the Applicant with his "plan" for a guilty plea, which involved having the director of the Lighthouse there, along with the Applicant's family, and getting the Applicant into a drug treatment program as his sentencing.

2. Newly Discovered Evidence- Greenwood drug enforcement agents Officers Byrd and Strickland have since been arrested and indicted for Misconduct in Office.

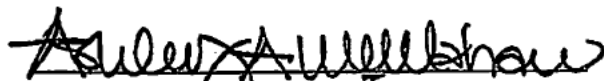
A defendant requesting a new trial based on after-discovered evidence after a guilty plea must show:

(1) The newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the 'interest of justice' requires the applicant's guilty plea to be vacated.

*Jamison v. State*, 410 S.C. 456, 765 S.E.2d 123 (2014). Officers Byrd and Strickland resigned as part of an ongoing SLED probe in late October 2015. (They were placed on leave earlier in October 2015.) They have both since been arrested and indicted. See attached news articles from The Greenwood Index-Journal, Exhibits A-F. Applicant pled guilty in August of 2015. The veracity of statements made by Byrd and Strickland have come into question since their arrest and the interest of justice would require that the Applicant's guilty plea be vacated accordingly.

Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application and this Amended Application. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



ASHLEY A. MCMAHAN, ESQUIRE  
MAC | VANCE ATTORNEYS, LLC  
PO Box 5501  
West Columbia, SC 29171  
803-219-1110  
ashley@macvance.com  
SC Bar No. 71676  
ATTORNEY FOR APPLICANT

September 13, 2017

**CERTIFICATE OF SERVICE**

I certify that I have served this document via US Mail to:

Justin J. Hunter  
Assistant Attorney General  
PO Box 11549  
Columbia, SC 29211-1549

This 13<sup>th</sup> Day of September, 2017.

  
ASHLEY A. McMAHAN, ESQUIRE  
Attorney for Applicant

[http://www.indexjournal.com/news/probe-deu-agent-falsified-report-as-city-cop/article\\_e27a0469-a0c3-57c1-b78e-c155fa58e09e.html](http://www.indexjournal.com/news/probe-deu-agent-falsified-report-as-city-cop/article_e27a0469-a0c3-57c1-b78e-c155fa58e09e.html)

## Probe: DEU agent falsified report as city cop

By DAMIAN DOMINGUEZ [ddominguez@indexjournal.com](mailto:ddominguez@indexjournal.com) Oct 23, 2015



Robbie Byrd

Buy Now

A lined sheet of paper, addressed to "Chief" and signed "Larry R. Byrd," contained just one handwritten sentence: "I resign as of today's date."

The letter, which was dated June 11, 2010, was submitted two days after Robbie Byrd failed a polygraph test administered as part of an internal investigation into allegations Byrd falsified a police report, according to his personnel file from a six-year stint with the Greenwood Police Department and the accompanying documents from an internal affairs investigation.

Byrd, now a staff sergeant, is one of two drug enforcement unit agents on administrative leave from the Greenwood County Sheriff's Office amid investigations by Sheriff Tony Davis and the State Law Enforcement Division into financial transactions and allegations of misconduct in the office. Lt. Brandon Strickland is also on leave.

The Index-Journal requested the city documents under the Freedom of Information Act on Oct. 16 and was given those documents on a CD on Tuesday -- two business days later. The Index-Journal also requested his personnel file from the sheriff's office on Oct. 16, but it has not yet been made available.

Davis would not have seen Byrd's city police personnel file before hiring him, according to John Long, officer in charge of professional standards for the sheriff's office. Byrd could not be reached for comment.

While an officer with Greenwood Police, he was reprimanded on two occasions for on-duty crashes, both attributed to carelessness. He also was reprimanded twice, which included a one-day suspension and six months probation, for filing a number of late and incomplete accident reports. The four written reprimands were included in Byrd's personnel file.

Also in the file was an evaluation dated March 30, 2006 that marked his performance as "satisfactory" and "outstanding" in each of 19 categories, with the evaluator writing Byrd "has made great strides in his work performance and will only continue to improve." Under weaknesses, the evaluation noted a poor attention to detail.

The annual evaluation is the only one in Byrd's file from his time with the department.

## **The complaint**

Garbed in a T-shirt and shorts and carrying his infant daughter, Byrd was off-duty and acting as the courtesy officer for his apartment complex when he walked up to a group of people to ask them to turn down their music just before 10 p.m. on May 22, 2010.

Everyone interviewed in the internal affairs investigation seemed to agree with those initial facts, but Byrd's official account of what happened next is different from the woman who lives there and who Byrd later handcuffed.

Byrd wrote in his report that the woman, whose name was redacted, refused to turn down her music or give her name. The woman said she turned down the music and alleged Byrd was rude, threatened to have her evicted, was unable to present his badge and lied in the report he filed on the incident.

Byrd called another officer, who brought Byrd his ticket book and held Byrd's daughter while he arrested the woman.

That officer said in an interview with internal affairs, "I know what I should have done and what I did are two different things... It was just a bad situation."

The supervisor on duty, who arrived on scene a short while later, told internal affairs his heart sank when he heard Byrd tell the woman he jails people for noise complaints.

The supervisor and second officer decided to issue tickets for disorderly conduct and unlawful playing of radio and released the woman.

The woman filed a complaint the next business day -- Monday, May 24, 2010 -- and received an eviction notice by the end of the week.

Byrd was given a polygraph test June 9, 2010 on the accuracy of several points of contention between his and the woman's versions of what happened. According to a report from Owen Investigative Agency, "Byrd exhibited physiological reactions and responses normally associated with deception" when he answered the three questions and the examiner concluded he "was not truthful regarding this issue."

The examiner said Byrd was unable to explain why he failed the test. Byrd resigned two days later.

The investigation concluded that Byrd made several false statements in the report and that "Byrd's act of falsifying an official police report constituted a violation of GDP General Order 1-02, Rules & regulations No. 44" and "borders on a violation of South Carolina Code of Laws, Section 16-17-722(A)."

On June 16, 2010, Chief Gerald Brooks wrote a letter to the woman telling her the results of the internal investigation.

"A thorough investigation was conducted and certain aspects of your allegations have been substantiated," Brooks wrote. "As a result, I have taken appropriate administrative action."

## **Lander, GCSO**

Byrd worked for Lander University Police from Feb. 14, 2011 to May 3, 2012, according to the college. The Index-Journal was unable to determine if Byrd was employed between resigning from Greenwood police and starting at Lander.

Long said the Greenwood County Sheriff's Office hired Byrd from Lander. The hire date was not available by press time.

Long said "the sheriff was told he was a good officer and had good police instincts" and has not viewed Byrd's police personnel file.

"He would have no reason to see it," he said. "It's not common for the city to share their personnel issues with us."

According to releases from the sheriff's office and a letter from Solicitor David Stumbo to Attorney General Alan Wilson, two drug enforcement unit agents are on administrative leave from the sheriff's office pending the outcome of separate investigations by Davis and SLED into financial transactions and allegations of misconduct in the office.

The sheriff's and solicitor's offices have not officially named Byrd and Strickland as the deputies on leave, but the Index-Journal has verified they are on leave.

Attempts to reach Byrd and Strickland, which included going to their homes, were unsuccessful by press time.

#### **Timeline of Byrd's GPD career**

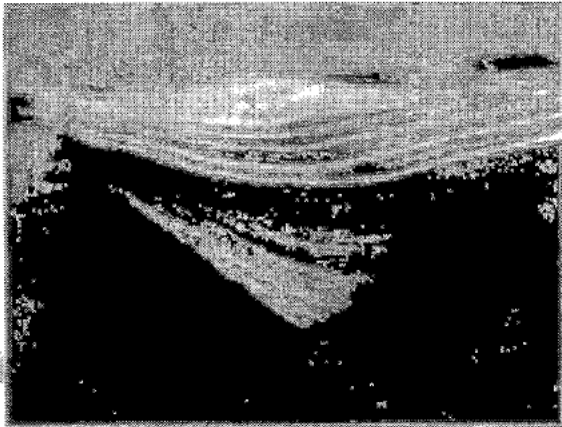
- On **Aug. 16, 2004**, Byrd was hired at the rank of probationary patrolman.
- At **10:15 p.m. Aug. 1, 2005**, Byrd drove his patrol vehicle into a ditch while making a right turn from the southbound lane of Spring Street onto Carolina Avenue, according to an accident report. Damage was estimated at \$100, and a tow truck had to pull the vehicle from the ditch. A written reprimand dated Aug. 16, 2005 cited carelessness as the cause of the incident.
- On **Feb. 22, 2006**, Byrd was promoted to patrolman first class.
- On **March 30, 2006**, a performance evaluation of Byrd -- the only one in his personnel file -- marked his performance as "satisfactory" and "outstanding" in each of 19 categories. Under weaknesses, the evaluation noted a poor attention to detail.
- On **Aug. 11, 2007**, Byrd was promoted to probationary master patrolman.
- On **Feb. 9, 2008**, Byrd was promoted to master patrolman.
- On **May 28, 2008**, Byrd rear-ended a vehicle in his patrol car due to carelessness, according to a reprimand dated June 9, 2008. No damage estimate was included.
- On **Aug. 8, 2009**, Byrd was promoted to senior master patrolman.
- On **March 11, 2010**, Byrd was placed on probation for six months for filing late and incomplete accident reports, according to a reprimand.
- On **April 26, 2010**, Byrd was suspended for a day, transferred off the traffic unit and had his probation extended to Oct. 26, 2010 for continuing to file late and incomplete accident reports.
- On **May 24, 2010**, a woman filed a complaint against Byrd alleging he acted improperly while arresting her two days earlier and falsified information on a police report.
- On **June 11, 2010**, Byrd resigned.

