

State's proposed Order of Dismissal submitted January 22, 2019

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
COUNTY OF GREENVILLE ) FOR THE THIRTEENTH JUDICIAL  
CIRCUIT

Donna Boyd, ) Case No.: 2017-CP-23-7725  
Applicant, )

v. )

State of South Carolina, )  
Respondent. )

ORDER OF DISMISSAL

6 pages

Exhibit 2D

Second Brief Proposed Order of Dismissal

This matter comes before this Court by way of an application for post-conviction relief filed by Donna Boyd (Applicant) on December 4, 2017, alleging various allegations of prosecutorial misconduct. The State of South Carolina (Respondent) served its return on May 2, 2018, requesting an evidentiary hearing.

An evidentiary hearing was held on October 26, 2018, before this Court at the Greenville County Courthouse. Applicant was present and appeared *pro se*. Respondent was represented by Assistant Attorney General DeShawn H. Mitchell. At the hearing testimony was taken from Applicant and prosecutor George K. Lyall. Following all testimony and argument, this Court offered both parties additional time to submit briefs on three issues: first, the issue of the trial judge answering a jury question in front of the jurors in the jury deliberation room with Applicant and the prosecutor present; second, the issue of a witness's conversation with an alternate jury; and third, the issue of whether the destruction of a video prejudiced Applicant's case. Respondent submitted a brief on November 6, 2018. Applicant did not submit a brief, but did submit a substantive email that she asked be treated as a brief on November 26, 2018.

Following a thorough review of the record in its entirety and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations and denies this application with prejudice. —

**PROCEDURAL HISTORY**

The records before this Court establish that on November 16, 2012, Applicant was arrested and charged with filing a false police report of a misdemeanor (Warrant No. 2012A-23-30204055) in Greenville County stemming from an incident on October 30, 2012, wherein Applicant filed a police report that she had been assaulted by Jack Crumpton with Foothills Investigations while he served her with documents and the allegations of assault were later refuted by video evidence. She was originally represented by Michael F. Talley, Esquire, who later moved to be relieved and his requested was granted on April 9, 2014. On June 25, 2014, Applicant proceeded to trial *pro se* before the Honorable Dean E. Ford, magistrate judge, and a jury. The case was prosecuted by George K. Lyall, Esquire. At the conclusion of trial, the jury returned a guilty verdict.

On July 7, 2014, Applicant filed a notice of appeal to the Greenville County Court of Common Plea. A hearing regarding Applicant's appeal was convened on August 12, 2014; however, Applicant did not appear. On August 14, 2014, the Honorable D. Garrison Hill issued

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an order dismissing Applicant's appeal for failure to prosecute.

Following the dismissal, on August 27, 2014, Applicant filed a *pro se* notice of appeal to the South Carolina Court of Appeals. Applicant then filed a *pro se* initial brief and designation of matter; however, she subsequently retained J. Falkner Wilkes, Esquire, to represent her in this appeal. By Order filed May 21, 2015, South Carolina Court of Appeals granted Mr. Wilkes' motion to "allow counsel to engage in the representation of the Appellant" who has previously proceeded *pro se* and granted his request to withdraw Applicant's *pro se* initial brief and accept an amended initial brief and designation of matter. Mr. Wilkes subsequently filed a brief in support of Applicant's appeal and the State filed a brief in response. On June 15, 2016, the Court of Appeals affirmed the circuit court's dismissal of Applicant's appeal as well as her conviction in an unpublished opinion. State v. Boyd, Op. No. 2016-UP-299 (S.C. Ct. App. Filed June 15, 2016). Applicant submitted a timely Petition for Rehearing and by Order filed August 18, 2016, the petition was denied.

On September 16, 2016, Applicant submitted a Petition for a Writ of Certiorari to the South Carolina Supreme Court. The State submitted its Return to Petition for Writ of Certiorari on October 13, 2016. On May 30, 2017, the Supreme Court denied Applicant's Petition for Writ of Certiorari. The Remittitur was returned to the circuit court on June 12, 2017.