*Assistant editor Matthew Hensley contributed to this report*

[http://www.indexjournal.com/news/sheriff-releases-strickland-s-personnel-file-deu-bank-documents/article\\_ba5d9638-8b17-51fc-bf38-b9661de0ad86.html](http://www.indexjournal.com/news/sheriff-releases-strickland-s-personnel-file-deu-bank-documents/article_ba5d9638-8b17-51fc-bf38-b9661de0ad86.html)

## Sheriff releases Strickland's personnel file, DEU bank documents

By DAMIAN DOMINGUEZ [ddominguez@indexjournal.com](mailto:ddominguez@indexjournal.com) Oct 26, 2015



MATTHEW HENSLEY - INDEX-JOURNAL Lt. Brandon Strickland's 293-page file, which spans from when the Greenwood County Sheriff's Office hired him in May 1999 to when he was put on administrative leave from the drug enforcement unit earlier this month.

Buy Now

Personnel files released Monday confirm Lt. Brandon Strickland is on paid administrative leave from the Greenwood County Sheriff's Office drug enforcement unit, but provides no additional details on what allegations Strickland faces.

"Pending investigation into allegations of misconduct in office, you are hereby placed on suspension with pay pending the outcome of the investigation," said the suspension letter, which is dated Oct. 12. "While on administrative suspension you are relinquished of all law enforcement duties and are to surrender your agency identification and all agency firearms, this is to include all agency property."

The document was part of more than 600 pages of personnel and bank documents the Index-Journal received from a request made Oct. 14 under the Freedom of Information Act.

Strickland is one of two drug enforcement unit agents on administrative leave from the Greenwood County Sheriff's Office amid investigations by Sheriff Tony Davis and the State Law Enforcement Division into financial transactions and allegations of misconduct in the office. Staff Sgt. Robbie Byrd is the other officer on leave.

Stephen Baggett Jr., the attorney representing Greenwood County and the Sheriff's office, provided Strickland's personnel file and bank records associated with the drug enforcement unit from March 2013 to Sept. 23, 2015. The Index-Journal also requested Strickland's phone records. Baggett said the other information will be provided as it is made available.

The county is also working to fill an Oct. 16 request from the Index-Journal that includes Byrd's personnel file and a number of other documents. The Index-Journal did get a copy of Byrd's personnel file from the Greenwood Police Department that showed he resigned during an investigation into allegations he falsified a report.

The Index-Journal reviewed Strickland's personnel file Monday, but has not yet reviewed the 328 pages of bank records, which were sent after 6 p.m.

In his county career that spans 16 years, Strickland received six letters thanking him for his work in the community and in aiding other law enforcement agencies, was reprimanded twice -- once for missing an appearance in magistrate's court and once for storage of unauthorized personal data on his county cellphone -- and he was involved in two minor on-duty accidents, both involving deer, that ended without disciplinary action.

The 293-page file, which includes a number of duplicate documents, also chronicles the classes he's taken at Lander University, Newberry College and Piedmont Technical College after graduating from Greenwood High School. He's earned a number of law enforcement certifications.

He also signed a form on June 14, 2013 when he was issued a debit card associated with the forfeited funds account where he promised to:

- Keep a journal on all withdrawals and keep receipts for auditing purposes
- Only use funds withdrawn for job-related purposes
- When possible, note case numbers on withdrawal receipts
- Document payments to informants
- Submit a monthly report with a detailed transaction list

Assistant editor Matthew Hensley contributed to this report.

[http://www.indejournal.com/news/two-deputies-resign-from-greenwood-county-sheriff-s-office-after/article\\_9c21e0ac-4ed7-5a06-8df5-ea6c74f57249.html](http://www.indejournal.com/news/two-deputies-resign-from-greenwood-county-sheriff-s-office-after/article_9c21e0ac-4ed7-5a06-8df5-ea6c74f57249.html)

## Two deputies resign from Greenwood County Sheriff's Office after investigation

From staff reports Oct 30, 2015



Robbie Byrd

Buy Now

Brandon Strickland and Robbie Byrd, the two deputies who were placed on leave pending an investigation into misconduct in office, resigned effective Thursday, according to a release from the Greenwood County Sheriff's Office.

"Greenwood County Sheriff Tony Davis has completed an internal investigation into certain matters involving the Drug Enforcement Unit, and has concluded that two deputies, Brandon Strickland and Robbie Byrd, violated the policies, practices and directives of the Greenwood County Sheriff's Office," the release said. "Accordingly, late afternoon October 29, 2015, Sheriff Davis accepted the resignations of Mr. Strickland and Mr. Byrd."

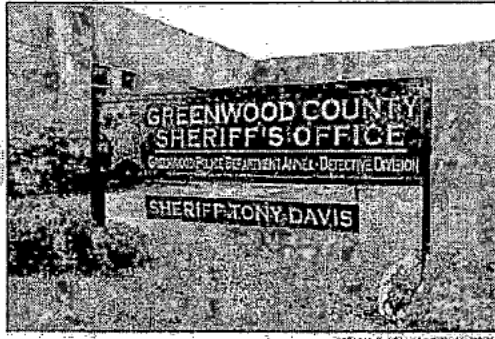
2 SECTIONS, 20 PAGES

SATURDAY, NOVEMBER 7, 2015

DAILY 75¢; SUNDAY \$1.50

# Resignation included in documents

## Byrd's letter, background checks released in ongoing SLED investigation



A general view of the Greenwood County Sheriff's Office.

By DAMIAN DOMINGUEZ  
ddomingue@indexjournal.com

Robbie Byrd's resignation letter came the day after he left the Greenwood County Sheriff's office.

Byrd resigned alongside Brandon Strickland, both former agents of the Greenwood County Drug Enforcement Unit. Their resignations came in the midst of an internal investigation into the DEU that concluded both officers violated the policies of their office. The State Law Enforcement Division is separately investigating the officers.

While Strickland filed a resignation letter on Oct. 29, Byrd resigned



ROBBIE BYRD



TONY DAVIS



BRANDON STRICKLAND

verbally. His letter was received at 2:50 p.m. the next day.

"Dear Sheriff," the letter reads, "As we discussed, I appreciate the opportunity I had to serve as a member of the Greenwood County Sheriff's Department, but would like to tender my resignation. Thank you for your

time and attention to this matter." His resignation letter, along with other personal files and documents, was among the 1,220 pages of documents provided to the Index-Journal in a response to an Oct. 16 Freedom of Information Act request. Strickland's personnel file was provided Oct. 26 in response to an earlier request.

### Background checks

Byrd began his career with the sheriff's office on May 7, 2012, according to the South Carolina Criminal Justice Academy. Before he

See RESIGNATION, page 4A

## RESIGNATION

*Continued from 1A*

was hired, a pre-employment investigation by a lieutenant with the sheriff's office checked his driving record, criminal history and credit history, according to a document in his personnel file.

The pre-employment check included speaking with several of Byrd's references listed on his application, which included two employees at one of his previous employers: the Greenwood Police Department. Both GPD contacts said Byrd had a good attitude toward police work and had no personal issues which would harm his performance, according to documents.

In Byrd's police department personnel file, documents show an internal investigation substantiated allegations he falsified a police report. The police acad-

emy ruled there was no misconduct, according to academy documents.

"The sheriff was told he was a good officer and had good police sense," said John Long, officer in charge of professional standards with the sheriff's office. "It's not common for the city to share their personnel issues with us."

Before Byrd began working with Lander University Police Department in Feb. 2011, Lander conducted a pre-hire screening. Maj. Urban Mitchell and Maj. James Marshall with GPD were contacted, according to Byrd's Lander University personnel file. Mitchell and Marshall were the officers in charge of the internal investigation into Byrd, according to investigative files.

### SLED investigation

Davis called for SLED to

investigate "questionable actions," according to an Oct. 13 news release. An officer was placed on paid administrative leave at that point, the release said.

A second release, sent Oct. 15, explained that internal controls detected financial transactions which led to an internal investigation. Two sheriff's office employees were on leave at that time, the statement said, and the internal investigation was separate from SLED's.

The SLED investigation remains active and ongoing, according to an Oct. 30 news release that announced Strickland's and Byrd's resignation.

"Meanwhile, the Greenwood County Sheriff's Office will continue to fulfill its duty to preserve, protect and defend Greenwood County," the release said.

2 SECTIONS, 20 PAGES

SATURDAY, NOVEMBER 21, 2015

DAILY 75¢, SUNDAY \$1.50

# Are prosecutions in jeopardy?

## Public defender: SLED probe could affect pending DEU cases

By DAMIAN DOMINGUEZ  
ddomingue@theindexjournal.com

A State Law Enforcement Division investigation into two deputies who resigned last month could affect cases handled by the former officers, according to Jauna Nelson, Eighth Circuit public defender.

"The outcome of those cases will be heavily influenced by what that investigation reveals," Nelson said.

On Oct. 13, Sheriff Tony Davis

called for SLED to investigate "questionable actions" by an officer after being alerted to financial transactions in the Drug Enforcement Unit's accounts, according to news releases from the Sheriff's office. Two agents, Brandon Strickland and Robbie Byrd, resigned late



BRANDON STRICKLAND



ROBBIE BYRD

October after the sheriff's internal investigation found they violated policy.

While SLED continues its investigation, Nelson said she expects the cases it handled will be put on hold.

"My expectation is that the solicitor's office isn't going to proceed with

prosecuting those until we know more," she said.

Eighth Circuit Solicitor David Stumbo declined to comment. The solicitor's office handed the former DEU agents' case over to the attorney general's office citing a conflict of interest, according to a letter Stumbo wrote to Attorney General Alan Wilson.