#### **ALLEGATIONS RAISED IN THE APPLICATION AND AT THE HEARING**

In her application for post-conviction relief, Applicant alleged the following claims for relief:

1. Prosecutorial Misconduct
  - a. Prosecutorial abuse of discretion/vindictive prosecution
2. No Probable Cause, Failure to Prosecute
  - a. No probable cause/one and half year delay to prosecute
3. Brady Violation
  - a. State purposely withheld and destroyed evidence

Respondent served a return to this application on May 2, 2018, requesting an evidentiary hearing.

At the evidentiary hearing, Applicant proceeded forward on the following allegations: first, the issue of the trial judge answering a jury question in front of the jurors in the jury deliberation room with Applicant and the prosecutor present; second, the issue of a witness's conversation with an alternate jury; and third, the issue of whether the destruction of a video prejudiced Applicant's case. Applicant testified on her own behalf and Respondent presented testimony from prosecutor Lyall.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has thoroughly reviewed the record in its entirety. Additionally, this Court heard the testimony presented at the evidentiary hearing and was able to observe the witnesses presented, which allowed the Court to scrutinize the credibility of all witnesses presented. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Milledge v. State, 422 S.C. 366, 374, 811 S.E.2d 796, 800 (2018) (citing Erasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) and Rule 71.1(e), SCRPC). Applicant has alleged three instances of prosecutorial misconduct: first, the issue of the trial judge answering a jury question in front of the jurors in the jury deliberation room with Applicant and the prosecutor present; second, the issue of a witness's conversation with an alternate jury; and third, the issue of whether the destruction of a video prejudiced Applicant's case. This Court finds Applicant has failed to meet her requisite burden of proof as to any of these allegations. Each allegation is addressed in detail below:

Allegation that Applicant is entitled to relief based on the trial court entering the jury room

Applicant alleges she is entitled to a new trial because the trial court entered the jury room during deliberations to answer a question from the jury. The uncontroverted evidence presented by both Applicant and Respondent at the evidentiary hearing established that during deliberations, the jury sent a note to the trial court seeking clarification regarding probable cause. In response, rather than having the jury return to the courtroom, the trial court had Applicant and

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the prosecutor accompany him to the jury room, wherein the trial court responded to the jury question in the presence of Applicant and the prosecutor, then the judge and both parties left the room and the jury continued its deliberations. The prosecutor testified the court did not engage in any other discussion with the jury beyond responding to its question on probable cause. Applicant asserts she is entitled to relief based on the trial court entering the jury room. —

Our Supreme Court addressed this issue in State v. Elmore, a capital case where Elmore was sentenced to death following conviction of murder, first-degree criminal sexual conduct, and burglary. Elmore, 279 S.C. 417, 308 S.E.2d 781 (1983). In Elmore, the trial judge entered the jury room accompanied by counsel from the State and the defense (but without Elmore himself) to answer a jury question during the guilty phase of his capital trial. Id. On appeal, the Supreme Court held, "Although we find no actual prejudice in this instance, we hold this conduct to be reversible error regardless of the presence of counsel. We caution the bench that this procedure is highly improper and also runs counter to the requirement that in a death case the defendant be present at all stages of trial." Id. (Emphasis added) (citing State v. Taylor, 261 S.C. 437, 200 S.E.2d 387 (1973); State v. James, 116 S.C. 243, 107 S.E. 907 (1921)).

In the present case, Applicant, who was the defendant in the action, was present in the jury room, and therefore, the trial judge's conduct does not run afoul of Elmore. Applicant has failed to establish that she was deprived her right to a fair trial by the trial judge entering the jury room to answer the jury's question when she was present for the entirety of the discussion. This allegation is denied and dismissed with prejudice.