The attorney general's office will be in charge of any potential prosecution resulting from the SLED inves-

igation, said J. Mark Powell, communication director for the attorney general's office. If the investigation finds the agents did anything that would bring their credibility into question, the cases they handled could be affected, Powell said.

Whatever actions the attorney general's office takes could decide the outcome of pending cases where Strickland or Byrd made the law. See SLED, page 4A

## SLED

*Continued from 1A*

arrest, Nelson said. Those cases could go untouched, be thrown out, or anything in between, she said.

In June 2010, Byrd resigned from Greenwood Police Department during an internal investigation that substantiated allegations he falsified a police report, according to documents obtained from the police department. The state Criminal Justice Acad-

emy ruled it did not constitute misconduct by an officer and Byrd maintained his certification.

Nelson said she hadn't heard about the allegation against Byrd until after it was reported in the Index-Journal. Her office will likely use the information if it will be admitted at court, she said.

The Index-Journal filed a request under the Freedom of Information Act on Oct. 16, a full list of pending court cases handled by Brandon

Strickland or Robbie Byrd was requested. An 84-page document titled "Open Warrants" listing about 1,000 pending cases was provided, along with the name of an associated officer for each case. More than 100 of the cases listed Strickland or Byrd as the officer on the warrant.

It is common for officers to sign warrants for other officers, said John Long, officer in charge of professional standards with the Greenwood County Sheriff's Office.

[http://www.indexjournal.com/news/crime/former-deputies-indicted/article\\_63959134-d9c5-6f73-81f6-0a2135efb1fe.html](http://www.indexjournal.com/news/crime/former-deputies-indicted/article_63959134-d9c5-6f73-81f6-0a2135efb1fe.html)

## 2 former deputies indicted

From staff reports Jul 29, 2016



ROBBIE BYRD

Two former Greenwood County Drug Enforcement Unit agents are now facing charges of misconduct in office and embezzlement.

Brandon Strickland and Robbie Byrd, who resigned amid a State Law Enforcement Division investigation, and after an internal probe discovered a violation of policy, were charged Friday with misconduct in office and embezzlement of less than \$10,000, according to the Greenwood County Public Index.

The deputies were placed on leave mid-October at the start of the investigation, and resigned Oct. 29, according to a news release sent Oct. 30 by John Long, officer in charge of professional standards with the sheriff's office.

The first deputy was placed on paid administrative leave after Sheriff Tony Davis requested SLED investigate "questionable actions" by an officer, according to an Oct. 13 news release. Two days later, another release said two deputies were on leave after Davis discovered "financial transactions" that led to an internal investigation into possible policy violations.

"Sheriff Davis requested an investigation by the State Law Enforcement Division," Long said Friday. "We have fully cooperated with the SLED investigation. We expect this matter to be resolved in accordance with the law."

In mid-October, the Index-Journal requested a number of documents, including ledgers detailing how evidence was logged by the two former-DEU agents. Access to those documents was denied at that time by Greenwood County -- as the investigation was ongoing. Thom Berry, SLED spokesman, said Friday that the agency's investigations are not closed until any and all court proceedings related to the investigation have finished.

The specific policies Strickland and Byrd were found to have violated were also withheld by the county, and a letter from county attorney Stephen Baggett Jr. said they will be provided once the investigation is complete.

A call to the Attorney General's Office's spokeswoman Hayley Thrift was not answered Friday, nor was an email requesting any warrants or indictments for the two deputies. Berry said he was unable to contact local SLED officials for information Friday night.

When reached by phone Friday, Strickland had no comment. In a previous attempt to contact Byrd at a residence believed to be his, a man told a reporter to leave and not come back. The Index-Journal does not have a working phone number for Byrd.

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENWOOD )  
 )  
 David Scott Mooney, )  
 S.C.D.C. No. 186128, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 OF THE EIGHTH JUDICIAL CIRCUIT

2016-CP-24-1732

**RETURN**

Respondent, making its Return to the application for post-conviction relief (PCR) filed November 1, 2016, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenwood County Clerk of Court. Applicant was indicted at the May 2015 term of the Greenwood County Grand Jury for trafficking in methamphetamine (2015-GS-24-0724). Applicant was represented by Thomas Adducci, Esquire. On August 13, 2015, Applicant appeared before the Honorable Frank R. Addy, Jr., and pled guilty to the lesser included offense of manufacturing methamphetamine. Applicant was sentenced to imprisonment for twelve years. Applicant subsequently filed a Motion to Reconsider on September 22, 2015. This motion was denied by an order filed July 5, 2016. Applicant did not file a direct appeal.

II.

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

1. Ineffective Assistance of Counsel
  - a. See application for further explanation of allegations

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at evidentiary hearing. All amendments should be made well in advance of hearing and should be filed as required by Rule 11, SCRCP(a).

Attached herewith and incorporated herein are the Greenwood County Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the plea transcript. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

### III.

Respondent submits plea counsel rendered effective assistance of counsel. In a Post-Conviction Relief action, the applicant bears the burden of proving the allegations in their 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, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under

professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. 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 pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

*[Signature block on following page]*

## IV.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

## V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON  
Attorney General

ROBERT BOLCHOZ  
Chief Deputy Attorney General

DON ZELENKA  
Deputy Attorney General

JUSTIN J. HUNTER  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, S.C. 29211  
(803) 734-3737

February 16, 2017

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENWOOD )  
 )  
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 )  
 DAVID MOONEY, #186128, )  
 )  
 )  
 Applicant, )  
 )  
 vs )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
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 Respondent. )  
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IN THE COURT OF COMMON PLEAS

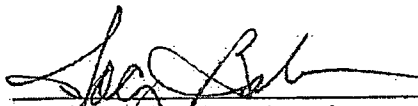
2016-CP-24-3216

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:

Ashley A. McMahan, Esquire  
 Mac | Vance Attorneys, LLC  
 PO Box 5501  
 West Columbia, SC 29171-5501

DATED this 16<sup>th</sup> day of February, 2017.

  
 \_\_\_\_\_  
 Jocelyn Baker, Legal Assistant  
 For Respondent

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State of South Carolina )  
County of Greenwood ) Court of Common Pleas

2016-CP-24-01732

David Mooney )  
vs. ) Transcript of Record  
State of South Carolina )  
Defendant ) Post Conviction Relief

October 11, 2017  
Laurens, South Carolina

B E F O R E:

Honorable R. Scott Sprouse, Judge

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

Justin Hunter, Assistant Attorney General  
Attorney for the State

Ashley A. McMahan, Esq.  
Attorney for the Defendant

Joy E. Holston  
Official Court Reporter

I N D E X   O F   W I T N E S S E S

(IC) - Denotes In Camera  
(AW) - Denotes Defense Witness  
(SW) - Denotes State's Witness

(AW) David Mooney

Direct examination by Ms. McMahan: 4

Cross-examination by Mr. Hunter 13

(SW) Thomas Adducci

Direct examination by Mr. Hunter: 14

Cross-examination by Ms. McMahan: 22

Certificate of Reporter 25

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EXHIBITS

Court's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
1	Indictment-Brandon Strickland	X		24
2	Indictment-Larry Byrd	X		24

1 MR. HUNTER: If it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 MR. HUNTER: The last case today is David Mooney  
4 versus the State of South Carolina, 2016-CP-24-1732. Your  
5 Honor, he was indicted in May of 2015 in Greenwood County  
6 for trafficking in methamphetamine, 2015-GS-24-724. He  
7 was represented by Mr. Thomas Adducci. On August 15th,  
8 2015 he plead guilty to a lesser included offense of  
9 manufacturing methamphetamine before Judge Addy. He was  
10 sentenced to 12 years imprisonment. He filed a motion to  
11 reconsider which was denied by order on July 5th, 2016.  
12 He did not file a direct appeal. He filed this current  
13 action on November 1st, 2016. And he is present today  
14 represented by Ms. Ashley McMahan.

15 THE COURT: Ms. McMahan.

16 MS. MCMAHAN: Your Honor, at this time we call Mr.  
17 Mooney to the stand.

18 DAVID MOONEY, being  
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 By Ms. McMahan:

22 Q Mr. Mooney, did you file this PCR application?

23 A Yes, ma'am.

24 Q And you have got quite a few little handwritten  
25 things going on in here. So let's just start with those.

1 Can you give me a summary of what these issues are that  
2 are handwritten?

3 A If I can look at them. Basically, I mean I started  
4 off with the way the Solicitor, I guess the way he worded  
5 everything to Judge Addy. And Judge Addy made an  
6 assumption that everything they found at my house was an  
7 ongoing active cook, what they called them. When it  
8 actually, everything that they found was mostly months  
9 old. That was my biggest issue. And then I found out  
10 later on that some of the detectives that had apprehended  
11 me had come across, I guess they had charges of their own  
12 for drugs and some other stuff. I don't know.

13 Q Is that what you wrote down in the application?

14 A Yes.

15 Q Okay. So you felt like Judge Addy, because they were  
16 ongoing cases, like cooks rather, that they took that  
17 against you when the Solicitor was saying all of that?

18 A Yeah, he made the assumption, I mean he said that it  
19 appeared that there was more going on than just my actual  
20 personal usage.

21 Q So you thought the Solicitor made it look like that  
22 you were really sort of, like had this mass of operation  
23 and going out and selling it to everybody?

24 A Like I was selling it or something like that, yes.

25 And I have never been accused or convicted of distribution

1 or, I never even give it away. I did what I did for my  
2 own personal use.

3 Q Okay. So your main issues in your handwritten stuff  
4 was, about Officers Byrd and Strickland, which we talk  
5 about in the amended application also, and that your  
6 issues with the Solicitor's statements at your guilty  
7 plea?