Allegation that Applicant is entitled to relief based on a witness's conversation with alternate juror while the jury was deliberating the in the jury room after the alternate was excused

Applicant asserts that she is entitled to a new trial because one of the witnesses from trial, Jack Crumpton, approached and spoke to the alternate juror while the jury was deliberating. This was after the alternate juror had been excused from jury service and while the jury was deliberating in the jury room, away from this encounter. The prosecutor testified the encounter between the alternate and Crumpton was brought to the trial court's attention, and thereafter, the court placed Crumpton under oath and questioned him about the encounter. Crumpton informed the court he had no relationship with the alternate and simply asked her what she thought of the case before the alternate drove away. The prosecutor testified the alternate never sat with the jury and never entered the jury room for deliberations. Applicant presented no evidence that the juror ever took part in deliberations or that the deliberations were in any way impacted by this encounter between the alternate and Crumpton.

"A defendant in a criminal prosecution is constitutionally guaranteed a fair trial by an impartial jury, and in order to fully safeguard this protection, it is required that the jury render its verdict free from outside influences of whatever kind and nature." State v. Cameron, 311 S.C. 204, 207, 428 S.E.2d 10, 12 (Ct. App. 1993) (citing State v. Johnson, 302 S.C. 243, 250, 395 S.E.2d 167, 170 (1990); State v. Wasson, 299 S.C. 508, 511, 386 S.E.2d 255, 256 (1989); State v. Salters, 273 S.C. 501, 504, 257 S.E.2d 502, 504 (1979)). Moreover, "[i]t is the duty of the trial judge to see that a jury of unbiased, fair and impartial persons is impaneled. State v. Powers, 331 S.C. 37, 43, 501 S.E.2d 116, 119 (1998) (citing State v. Matthews, 291 S.C. 339, 353 S.E.2d 444 (1986); State v. Caldwell, 300 S.C. 494, 388 S.E.2d 816 (1990)).

However, "unless the misconduct affects the jury's impartiality, it is not such misconduct as will affect the verdict." Kelly, 331 S.C. at 141, 502 S.E.2d at 104. Significantly, in South Carolina, prejudice will not be presumed from improper influences on the jury. State v. Grovenstein, 335 S.C. 347, 351, 517 S.E.2d 216, 218 (1999) ("The Court of Appeals erred in adopting a 'presumption of prejudice' standard."). Instead, prejudice must be shown by the defendant in order to warrant the grant of a mistrial or the disqualification of any jurors. Id.

In the present case, Applicant presented no evidence that the deliberations were in any way impacted by this encounter between the alternate and Crumpton. This Court finds Applicant has failed to meet her requisite burden of proof of establishing any conditional violations that would warrant a new trial. This allegation is denied and dismissed with prejudice. —

**Allegation that Applicant is entitled to relief based on the destruction of the surveillance video of the alleged assault between Applicant and Crumpton**

Applicant also asserts she is entitled to a new trial based on the destruction of the videotape showing the encounter between Applicant and Crumpton that led to the charge for filing a false police report. Applicant testified she filed a police report after she was assaulted by Crumpton, a process server who served her with documents. She testified a video of the encounter was captured by surveillance cameras and law enforcement told her they had watched the video in determining whether an assault had occurred and deciding to charge her with filing a false police report. She testified she was informed by the prosecutor before her trial that the videotape had been destroyed and was not available.

The prosecutor testified when he began reviewing the casefile to prepare for trial, he noticed there were references to a surveillance video of the encounter between Applicant and Crumpton, but no video was in the file. He testified he immediately contacted Deputy Holloman, the investigating officer, to inquire about the video. He testified Deputy Holloman informed him that when the original assault case was opened based on Applicant's complaint, the video was paired with that file and stored within that file. He testified Deputy Holloman further explained when Applicant was charged with filing a false police report, a new casefile was opened for this charge and the casefile for the assault complaint was administratively closed. He testified the surveillance video was not transferred to or paired with the new casefile for filing a false police report, likely through inadvertence. He testified Deputy Holloman informed him the video was administratively destroyed in compliance with office protocols and procedures for destruction of closed casefiles.

Accordingly, no video of the encounter between Applicant and Crumpton was preserved or available for use at Applicant's trial. However, Crumpton did testify at trial and Applicant, who was the other party to the encounter, was also available at trial. Furthermore, several law enforcement officers who watched the surveillance video testified at trial.

The State does not have an absolute duty to preserve potentially useful evidence, and a defendant must demonstrate either: 1) the State destroyed evidence in bad faith; or 2) the evidence's exculpatory value was readily apparent before the evidence was destroyed, and the defendant cannot obtain other evidence of comparable value by other means. State v. Moses, 390 S.C. 502, 520, 702 S.E.2d 395, 404 (Ct. App. 2010) (citing State v. Mabe, 306 S.C. 355, 412 S.E.2d 386 (1991)). The bad faith requirement limits the extent of the State's obligation to preserve evidence to reasonable bounds, and confines it to cases in which the police conduct indicates the evidence could form a basis for exonerating the defendant. Arizona v. Youngblood, 488 U.S. 51, 58 (1988); Moses, 702 S.E.2d at 403.

Youngblood is factually analogous. In Youngblood, clothes from the child-victim in a sexual assault case were not properly refrigerated. Id. at 53. Experts for Arizona and the defendant confirmed semen on the clothes could have been tested if refrigerated properly. Id. at 54. In that case, unlike the present case, identity was an issue.

Youngblood held as follows:

We think that requiring a defendant to show bad faith on the part of the police both limits the extent of the police's obligation to preserve evidence to reasonable bounds and confines it to that class of cases where the interest of justice most clearly requires it, i.e., those cases in which the police themselves by their conduct indicate that the evidence could form a basis for exonerating the defendant. We therefore hold that unless a criminal defendant can show bad faith on the part of the police, failure to preserve potentially useful evidence does not constitute a denial of due process of the law.



Id. at 58.

In the instant case, no evidence suggests law enforcement acted in bad faith. See United

Rule 602 -  
Significant personal knowledge testimony

States v. Agurs, 427 U.S. 97, 109-10 (1976) ("The mere possibility that an item of undisclosed information might have helped the defense, or might have affected the outcome of the trial, does not establish 'materiality' in the constitutional sense."). Instead, evidence in the record merely indicates negligence at most. State v. Reaves, 414 S.C. 118, 128, 777 S.E.2d 213, 218 (2015) (finding that although the police investigation was severely flawed with several failures to preserve evidence, "the record . . . contains no indication these flaws were the product of more than mere negligence."). The defendant's burden to show bad faith is not relaxed merely because the lost or destroyed evidence is the defendant's "only hope of exoneration" or is "essential to and determinative of the outcome of the case." Illinois v. Fisher, 540 U.S. 544, 548 (2004).

In support of her allegation, Applicant cites Brady v. Maryland, 373 U.S. 83 (1972) in attempt to conflate the concepts from Brady with Youngblood. The United State Supreme Court compared the two cases in Fisher as follows: —

We have held that when the State suppresses or fails to disclose material exculpatory evidence, the good or bad faith of the prosecution is irrelevant: a due process violation occurs whenever such evidence is withheld. See Brady v. Maryland, 373 U.S. 83, 83 S.C. 1194, 10 L.E.2d 215 (1963); United States v. Agurs, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976). In Youngblood, by contrast, we recognized that the Due Process Clause "requires a different result when we deal with the failure of the State to preserve evidentiary material of which no more can be said than that it could have been subjected to tests, the results of which might have exonerated the defendant." 488 U.S. at 57, 109 S.Ct. 333. We concluded that the failure to preserve this "potentially useful evidence" does not violate due process "unless a criminal defendant can show bad faith on the part of the police." Id. at 58, 109 S.Ct. 333 (emphasis added).

Id. at 547-48 (finding destroyed narcotics in Fisher were like the "potentially useful evidence referred to in Youngblood, not the material exculpatory evidence addressed in Brady and Agurs"). Applicant is not relieved of Youngblood's demand that she demonstrate bad faith by law enforcement, and therefore, her reliance on Brady is misplaced.

Here, Applicant cannot demonstrate that the State destroyed the video evidence in bad faith. More importantly, Applicant had evidence of comparable value at her disposal. All of the actors who had a role in the case were available to testify and the jury could consider their testimony. Applicant was present at the trial as she represented herself, Crumpton was present, and so were the officers who viewed the video after Applicant filed her police report. Based on the available parties, Applicant had evidence of comparable value to prove her case.