8 A Yes.

9 Q And so tell me about the guilty plea because I know  
10 you sort of showed up that day, I think you thought you  
11 were going to do something else.

12 A Initially I was there for a bond hearing, that is  
13 what I went over there for that morning. I had been in  
14 the county for eight or nine months with no bond at all.  
15 And I went over there to get a bond. When I got there Mr.  
16 Adducci had, I forgot that guy's name, Mitchell or  
17 something.

18 Q The Lighthouse guy?

19 A The guy from the Lighthouse.

20 Q Okay.

21 A My sister was there and he had this whole different  
22 thing going on with, I don't remember how he had it worded  
23 legally, throwing to the Judge ten years suspended to  
24 something with eight months in the Lighthouse Program.  
25 And me having already been locked up for eight months. I

1 think the defense made a, go on and do that. And Judge  
2 Addy did not go with that.

3 Q So when you got there you thought you were doing a  
4 bond hearing but then Mr. Adducci sits down and says, hey,  
5 I have kind of come up with this plan.

6 A Basically.

7 Q And his plan was that you would go to the Lighthouse  
8 which I assume is some sort of drug rehab.

9 A Drug rehab, yes.

10 Q And then you would what, be on probation for a while?

11 A Yeah. He had a sentence suspended to the Lighthouse  
12 and then probation, yes.

13 Q How many times had you met with Mr. Adducci?

14 A I think it was twice.

15 Q And you were in the detention center the whole time,  
16 right?

17 A Uh-huh, (affirmative).

18 Q And when were you arrested for these charges?

19 A In January.

20 Q So when was the first time he came to talk to you?

21 A I don't remember, a few months.

22 Q Did you get your discovery and everything on this  
23 case, did he give you like what the State had?

24 A No. I never got any of that.

25 Q So what did you two talk about on those two times

1 that he came to see you?

2 A Basically the fact that my codefendant, my wife had  
3 signed statements on me. That the Solicitors office  
4 wasn't offering any negotiated plea. I remember asking,  
5 you know, what grounds they had to a search warrant for on  
6 my property to begin with because no one ever told me, I  
7 never even seen it. I remember asking about the, getting  
8 a copy of the SLED drug analysis because they charged me  
9 with all of this, all of these drugs and they didn't get  
10 any drugs from my house at all, off of me or my property.

11 Q So did you see a SLED drug analysis?

12 A No.

13 Q Did you ever get one later on?

14 A No, never.

15 Q And you said you went over the fact that Karen had  
16 signed a statement on you and what else?

17 A That was it.

18 Q Did he show you the search warrant and what the  
19 issues were, anything like that?

20 A No, ma'am. And they never took a statement from me  
21 at all, the whole time I was in there. No one ever  
22 questioned me and took a statement from me.

23 Q Who, the police?

24 A Yes, none.

25 Q Did you want them to?

1 A I mean, I had decided to tell.

2 Q Did you tell that side to Mr. Adducci?

3 A I mean, I explained to him what was really going on  
4 between, as far as, most of that that was at my house  
5 belonged to my wife to begin with. And the only reason I  
6 was even entertaining to pleading guilty to anything  
7 because they had my father charged with it.

8 Q Most of the drugs were Karen's, right?

9 A Uh-huh, (affirmative).

10 Q But you were, the reason why you decided that day  
11 that you were going to plead guilty is because you wanted  
12 the charges dropped from your dad?

13 A Pretty much. He didn't have anything to do with  
14 anything. He didn't even know what meth looked like.

15 Q So he had never done, he wasn't a drug user. How  
16 long had you been involved in using meth?

17 A Years, off and on.

18 Q Had it always been meth or had it been like other  
19 stuff?

20 A Amphetamines.

21 Q That was part of the Lighthouse was try to get you  
22 clean?

23 A Yes.

24 Q Had you ever tried to go to rehab or anything before?

25 A I mean, I did, I remember personally trying to put

1 myself in. When you are out there doing the drugs it is  
2 not something you entertain.

3 Q So you just felt like that wasn't really the  
4 situation you want to put yourself in?

5 A I wouldn't have, not from the street. But after  
6 being incarcerated, you know, getting somewhat clean, it  
7 is nice to try and stay that way.

8 Q Okay. We have the amended application. So we eluded  
9 to the search warrant earlier. So he never sat down with  
10 you and said, hey, we could challenge this search warrant,  
11 maybe try to get the evidence that they seized dismissed  
12 or anything like that?

13 A No, ma'am.

14 Q And during your sentencing at your guilty plea did he  
15 ever say we don't even have a SLED analysis yet or  
16 anything like that?

17 A No.

18 Q Did you ever have a disagreement with the amount of  
19 drugs that were there, that they said was there?

20 A Disagreement with who?

21 Q SLED and the Solicitor?

22 A No, I mean disagreed with what they said was there.

23 Q Okay. So what, they just sort of took everything  
24 that they found and added it up?

25 A Yeah. Everything together, they weighed everything

1 all together, field tested positive for methamphetamine.  
2 Now, the reason I asked Adducci this is because I have had  
3 several friends who has been, you know, arrested for  
4 manufacturing. And I know two of them have had their  
5 charges dropped completely and their cases, their  
6 attorneys had copies of the SLED drug analysis which field  
7 tested positive for methamphetamine. So it came back from  
8 SLED negative for controlled substance. There was no  
9 viable drugs in there at all.

10 Q Okay. But you had never gotten an analysis?

11 A No.

12 Q So you didn't even know if that was an option?

13 A Right.

14 Q So, would you have plead, had Mr. Adducci not  
15 presented you with this plan with the Lighthouse that day  
16 would you have plead guilty that day?

17 A No, I went in for a bond.

18 Q Now, let's talk about Byrd and Strickland, when did  
19 you find out about them?

20 A When?

21 Q Yeah.

22 A It was like four, three or four months after I was  
23 incarcerated, I was still at Kirkland actually and some  
24 guys came through from Greenwood and telling me about  
25 that, them getting arrested.

1 Q Were you ever able to find any other information out  
2 about them or was it just what you were told?

3 A Just what I was told.

4 Q Did you know that they had been arrested and  
5 indicted?

6 A Not until, maybe several months later I was talking  
7 to my sister and she said she had heard about this.

8 Q Do you know who signed your search warrant?

9 A No, I have no idea. Like I said, I had never even  
10 seen it.

11 Q Were Byrd and Strickland involved in your case?

12 A Uh-huh, (affirmative), they were both at my house.

13 Q So they were the ones in your house seizing the  
14 evidence and stuff?

15 A Uh-huh, (affirmative).

16 Q Both of them?

17 A Both of them.

18 Q Okay. And when did you, so you found out a couple of  
19 months after you plead guilty.

20 A Uh-huh.

21 COURT REPORTER: I need a yes or a no.

22 A Oh, yes ma'am.

23 Q That is Ms. Holston, she is the Court Reporter, she  
24 has got to take down everything. And so these attachments  
25 to your application, are these some of the newspaper

1 clippings about both of them?

2 A Yes, ma'am.

3 Q Okay. Anything else you want to tell the Court about  
4 this case?

5 A Basically, I feel that the twelve years is a real  
6 steep for a first offense manufacturing charge that  
7 involved no drugs whatsoever. And it is my first serious  
8 drug charge. In my transcript Mr. Adducci said that the  
9 driving force behind the sentence of twelve years was the  
10 sheer amount of drugs involved. And there were no drugs.

11 Q Do you feel that because Byrd and Strickland were  
12 charged and later indicted that their ability to tell the  
13 truth is--

14 A --questioned, yes ma'am. I don't even know what they  
15 said they reported they took from my house was actually  
16 what they took because I never seen the motion for  
17 discovery. I never seen what their evidence was, I don't  
18 know that they had pictures. I never seen pictures of  
19 anything.

20 Q Okay. Listen to anything Mr. Hunter wants to ask  
21 you.

22 CROSS-EXAMINATION

23 By Mr. Hunter:

24 Q So you said you plead guilty because you had a plan  
25 to go to the Lighthouse, is that correct?

1 A Yes, sir.

2 Q And when did you find out that wasn't going to be the  
3 case?

4 A When did I find out that wasn't going to be the case?

5 Q Right.

6 A Shortly after we presented to the Judge.

7 Q So the Judge just said he wasn't going to do it?

8 A No, period.

9 Q Okay. That is the only question I have for you.  
10 Thank you, sir.

11 THE COURT: Any redirect in response to that  
12 question?

13 MS. MCMAHAN: Nothing, Your Honor.

14 THE COURT: You may step down.

15 MS. MCMAHAN: Your Honor, the Applicant rests.

16 MR. HUNTER: The State would call Mr. Thomas Adducci.

17 THE COURT: Mr. Adducci, come on back to the witness  
18 chair.

19 THOMAS ADDUCCI, being  
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 By Mr. Hunter:

23 Q State your name for the record, please.

24 A Thomas Adducci.

25 Q And can you please explain how you became involved in

1 this case?

2 A Our office was appointed to represent Mr. Mooney on,  
3 it looks like we entered our appearance on January 28th of  
4 2015 and filed a Rule 5.

5 Q So it was shortly after he was arrested?

6 A Yes.

7 Q Were you the only Public Defender to handle this  
8 case?

9 A I handled it. We are a team. Elizabeth Able who is  
10 a new attorney had helped me on a couple of things, as far  
11 as communications goes. But I was his attorney, it was  
12 never handed off to anybody else.

13 Q Please explain when you first met with him?

14 A Looks like from my notes, I met with him on February  
15 9th, yes.

16 Q At the detention center?

17 A It was either in court, either they transported him  
18 to court or at the detention center. I don't know which  
19 one.