Accordingly, Applicant has failed to meet her requisite burden of proof and this allegation is denied and dismissed with prejudice. —

#### CONCLUSION

Based on all the foregoing, this Court finds Applicant has not established any other constitutional violations or deprivations that would require this Court to grant her application for post-conviction relief. Therefore, this application for post-conviction relief is denied and dismissed with prejudice. —

This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record to secure the appropriate appellate review. See Rule 203 and 243, SCACR. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal. —

#### IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and

2. Applicant shall remain in the custody of the State within the South Carolina Department of Corrections.

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**AND IT IS SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.



\_\_\_\_\_  
**ALEX KINLAW JR.**  
**Presiding Judge**  
**Thirteenth Judicial Circuit**



\_\_\_\_\_, South Carolina

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# Exhibit 1

Agency I.D.  
SCD230000

EC5 10/30/2012-20:41:18

## GREENVILLE COUNTY SHERIFF'S OFFICE

### Supplemental Report

Ent: chgikstrap 10/31/2012  
00:17:13

Case Number

12000160032

<input type="checkbox"/> Original Report	<input type="checkbox"/> Status Change	<input type="checkbox"/> Additional Victims	<input type="checkbox"/> Additional Stolen Property	Incident Type: <u>M092 - Assault &amp; Battery</u>
<input checked="" type="checkbox"/> Supplemental Report	<input type="checkbox"/> Other Report	<input type="checkbox"/> Additional Defendants	<input type="checkbox"/> Additional Recovered Property	Patrol District: <u>CJ11</u> Page <u>1</u> of <u>2</u> Pages

I.D. OVERFLOW	<input type="checkbox"/> Complainant	Subject's Name (Last, First, Middle)		Victim Relationship to Subject	Employer	Residence	DOB	Sex	Age	Date of Birth	
	<input type="checkbox"/> Victim	Address		City	State	Zip Code	Patrol District	Day Phone	Evening Phone		
	<input type="checkbox"/> Runaway	Height	Weight	Hair	Eye	Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Psychological, Etc.					
	<input type="checkbox"/> Wanted	<input type="checkbox"/> Victim No.	Visible Injury <input type="checkbox"/> Yes <input type="checkbox"/> No	Complaint of any Non-Visible Injuries <input type="checkbox"/> Yes <input type="checkbox"/> No	Victim Using Alcohol <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unk	Drugs <input type="checkbox"/> No <input type="checkbox"/> Yes Type:	Two-Man Veh <input type="checkbox"/> One-Man Veh <input type="checkbox"/> ALONE	Detective <input type="checkbox"/> Other <input type="checkbox"/> ASSISTED			

NARRATIVE	Arrestee Arrested <input type="checkbox"/> Yes <input type="checkbox"/> No	Weapon Type	<input type="checkbox"/> On View Arrest <input type="checkbox"/> Summoned <input type="checkbox"/> Custody
	Juvenile Disposition <input type="checkbox"/> Handled Released <input type="checkbox"/> Referred To Other Authority		
	Arrest Location		

**Overflow:**

Boyd, Donna: Victim 1 Complainant 1

DL STATE/NUMBER: SC [REDACTED] DOB: [REDACTED]

Ladson, [REDACTED]: Witness 1

RACE: Black, SEX: Female, [REDACTED], RESIDENT: Primary Jurisdiction, Primary: [REDACTED]

Physical Description: [REDACTED]

*Deputy Holman in his own words*

PROPERTY	Status	Property Type	Quantity	Property Make	Color	Description	Serial #/ID#	Value

ADMIN	Subject Identified <input type="checkbox"/> Yes <input type="checkbox"/> No	Subject Located <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Active <input type="checkbox"/> Adm'n Closed <input type="checkbox"/> Unfounded	<input type="checkbox"/> Arrested Under 18 <input type="checkbox"/> Arrested 18 and Over	<input type="checkbox"/> Ex-Cleared Under 18 <input type="checkbox"/> Ex-Cleared 18 and Over
	Reason For Exceptional Clearance <input type="checkbox"/> Offender Death <input type="checkbox"/> No Prosecution <input type="checkbox"/> Victim Declines Cooperation <input type="checkbox"/> Extradition Denied <input type="checkbox"/> Juvenile No Arrest				
	Reporting Officer(s)	Date	Unit/Star#	Approving Officer	Date

HOLMAN, M.	10/30/2012	BASA/01148	TAYLOR, CHRISTOPHER	10/30/2012	E1/00450
			Follow Up Investigation <input type="checkbox"/> Yes <input type="checkbox"/> No	10/30/2012	BASA/01148

Exhibit 1

Date: 10-30-12  
Patrol Area: GJ11  
Deputy: M. Holman 2534

Case #: 12-160032  
Incident Type: Assault & Battery  
Suspect(s): Unknown

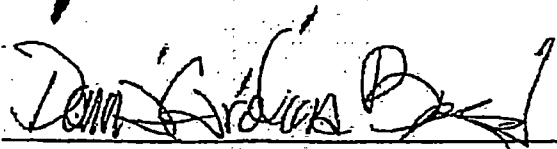
Exhibit 1

GREENVILLE COUNTY SHERIFF'S OFFICE  
VICTIM/WITNESS ASSISTANCE PROGRAM

VICTIM'S NAME: DONNA BOYD  
MAILING ADDRESS: [REDACTED] PHONE: (H): [REDACTED]  
(W): [REDACTED]

Alternate/Emergency Contact Information (Next of Kin)  
Name: \_\_\_\_\_ Relationship: \_\_\_\_\_  
Phone #'s \_\_\_\_\_  
(Home) (Work) (Mobile) (Pager)

\* I WISH TO BE PRESENT AT THE BOND HEARING. YES \_\_\_\_\_ NO X  
\* I WISH TO BE INFORMED OF ALL PROCEEDINGS. YES X NO \_\_\_\_\_

  
(Victim's Signature)

RIGHTS OF CRIME VICTIMS

\* To be treated with fairness, respect and dignity throughout the criminal and juvenile justice process. Victims have a right to be informed of their constitutional rights. \* To be reasonably informed when the accused or convicted person is arrested, released, or has escaped. \* To be informed of all criminal proceedings, and to be present at those proceedings, when the accused also has the right to be present, for the disposal of charges. \* To submit a written or oral statement at all hearings affecting bond or bail of the accused. \* To be heard at any proceeding involving a post-arrest decision, a plea, or sentencing. \* To be reasonably protected from the accused or persons acting on his/her behalf throughout the criminal justice process. \* The right to confer with the prosecution after the accused has been charged, or before the trial, or before the disposition of the charges. The victim must be informed of the disposition. \* After the conclusion of the criminal investigation, the victim has the right to reasonable access to all documents relating to the crime committed against them before trial. \* To receive prompt and full restitution from the convicted person or persons. \* To be informed of any proceeding for any post-conviction action or hearing and to be present at any hearing. \* To a reasonable disposition and a prompt and final conclusion of their case.

RESPONSIBILITIES OF CRIME VICTIMS

In order to exercise his/her rights and/or receive services, a victim shall provide, as appropriate, his/her:  
♦ legal name ♦ current mailing address ♦ telephone number

To: LAW ENFORCEMENT, THE PROSECUTING AGENCY, THE SUMMARY COURT JUDGE, THE DEPARTMENT OF JUVENILE JUSTICE, AND/OR THE ATTORNEY GENERAL.

The victim must inform the appropriate agency of his/her desire to participate in the criminal justice process.

TO RECEIVE VICTIM SERVICES, OR INFORMATION ON VICTIM COMPENSATION, CONTACT:

Greenville County Sheriff's Office  
Victim Services Unit  
(864) 467-4622 or  
(864) 467-4607 or  
(864) 467-4609 (Español)  
Monday - Friday, 8:00 a.m. - 4:30 p.m.