20 Q What did y'all talk about at your initial meeting?

21 A Well, we initially went over the allegations against  
22 him, if you want me to read my notes from it. DEU has a  
23 search warrant. Chad Cox, Brandon Strickland, et cetera.  
24 Defendant's father's house. It is a freestanding house at  
25 ■ Briggs Avenue in Greenwood. Defendant is in the back

1 bedroom. Defendant's wife, Michelle Mooney is there as is  
2 Defendant's father, David F. Mooney. Police find one pot  
3 labs. Police claims 600 plus grams found in bottles in  
4 shed behind the house. Defendant claims that Chad Cox  
5 told him that they only found one bottle inside, inside  
6 the house. Defendant doesn't want to go back down the  
7 road. Defendant said to me and I quote, "I just don't  
8 want to go down the road. I will stay in the county for a  
9 year." I asked him about his criminal record. He told me  
10 that he had a prior 2014 possession of meth where he got a  
11 year straight. And I asked him what his longest sentence  
12 ever was. He indicated that it was six years in 2008. I  
13 believe that there were other, a number of other  
14 convictions but I asked him specifically about drug  
15 convictions to determine subsequent offenders use.

16 Q In all how many times did you meet with him?

17 A I have at least two meetings. I am looking through  
18 my notes here. It looks like I saw him again in July.  
19 Those are two that I have noted. There may have been  
20 others but I can't speak definitively because I don't have  
21 them noted.

22 Q And I believe, you went over the facts. Did you  
23 share the discovery with him?

24 A I believe, on February 9th I probably did not have  
25 discovery at that time.

1 Q Okay.

2 A But I would have, at a later meeting I would have  
3 gone over it with him.

4 Q And did you ever go over the search warrant with him?

5 A I don't know if I ever showed him the search warrant  
6 and went over it. But if I remember correctly, the search  
7 warrant was for a, it was a trash, I believe a used up one  
8 pot lab and the standard stuff like coffee filters, salt,  
9 Coleman fuel and that sort of thing. That is what led to  
10 the search warrant. And my understanding, that was the  
11 DEU that did that.

12 Q Okay. Did you ever have any concerns about the  
13 legality of the search warrant?

14 A No. I did not think that there were any issues with  
15 the search warrant when I reviewed it. I am sure I told  
16 him, you know, that search warrants are very difficult  
17 things to get kicked, (phonetic).

18 Q During all of this time are you engaging in any  
19 communications?

20 A Yes. The Solicitor on the case was Brian Maroney. I  
21 have a long email from him if you want me to read that  
22 into, email from him if you want me to read that into the  
23 record from June 28th.

24 It says, Mr. Mooney is charged with trafficking  
25 methamphetamine, 400 grams or more, (25 to 30 years). And

1 possession of altered ephedrine and also has a pending  
2 attempt/conspiracy charge. That was likely a, where he  
3 got blocked from purchasing pseudoephedrine because he  
4 apparently, at least according to the State, had bought  
5 too much in the timeframe. This is the case where the DEU  
6 executed a search warrant and found several bottles  
7 containing over 3.5 pounds of meth sludge, coffee filters  
8 with white residue, blister packs of ephedrine, cold  
9 medicine, cold packs, drain opener hoses, lighter fluid  
10 and used lithium batteries/strips. His elderly father on  
11 the residence was present at the time of the search was  
12 also charged with trafficking. Also Mooney's ex-wife was  
13 present, was present and was charged. She stated at her  
14 bond hearing that she knew what was going on but had no  
15 part in the cooking. According to family members who have  
16 contacted me out of concern for their elderly father, your  
17 client is allegedly the main culprit and was cooking at  
18 the house without the father's knowledge. They also  
19 stated that your client was wanting to take responsibility  
20 to avoid the father being prosecuted, (not sure if that's  
21 true or not, just relaying what I have been told.) With  
22 that being said, I am willing to reduce Mr. Mooney's  
23 trafficking charge to a manufacturing methamphetamine  
24 first offense. In consideration of a straight-up plea I  
25 will dismiss the altered ephedrine and attempt/conspiracy

1 charges. Mooney has been in jail since January so I am  
2 hoping we can take care of him this term of court and be  
3 able to dismiss the charges against the old guy. Let me  
4 know if you have any questions. Thanks.

5 I then relayed that offer to Mr. Mooney. He  
6 countered that he wanted something suspended and three  
7 years and probation. So he wanted an active sentence of  
8 three years, probation to follow. I also noted that Mr.  
9 Maroney, the Solicitor, was unwilling to go along with  
10 that. But I noted he wasn't going to stomp his feet if  
11 the Judge wanted to do it. Defendant said he would think  
12 about it, also would like to go up for a bond hearing  
13 sometime in the next term. And that was from July.

14 Q So ultimately he decided to accept that plea offer,  
15 is that correct?

16 A Yes, he was transported to court on August 13th. I  
17 had been in contact with a Nicole Clark who is his sister.  
18 She had been in contact with Foundation House, indicated  
19 they had a bed available to him. And she was there, I  
20 believe the gentleman from the Foundation House was there  
21 on that day. We went over the options and he plead.

22 Q So, let's go over again. Revisit this Foundation  
23 House. He alleges there was some sort of plan in place, I  
24 guess to get him into this house. Can you discuss what  
25 you told him about that and what your plan was?

1 A So I don't have the details sitting in front of me in  
2 my notes. But Foundation House is a recovery program. I  
3 believe it was in-patient for him. He had a bed available  
4 to him. I probably told him if we have a game plan for  
5 the Judge, that is our best likelihood of getting a  
6 probationary sentence. If we can, if we just ask for  
7 probation, if we just ask for treatment that isn't as  
8 persuasive as if we can say, here is his treatment, here  
9 is the bed date. That is probably the discussion that I  
10 had with him.

11 Q And that is what you presented to the Judge?

12 A Yes. That is what I recall.

13 Q Now, did you explain to him the difference between  
14 trafficking and manufacturing?

15 A Yes. I would have explained to him the charges and  
16 how the possible sentences for what he was charged with  
17 with trafficking were very high.

18 Q And with that trafficking charge, did you explain,  
19 the weights that were alleged?

20 A Yes. So there is an actually interesting issue with  
21 this which I have a belief that, I disagree with the State  
22 with how they measure these. The State was measuring, not  
23 just the usable amount of methamphetamine on these but  
24 also all of the sludge that was used for the manufacture  
25 of the methamphetamine and putting that together in order

1 to get these cases up to trafficking weight. The DEU was  
2 doing this, the Solicitor's office was insistent that this  
3 was a good weight. There was a Court of Appeals case  
4 that, I don't know, I don't know in the timeframe what the  
5 stature of that Court of Appeals case, when this plea went  
6 down. But it was an open question. The Court of Appeals  
7 case said that because the statute talks about a mixture  
8 that they could weigh the entire one bottle cook. I think  
9 that is a bit of a stretch. But again, I am not the Court  
10 of Appeals. I am sure I told him that if the Circuit  
11 Court Judge disagreed with us and if he was convicted of  
12 trafficking he would have, I believe it was a 25 year  
13 minimum/mandatory that he was facing. And if I could  
14 ultimately convince or the Appellate Defense could  
15 ultimately convince, you know, the South Carolina Supreme  
16 Court that the Court of Appeals is wrong in its analysis  
17 he would have to be waiting on that.

18 Q And so, but again, that is for trafficking. Did you  
19 ever tell him that manufacture doesn't have a weight?

20 A Oh, yes. Yes. I don't know if I specifically said  
21 manufacturing doesn't have any specific weight. But when  
22 just describing what manufacturing was, I wouldn't have  
23 said, oh, for it to be manufacturing it has to be X  
24 amount.

25 Q Okay. Let's go over, were you ever aware of the two

1 officers, Byrd and Strickland, of their, I guess,  
2 indictments?

3 A Yes, I was.

4 Q Were you aware of that during, I guess, your  
5 representation of Mr. Mooney?

6 A No, it did not come to light until after that.

7 Q Okay. And the search warrant was executed on which,  
8 on what day?

9 A His date of arrest.

10 Q Okay. I believe January--

11 A --it looks like January 13th, yes.

12 Q That is all I have. Thank you.

13 THE COURT: Ms. McMahan.

14 CROSS-EXAMINATION

15 By Ms. McMahan:

16 Q Your colloquy about how you disagreed with the State  
17 in the measurements?

18 A When it comes to trafficking.

19 Q Yes.

20 A Yes.

21 Q Did you feel that that might have been relevant in  
22 sentencing, to give the Judge that explanation?

23 A Well, Judge Addy has seen a number of these  
24 trafficking cases where they charge somebody with sludge.  
25 He knows our position and it didn't, it wasn't plead to a

1 trafficking, it was plead to a manufacture. But he had  
2 seen a number of these with a weight of an entire bottle.

3 Q So and he knew what the Public Defender's position  
4 was on that?

5 A I am sure that I have told him that I disagree with  
6 the weights.

7 Q And the search warrant, you had a copy of the search  
8 warrant?

9 A I don't know if I had a copy. When my secretary sent  
10 me the file it wasn't in there.

11 Q So you don't know if it is in the file?

12 A What she emailed to me did not have that in the file.

13 Q Would that have been something that you would have  
14 wanted to see prior to like a trial or a plea?

15 A Yes.

16 Q Okay. So you weren't aware they were under  
17 investigation prior to all of this?

18 A I was not.

19 MS. MCMAHAN: The Court's indulgence. Nothing  
20 further, Your Honor.

21 THE COURT: Anything further?

22 MR. HUNTER: Nothing else for this witness, Your  
23 Honor.

24 THE COURT: All right. Any objection for this  
25 witness to be excused?

1 MR. HUNTER: No, Your Honor.

2 MS. MCMAHAN: No, Your Honor.

3 THE COURT: You are excused.

4 MS. MCMAHAN: Your Honor, we do have copies, Mr.  
5 Hunter provided them to me. I didn't know if you wanted  
6 to make them a Court's exhibit, Strickland and Byrd's  
7 indictments.