WHITE-RECORDS    YELLOW-VICTIM    GREEN-WARRANT    BLUE-DETENTION    PINK-ESPAÑOL

PC 106 1107 20 30

Exhibit 3

Agency I.D.  
SC9230000

EC5 11/08/2012-11:48:35

GREENVILLE COUNTY SHERIFF'S OFFICE

Supplemental Report Ent: grabertson 01/18/2013 14:31:57

Case Number

12000160032

<input type="checkbox"/> Original Report	<input type="checkbox"/> Status Change	<input type="checkbox"/> Additional Victims	<input type="checkbox"/> Additional Stolen Property	Incident Type <b>M092 - Assault &amp; Battery</b>
<input checked="" type="checkbox"/> Supplemental Report	<input type="checkbox"/> Other Report	<input type="checkbox"/> Additional Defendants	<input type="checkbox"/> Additional Recovered Property	Patrol District <b>CJ11</b> Page <b>1</b> of <b>1</b> Pages
I.D. OVERFLOW	<input type="checkbox"/> Complainant	Subject's Name (Last, first, middle) <b>Crumpton, Jack Boyd</b>		Victim Relationship To Subject
	<input type="checkbox"/> Victim	Address <b>1107 NE Main St A</b>		City <b>Simpsonville</b> State <b>SC</b> Zip Code <b>29681</b>
	<input type="checkbox"/> Subject #1	Might <b>511</b> Weight <b>190</b> Hair <b>Brn</b> Eyes <b>Brn</b>		Partial Hair, Scar, Tattoo, Glasses, Clothing, Physical, Penetration, Etc.
	<input type="checkbox"/> Runaway	<input type="checkbox"/> Victim No.	<input type="checkbox"/> Victim Injury	Complaint of any Non-Physical Injuries
	<input type="checkbox"/> Wanted	<input type="checkbox"/> Victim No.	<input type="checkbox"/> Victim Injury	Victim Using Alcohol <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unk

Arrested Armed  Yes  No Weapon Type \_\_\_\_\_

Juvenile Disposition  Handled Released  Referred To Other Authority

Arrest Location \_\_\_\_\_ Gang Affiliation: **NG - Not Gang Related**

overflow:

Crumpton Jack Boyd: Subject 1  
Subject Types: Suspect  
SSN: \_\_\_\_\_  
DL STATE/NUMBER: SC/0004915890

Narrative:  
\*\*\*\*\* Supplemental \*\*\*\*\*

Status: Active

On 11-03-12 I received a call from Jack Crumpton. He advised that before serving the Victim with civil papers, he spoke with a Greenville County Sheriff Deputy (unknown name) who works at county square. Jack said that he was a retired State Trooper and wanted to let the Deputy know that he was there to serve the Victim. Once acknowledged, Jack advised that he waited for the Victim to be positioned in a well populated area because he wanted to avoid any false allegations. He stated that his company has been used to serve the Victim in the past and she has been very difficult to serve. According to Jack, he took the opportunity to drop the paperwork into her purse when she had it on her left shoulder. He advised that it was open enough for him to let it free fall from his hand into the purse. He advised that he never touched the Victim and that no incident followed her being served. He stated that he folded the papers, extended his hand, called the Victim's name and when she responded to it, he dropped the paperwork into her purse and stated "you have been served". He said that he then left the building and waited outside the parking lot for the Victim to get in a vehicle. He said that he recorded her with two separate video cameras as she walked from the building to her vehicle. Jack advised that if she claimed to be injured, that his video would show that she showed no signs of injury as she walked from the building to her car. Jack requested that I speak with the Deputy at County Square to see if there were any cameras in the area in which he served the victim to unfound her complaint.

Why would victim claim to be injured if suspect Jack Crump never touched the victim as he claimed?