8 THE COURT: You can make those an exhibit for the  
9 record.

10 MR. HUNTER: There are two indictments for each  
11 officer.

12 (Whereupon, Court's Exhibits 1 and 2 were marked for  
13 identification only.)

14 THE COURT: Anything further?

15 MS. MCMAHAN: Nothing further, Your Honor.

16 THE COURT: I will take the case as submitted, I will  
17 take it under advisement.

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

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CERTIFICATE OF REPORTER

State of South Carolina        )  
  )  
County of Greenwood            )

I, Joy E. Holston, Official Court Reporter for the Eighth Judicial Circuit of 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 County of Greenwood, South Carolina on the 11th day of October, 2017.

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

March 7, 2018

*Joy Holston*

\_\_\_\_\_

Joy E. Holston, Court Reporter

My Commission expires: May 2, 2026

\_\_\_\_\_

**WITNESSES**

S/A Andrew Tribble, SLED

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**ARREST WARRANT NUMBER**

Direct Presentment

2016 D2400100087

\_\_\_\_\_

**ACTION OF GRAND JURY**

\_\_\_\_\_

\_\_\_\_\_

Foreperson of Grand Jury

Date:

**VERDICT**

\_\_\_\_\_

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Foreperson of Petit Jury

Date:

DOCKET NO. 2016-GS-24- 1114

**The State of South Carolina**

County of Greenwood

\_\_\_\_\_

**COURT OF GENERAL SESSIONS**

July 2016 TERM

\_\_\_\_\_

**THE STATE**

v.

**LARRY ROBERT BYRD  
DEFENDANT**

\_\_\_\_\_

**Indictment for  
MISCONDUCT IN OFFICE**

(Common Law)

**CDR Code: 0819  
Unclassified Misdemeanor**

\_\_\_\_\_

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

Defendant

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

Defendant

Witness:

C.C.C. PLS. AND G.S.



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENWOOD )

INDICTMENT

At a Court of General Sessions, convened on July 29, 2016, the Grand Jurors of Greenwood County present upon their oath:

**MISCONDUCT IN OFFICE**

That LARRY ROBERT BYRD did, in Greenwood County, South Carolina from on or about April 1, 2015 to on or about October 14, 2015, while serving as a Deputy in the Greenwood County Sheriff's Office assigned to the Drug Enforcement Unit, willfully, dishonestly, and unlawfully commit misconduct in his public office, by acts and omissions of malfeasance, misfeasance, and nonfeasance in breach of his duties to the public including his duty of good faith, honesty, and accountability, to wit: The Defendant failed to properly account for and mishandled government funds. This was done in violation of the Common Law of South Carolina.

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

Alan Wilson  
by Jm ALAN WILSON (mdr)  
ATTORNEY GENERAL

**WITNESSES**

S/A Andrew Tribble, SLED

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**ARREST WARRANT NUMBER**

Direct Presentment  
2016 DA400100088

**ACTION OF GRAND JURY**

\_\_\_\_\_  
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Foreperson of Grand Jury  
Date:

**VERDICT**

\_\_\_\_\_  
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Foreperson of Petit Jury  
Date:

DOCKET NO. 2016-GS-24- 1115

**The State of South Carolina**  
**County of Greenwood**

**COURT OF GENERAL SESSIONS**

July 2016 TERM

**THE STATE**

v.

**LARRY ROBERT BYRD**  
**DEFENDANT**

**Indictment for**

**EMBEZZLEMENT**  
SC Code: § 16-13-210  
CDR Code: 3460  
Class E Felony

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

Defendant

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

Defendant

Witness:  
C.C.C. PLS. AND G.S.



DOCKET NO. 2016-GS-24- 1112

The State of South Carolina  
County of Greenwood

COURT OF GENERAL SESSIONS

July 2016 TERM

THE STATE

v.

BRANDON RICHARD STRICKLAND  
DEFENDANT

Indictment for  
MISCONDUCT IN OFFICE

(Common Law)

CDR Code: 0819  
Unclassified Misdemeanor

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. AND G.S.



WITNESSES

S/A Andrew Tribble, SLED

ARREST WARRANT NUMBER

Direct Presentment

2016D2400100085

ACTION OF GRAND JURY

Foreperson of Grand Jury  
Date:

VERDICT

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENWOOD ) INDICTMENT

At a Court of General Sessions, convened on July 29, 2016, the Grand Jurors of Greenwood County present upon their oath:

**MISCONDUCT IN OFFICE**

That BRANDON RICHARD STRICKLAND did, in Greenwood County, South Carolina from on or about April 1, 2015 to on or about October 12, 2015, while serving as a Lieutenant in the Greenwood County Sheriff's Office and Commander of the Drug Enforcement Unit, willfully, dishonestly, and unlawfully commit misconduct in his public office, by acts and omissions of malfeasance, misfeasance, and nonfeasance in breach of his duties to the public including his duty of good faith, honesty, and accountability, to wit: The Defendant mishandled evidence and public funds. This was done in violation of the Common Law of South Carolina.

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

Alan Wilson  
by J.M.  
ALAN WILSON (mdr)  
ATTORNEY GENERAL

\_\_\_\_\_  
**WITNESSES**  
 \_\_\_\_\_  
 S/A Andrew Tribble, SLED  
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**ARREST WARRANT NUMBER**  
 Direct Presentment  
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 2016D2400100086  
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**ACTION OF GRAND JURY**  
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 Foreperson of Grand Jury  
 Date:  
 \_\_\_\_\_

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**VERDICT**  
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\_\_\_\_\_  
 Foreperson of Petit Jury  
 Date:  
 \_\_\_\_\_

DOCKET NO. 2016-GS-24- 1113

**The State of South Carolina**  
**County of Greenwood**

\_\_\_\_\_  
**COURT OF GENERAL SESSIONS**  
July 2016 TERM  
 \_\_\_\_\_

**THE STATE**

v.

**BRANDON RICHARD STRICKLAND**  
**DEFENDANT**

\_\_\_\_\_  
**Indictment for**  
**EMBEZZLEMENT**  
 SC Code: § 16-13-210  
 CDR Code: 3460  
 Class E Felony  
 \_\_\_\_\_

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

\_\_\_\_\_  
 Defendant

\_\_\_\_\_  
 I hereby appear in my own proper person and plead guilty to the within indictment or to

\_\_\_\_\_  
 Defendant

\_\_\_\_\_  
 Witness:  
 C.C.C. PLS. AND G.S.



STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENWOOD )  
 )  
 David Scott Mooney, )  
 S.C.D.C. No. 186128, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 OF THE EIGHTH JUDICIAL CIRCUIT

2016-CP-24-1732

**ORDER OF DISMISSAL**

FILED COMMON PLEAS  
 8TH JUDICIAL CIRCUIT  
 GREENWOOD, S.C.  
 2017 OCT 15 AM 10:50

This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed November 1, 2016. An evidentiary hearing into the matter was convened on Wednesday, October 11, 2017, at the Laurens County Courthouse in Laurens, South Carolina before the Honorable R. Scott Sprouse. Applicant was present at the hearing and represented by Ashley A. McMahan, Esquire. Justin Hunter, Esquire, of the South Carolina Attorney General's Office represented Respondent. At the hearing, Applicant testified on his own behalf. Thomas Adducci, Esquire, also testified. This Court also had before it a copy of Applicant's PCR application, the records of the Greenwood County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, Respondent's Return, and the plea transcript.

**I. PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenwood County Clerk of Court. Applicant was indicted at the May 2015 term of the Greenwood County Grand Jury for trafficking in methamphetamine (2015-GS-24-0724). Applicant was represented by Thomas Adducci, Esquire. On August 13,

*RSS*

2015, Applicant appeared before the Honorable Frank R. Addy, Jr., and pled guilty to the lesser included offense of manufacturing methamphetamine. Applicant was sentenced to imprisonment for twelve years. Applicant subsequently filed a Motion to Reconsider on September 22, 2015. This motion was denied by an order filed July 5, 2016. Applicant did not file a direct appeal.

### Allegations

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

#### 1. Ineffective Assistance of Counsel

- a. "Counsel never moved to challenge the search warrant affidavit, and furthermore, Counsel never discussed or showed Applicant the search warrant affidavit."
- b. "Counsel failed to present to the judge as mitigation during sentencing that the amount of drugs the State asserts were at the house was not consistent with the amount that SLED verified as drugs, nor did Counsel present evidence about the amount of drugs in the house the Applicant actually knew about. Had Counsel done so, the outcome of the sentence would have been different."
- c. "But for Counsel's presentation to the Applicant regarding his strategy for a guilty plea, Applicant would not have pled guilty and would have insisted on going forward with a trial. The day the Applicant was in court for a bond hearing, Counsel presented the Applicant with his 'plan' for a guilty plea, which involved having the director of the Lighthouse there, along with the Applicant's family, and getting the Applicant into a drug treatment program as his sentencing."

#### 2. Newly Discovered Evidence

- a. "Greenwood drug enforcement agents Officers Byrd and Strickland have since been arrested and indicted for Misconduct in Office Officers Byrd and Strickland resigned as part of an ongoing SLED probe in late October 2015. (They were placed on leave earlier in October 2015.) They have both since been arrested and indicted. See attached news articles from The Greenwood Index-Journal, Exhibits A-F. Applicant pled guilty in August of 2015. The veracity of statements made by Byrd and Strickland have come into question since their arrest and the interest of justice would require that the Applicant's guilty plea be vacated accordingly."

## II. APPLICABLE LAW

In a post-conviction relief action, the applicant bears the burden of proving the allegations in their 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, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the plea transcript, Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief and amendment, and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80 (2003), this Court makes the following findings of fact based upon all of the probative evidence presented.

#### **Ineffective Assistance of Counsel**

##### *Failure to challenge and discuss the search warrant affidavit*

Applicant alleged that Counsel was ineffective for failing to challenge the search warrant affidavit and for failing to discuss the search warrant affidavit with Applicant. Applicant testified that the State made it seem like the drugs found were part of a big operation, however everything they found was months old and Applicant only had drugs for his own personal use. He testified that he never got discovery and was told that his wife signed a statement against him. Applicant testified that he never saw the search warrant or the SLED drug analysis.

Counsel testified that he was appointed to represent Applicant on January 28, 2015 and met with him for the first time on February 9, 2015. Counsel testified that he received discovery and went over it with Applicant. He testified that he could not recall if he ever showed Applicant the search warrant. Counsel further testified that he had no concerns about the legality of the search warrant.

This Court finds that Applicant has failed to meet his burden of proving that Counsel was ineffective for failing to challenge the search warrant affidavit or discuss the search warrant

affidavit with Applicant. This Court finds that Counsel provided credible testimony that he reviewed all discovery with Applicant. Despite not recalling whether he showed the search warrant to Applicant, this Court finds that such conduct does not fall below the reasonable standard. This Court finds Counsel provided credible testimony that he did not have any concerns with the legality of the search warrant. This Court finds that Applicant has failed to show that there were any faults in the search warrant affidavit that would have necessitated Counsel to make a motion to challenge it. Without showing a reason why Counsel should have objected, this Court finds that Applicant has failed to show that Counsel was deficient.

This Court also finds that Applicant has failed to show that he was prejudiced by Counsel's actions. Applicant has failed to show that he would have proceeded to trial but for Counsel's failure to challenge the search warrant affidavit. Accordingly, Applicant has failed to meet his burden of proving that Counsel was ineffective in this regard and the allegation must be dismissed.

*Failure to present to the judge as mitigation during sentencing that the amount of drugs the State asserts were at the house was not consistent with the amount that SLED verified as drugs, nor did Counsel present evidence about the amount of drugs in the house the Applicant actually knew about.*

Applicant alleged that Counsel was ineffective for failing to present to the plea court that the amount of drugs the State asserted were at the house was inconsistent with the amount that SLED verified as drugs. He also alleged that Counsel did not present evidence about the amount of drugs in the house that Applicant actually knew about. Applicant testified that the drugs found at the house belonged to his wife. He testified that law enforcement improperly weighed all of the drugs found in the house together.

Counsel testified that he explained to Applicant the difference between trafficking and manufacturing methamphetamine. He testified that the solicitor told him they were using the

methamphetamine and the "sludge" mixture of methamphetamine in calculating the weight of drugs. Counsel testified that he told Applicant he disputed the State's weighing methods. Counsel testified that this issue was disputed across the state but the Court of Appeals eventually issued a ruling that weighing sludge was not improper. Counsel further testified that the weight of drugs ultimately did not matter because the manufacturing methamphetamine statute only criminalizes the action and does not consider any weight of drugs.

This Court finds that Applicant has failed to meet his burden of proving that Counsel's performance was deficient in this regard. This Court finds that Counsel was not deficient for failing to present during mitigation that the amount of the drugs differed between the State's assertion and the SLED weight and the amount of drugs that Applicant actually knew about. This Court finds that Applicant acknowledged during his guilty plea hearing that he was waiving all evidentiary challenges by pleading guilty. See Guilty Plea Transcript, p. 11, ll. 18-25. This Court finds that challenging such evidence during mitigation would not have changed the outcome of Applicant's plea and Counsel was not deficient. Furthermore, Counsel was not deficient in this regard as the crime of manufacturing methamphetamine does not require proof of a certain weight. See S.C. Code § 44-53-375(B). Thus, any argument during mitigation based on a discrepancy of the amount of drugs found, weighed by SLED, or actually known to Applicant would have no bearing on whether Applicant was guilty of manufacturing methamphetamine.

Applicant has failed to meet his burden of proving that he was prejudiced by Counsel's actions, as he has failed to show that he would have proceeded to trial but for Counsel's failure to challenge the drugs in mitigation. He has likewise failed to show that Counsel's actions had an impact on his sentence. Accordingly, he has failed to prove that Counsel was ineffective and this allegation must be dismissed.

*But for Counsel's presentation to the Applicant regarding his strategy for a guilty plea, Applicant would not have pled guilty and would have insisted on going forward with a trial*

Applicant alleged that Counsel was ineffective regarding his strategy at the guilty plea. Applicant alleged that the day he was in court for a bond hearing, Counsel presented the Applicant with his 'plan' for a guilty plea, which involved having the director of the Lighthouse there, along with Applicant's family, and getting Applicant into a drug treatment program as his sentencing. Applicant testified that the plan was for him to be admitted to the Lighthouse rehabilitation facility instead of jail time and testified that Counsel convinced him to plead guilty based on this plan.

Counsel testified that he discussed with Applicant asking the judge for no active time and instead sending Applicant to the Lighthouse rehabilitation facility. He testified that he had discussed this with the director of the Lighthouse and even had bed space ready and available for Applicant. He testified that his plan was to present this to the judge during the plea hearing and ask for a probationary sentence.

This Court finds that Applicant has failed to meet his burden of proving that Counsel was deficient in his mitigation plan during the guilty plea. This Court finds that Counsel's plan was reasonable under the circumstances and Counsel was not at fault for the plea judge choosing to impose an active time sentence. This Court finds that Applicant acknowledged during the plea hearing that the plea was a straight up plea with no recommendations or negotiations and that he could be sentenced anywhere between a probationary sentence and up to fifteen years. See Guilty Plea Transcript, p. 4, ll. 6-12. This Court finds that Applicant also informed the plea court that no one had made any promises or held out any other hope or reward to get him to plead guilty. See Guilty Plea Transcript, p. 12, ll. 16-19. This Court finds that Applicant's desire to receive a probationary sentence does not change the fact that he was well informed from Counsel

and the plea judge that he was pleading to a charge that carried up to fifteen years' imprisonment. See Wolfe v. State, 485 S.E.2d 367, 371, 326 S.C. 158, 165 (1997) (Wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made).

Furthermore, this Court finds that Applicant has failed to show that he was prejudiced by Counsel's actions because Applicant has failed to provide credible evidence that he would have rather gone to trial on trafficking methamphetamine and expose himself to the twenty-five to thirty year sentence he would be facing under that charge and the five-year sentence he would face on the charge of possession of altered ephedrine or pseudoephedrine that was dismissed as part of the plea. Therefore he cannot prove any prejudice. Accordingly, this allegation is denied and dismissed with prejudice.

#### **Newly Discovered Evidence**

Applicant alleges newly discovered evidence in that two of the officers involved in Applicant's case, Robert Byrd and Brandon Strickland, were later arrested and indicted for Misconduct in Office and resigned as part of an ongoing SLED probe in late October 2015. Applicant attached to his PCR application news articles from *The Greenwood Index-Journal* that describe these offenses. Applicant alleges that veracity of statements made by Officers Byrd and Strickland have come into question since their arrest and the interest of justice would require that the Applicant's guilty plea be vacated accordingly.

Entered as a Court's Exhibit were the indictments for both Larry Robert Byrd and Brandon Richard Strickland. Indictment 2016-GS-24-1114 charges Larry Robert Byrd with misconduct in office, alleging that Byrd failed to properly account for and mishandled

government funds while serving as a Deputy in the Greenwood County Sheriff's Office from on or about April 1, 2015 to on or about October 14, 2015. Indictment 2016-GS-24-1115 charges Larry Robert Byrd with embezzlement, alleging that from on or about April 1, 2015 to on or about October 14, 2015, he withdrew and converted for his own use public funds designated for the use of the Sheriff's Office and Drug Enforcement Unit, resulting in a loss to the Greenwood County Sheriff's Office and Drug Enforcement Unit of an amount of less than ten thousand dollars. Indictment 2016-GS-24-1112 charges Brandon Richard Strickland with misconduct in office, alleging that Strickland mishandled evidence and public funds while serving as a Lieutenant in the Greenwood County Sheriff's Office from on or about April 1, 2015 to on or about October 12, 2015. Indictment 2016-GS-24-1113 charges Brandon Richard Strickland with embezzlement, alleging that from on or about April 1, 2015 to on or about October 12, 2015, he withdrew and converted for his own use public funds designated for the use of the Sheriff's Office and Drug Enforcement Unit, resulting in a loss to the Greenwood County Sheriff's Office and Drug Enforcement Unit of an amount of less than ten thousand dollars.

Under S.C. Code § 17-27-45(c), a newly-discovered evidence claim can be timely raised within one year of actual discovery or within one year of when, by the exercise of due diligence, such evidence *could have been* ascertained. When an applicant seeks relief on the basis of newly discovered evidence following a guilty plea, relief is appropriate only when the applicant presents evidence showing (1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea and (2) the newly discovered evidence is of such weight and quality that, under the facts of circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea be vacated. Jamison v. State, 410 S.C. 456, 470, 765 S.E.2d.

“[I]n South Carolina, a guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights.” State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013) (citing Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal defendant’s right to contest the validity of such a plea is usually, but not definitely, foreclosed. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (2007). In Jamison, the South Carolina Supreme Court noted it would be a “rare case” where the interests of justice require the vacation of a knowing and voluntary guilty plea involving an admission of guilt and a waiver of trial. Jamison, 165 S.E.2d at 130.

This Court finds that these indictments are not of such weight and quality that the interest of justice requires Applicant’s plea to be vacated. These indictments do not allege any misconduct during the time that Applicant was arrested or the search warrant was executed. Law enforcement executed the search warrant on Applicant’s house and arrested Applicant on January 13, 2015 – almost three months before Officers Byrd and Strickland were alleged to have committed misconduct in office and embezzlement. These indictments would not constitute evidence that goes to Applicant’s guilt or innocence and are not of such a weight that it would overcome Applicant’s admission of guilt during the plea. This Court finds that Applicant has failed to meet his burden of proving that these indictments constitute newly discovered evidence that would warrant a new trial and this allegation must be dismissed.

#### IV. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Applicant failed to demonstrate Counsel’s performance was unreasonable under prevailing

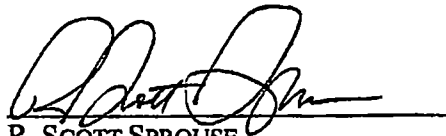
professional norms. Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625; Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 594 (2009). Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED THAT:**

1. The application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant will remain in the custody of the South Carolina Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 21 day of November, 2017.



R. SCOTT SPROUSE  
Presiding Judge  
Eighth Judicial Circuit

Wallula, South Carolina

WITNESSES

Jeremy Adams  
Greenwood Police Department

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

May Term, 2015

Indictment # 15GS24- 0924

WARRANT NUMBER

2015A2420100042

THE STATE

vs.

David Scott Mooney

True Bill

Foreman of the Grand Jury

Date: 5/8/15

INDICTMENT FOR

TRAFFICKING IN METHAMPHETAMINE  
§ 44-53-0375

CDR: 0370

VERDICT

Foreman

## THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

## INDICTMENT FOR

TRAFFICKING IN METHAMPHETAMINE  
§ 44-53-0375

At a Court of General Sessions, convened on the 8th day of May, 2015, the Grand Jurors of Greenwood County present upon their oath:

That David Scott Mooney, on or about January 13, 2015, in Greenwood County, did willfully, unlawfully, and knowingly traffic in methamphetamine, in that the said defendant(s) did sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was in actual or constructive possession or did knowingly attempt to become in actual or constructive possession of 400 grams or more of methamphetamine, in violation of Section 44-53-375 of the South Carolina Code of Laws, 1976, as amended

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

  
Assistant Solicitor

ARREST WARRANT  
2015A2420100043  
STATE OF SOUTH CAROLINA  
 County/  Municipality of  
GREENWOOD

THE STATE  
against: *km 1-14-15*

MOONEY, DAVID SCOTT  
Address: BRIGGS AV  
GREENWOOD SC 29646-1603  
Phone: -0758 SSN:   
Sex: M Race: W Height: 600 Weight: 160  
DL State: SC DL#:   
DOB: 1971 Agency ORI #: SC024041J  
Prosecuting Agency: CITY OF GREENWOOD  
Prosecuting Officer: DONNIE TROTTER  
Offense: DRUGS/EPH/PSEUDOEPH EDRINE OR  
Offense Code: ~~3544~~ 3268  
Code/Ordinance Sec. 44-53-0398(B)(1)(H)(I)

This warrant is CERTIFIED FOR SERVICE in the  
 County/  Municipality of  
GREENWOOD The Accused  
is to be arrested and brought before me to be  
dealt with according to law.

\_\_\_\_\_  
Signature of Judge (L.S.)  
Date: \_\_\_\_\_

RETURN  
A copy of this arrest warrant was delivered to:  
defendant DAVID MOONEY  
on 1-14-15  
D. Trotter  
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:  
SHAMEKA BROWN  
520 MONUMENT STREET  
GREENWOOD SC 29646

STATE OF SOUTH CAROLINA )  
 County/  Municipality of )  
GREENWOOD )

AFFIDAVIT

Form Approved by  
S.C. Attorney General  
April 21, 2003  
SCCA 610

Personally appeared before me the affiant DONNIE TROTTER who  
being duly sworn deposes and says that defendant MOONEY, DAVID SCOTT  
did within this county and state on 01/13/2015 violate the criminal laws of the  
State of South Carolina (or ordinance of  County/  Municipality of GREENWOOD)  
in the following particulars:

DESCRIPTION OF OFFENSE:  
DRUGS/EPH/PSEUDOEPH EDRINE OR PHENYLPROPANOLAMINE SALE 3.0 GRAMS 1 DAY *ALTERED STATE*  
I further state that there is probable cause to believe that the defendant named above did commit  
the crime set forth and that probable cause is based on the following facts:  
15000802

KAREN M. MOONEY ALONG WITH DAVID S. MOONEY AND DAVID F. MOONEY DID ON 01-13-15 KNOWINGLY,  
INTENTIONALLY AND CONSTRUCTIVELY TRAFFICK METHAMPHETAMINE, A SCHEDULE II CONTROLLED SUBSTANCE  
WITHOUT AUTHORITY OF LAW TO DO SO. DEU AGENTS EXECUTED A SEARCH WARRANT AT BRIGGS AVENUE  
WHEN AGENTS LOCATED NUMEROUS PLASTIC SODA BOTTLES THAT CONTAINED WHITE IN COLOR SLUDGE THAT  
TESTED POSITIVE FOR METH AND EPHEDRINE THAT HAD BEEN ALTERED FROM ITS ORIGINAL STATE. AGTS ALSO  
LOCATED BOTTLES WITH LITHIUM STRIPS, NUMEROUS COFFEE FILTERS, AN EMPTY PACK OF 12 HOUR  
DECONGESTANT, TWO EMPTY COLD PACK, A BOTTLE OF CRYSTAL DRAIN OPENER, GASSERS, EMPTY BLISTER  
PACKS AND AN EMPTY BOTTLE OF RONSONOL LIGHTER FLUID. SAID BOTTLES THAT CONTAINED THE METH HAD A  
COMBINED TOTAL OF APPROX 1606 GRAMS. THIS INCIDENT OCCURRED ON BRIGGS AVENUE WITHIN THE CITY LIMITS  
OF GREENWOOD. THIS BEING DONE IN VIOLATION OF SC CODE OF LAWS.

Signature of Affiant: *D. Trotter*  
STATE OF SOUTH CAROLINA )  
 County/  Municipality of )  
GREENWOOD )  
Affiant's Address 520 MONUMENT STREET  
GREENWOOD SC 29646  
Affiant's Telephone 864-942-8458

ARREST WARRANT  
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY  
It appearing from the above affidavit that there are reasonable grounds to believe that  
on 01/13/2015 defendant MOONEY, DAVID SCOTT  
did violate the criminal laws of the State of South Carolina (or ordinance of  
 County/  Municipality of GREENWOOD) as set forth below:

DESCRIPTION OF OFFENSE:  
DRUGS/EPH/PSEUDOEPH EDRINE OR PHENYLPROPANOLAMINE SALE 3.0 GRAMS 1 DAY  
44-53-0398(B)(1)(H)(I)(E)(H)(5)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said  
defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to  
the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me )  
on 1-14-15 )  
Shameka Brown (L.S.) )  
Signature of Issuing Judge: )  
Judge Code: 613 )  
Judge's Address 520 MONUMENT STREET  
GREENWOOD SC 29646  
Judge's Telephone: 864-942-8458  
Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

FILED  
2015 JAN 22 PM 2:11  
SHERIFF'S OFFICE  
GREENWOOD, SC

ANGELA WOODRUFF  
CCCP AND CS  
GREENWOOD COUNTY

BAIL set by

Judge B. Lee Miller

on 1-14-15

Type and Amount: Bond DENIED

Name of Surety: \_\_\_\_\_

**PRELIMINARY HEARING held by**

Judge \_\_\_\_\_

on \_\_\_\_\_

Defense Attorney: \_\_\_\_\_

Decision: \_\_\_\_\_

**DISPOSITION before**

Judge \_\_\_\_\_

on \_\_\_\_\_

by \_\_\_\_\_

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: \_\_\_\_\_

Sentence: \_\_\_\_\_

**JURORS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WITNESSES**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

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Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

**CODEFENDANTS**

\_\_\_\_\_  
\_\_\_\_\_

COUNTY OF Greenwood  
STATE VS.

INDICTMENT/CASE#: 15GS24-0724

David Scott Mooney

A/W#: 2015A2420100042

AKA: \_\_\_\_\_

Date of Offense: 1/13/2015

Race: CAUCASIAN Sex: M Age: 44

S.C. Code § : 44-53-0375

DOB: ██████-1971 SS#: ██████████

CDR Code #: 0370

Address: ██████ Briggs Avenue

City, State, Zip: Greenwood, SC

DL#: ██████████ SID#: \_\_\_\_\_

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

CONVICTED OF or  PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Manufacturing Methamphetamine

in violation of § 44-53-0375(B) of the S.C. Code of Laws, bearing CDR Code # 3776  
 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 Brian John Moroney 101814 SC Bar# David Scott Mooney Defendant Shirley A. Walker Attorney for Defendant 101087 SC Bar#

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center,  
for a determinate term of 12 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and/or payment  
of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_

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

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. Credit 181 days - jail.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 Set by SCDPPPS \_\_\_\_\_

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

Recipient: \_\_\_\_\_

Other: \* ATU \*  
ANGELA M. WILKINSON  
CLERK  
GREENWOOD COUNTY  
S.C.

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

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

Clerk of Court/ Deputy Clerk Kayla Joyner  
Court Reporter: Tara Scott  
SCCA/217 (03/2011)

Presiding Judge F. Walker  
Judge Code: 2159  
Sentence Date: 8-13-15

FILED GENERAL SESSIONS  
BY JUDICIAL CLERK  
ANGELA M. WILKINSON  
GREENWOOD CO., SC  
2015 AUG 1 PM 12:33