Status	Property Type	Quantity	Property Make	Color	Description	Serial #/CAN	Value

ADMIN	Subject Identified	Subject Located	<input checked="" type="checkbox"/> Active <input type="checkbox"/> Admin Closed	<input type="checkbox"/> Arrested Under 18	<input type="checkbox"/> Ex-Cleared Under 18
	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Unfounded	<input type="checkbox"/> Arrested 18 and Over	<input type="checkbox"/> Ex-Cleared 18 and Over
	Reason For Exceptional Clearance	<input type="checkbox"/> Offender Death	<input type="checkbox"/> No Prosecution	<input type="checkbox"/> Victim Declines Cooperation	<input type="checkbox"/> Extradition Denied
Reporting Officer	Date	Under Sheriff	Approving Officer	Date	Under Sheriff
HOLMAN, M.	11/04/2012	B15/01148	DEBRUN, TIMOTHY	11/04/2012	B05/00343
			Follow Up Investigation	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Date: Holman, M. 11/04/2012

Exhibit 3

# Exhibit 4

- 1 - Greenville SO
- 2 - Greenville PD
- DPS - Detention
- Other \_\_\_\_\_

## Greenville County Department of Public Safety Criminal Justice Support - Property Report

1. Status - Check <u>one</u> only: <input type="checkbox"/> Found <input type="checkbox"/> Seizure/imp. <input type="checkbox"/> GS Evidence <input checked="" type="checkbox"/> M Evidence <input type="checkbox"/> Recovered <input type="checkbox"/> Seizure/FF <input type="checkbox"/> Other		2. Case No. <b>01-12-160052</b>
3. Date and Time Impounded <b>11-07-12 1640</b>	It is mandatory to submit a laboratory analysis request form for all articles requiring laboratory or forensic processing.	4. Case Type <b>Assault &amp; Battery</b>
5. Found or Recovered From Location <input type="checkbox"/> Suspect <input type="checkbox"/> Complainant <input type="checkbox"/> Victim <input type="checkbox"/> Person reporting <input type="checkbox"/> ARA <input type="checkbox"/> Other		6. Where property was impounded (if you exact location - address) <b>301 University Ridge Greenville SC 29601</b>
7. Owner's Name <b>COUNTY SQUARE</b>		9. Owner's Phone #
10. Item #		11. Quantity
12. Description (include make, model, serial numbers and dog weights)		13. NCIC Hit Yes No
<b>AND1</b>	<b>01</b>	<b>MEMOREX CD-R INSIDE CASE</b>
UNLOADED FIREARM VERIFICATION		UFCV (clock verified)
UFOV (officer verified)		
Dog weight/gross weight		Officer's initials
F&E Use only Gross weight		Evidence clock's initials
14. Impounding Officer (print full name) <b>NAH Helms</b>		16. Star No. <b>1146</b>
15. Signature <b>A.S. Williams</b>		17. Unit No. <b>5015</b>
18. Received by (print name)	20. Signature	21. Date and Time Received
<b>Julie Traxton</b>	<b>Julie Traxton</b>	<b>P&amp;E Storage 11-7-12 1702</b>
<b>AUTHORIZATION FOR DISPOSITION: It is the authorizing officer's responsibility to notify owners to claim property.</b>		
TYPE OF DISPOSITION: <input type="checkbox"/> Cleared for destruction/return <input type="checkbox"/> Release from GA		AUTHORIZED BY Name (print) _____ Signature _____ Date _____ Release verification: NCIC/OCH check: _____ Name _____ Date _____

S/TPB 11/30/2012

FBI March, 2006

Evidence never cleared for destruction ORIGINAL But on June 25 2014 state told Applicant that video was destroyed in 2012

# Exhibit 5

Agency I.D.  
SC0230000

EC5 11/18/2012-08:08:17

## GREENVILLE COUNTY SHERIFF'S OFFICE

Supplemental Report    Ext: grobertson 01/18/2013 14:38:51

Case Number  
12000160032

<input type="checkbox"/> Original Report <input type="checkbox"/> Status Change <input type="checkbox"/> Additional Victims <input type="checkbox"/> Additional Stolen Property		Incident Type <b>M092 - Assault &amp; Battery</b>																																																	
<input checked="" type="checkbox"/> Supplemental Report <input type="checkbox"/> Other Report <input type="checkbox"/> Additional Defendants <input type="checkbox"/> Additional Recovered Property		Patrol District <b>CJ11</b> Page <b>1</b> of <b>1</b> Pages																																																	
<b>L.D. OVERFLOW</b>	<input type="checkbox"/> Complainant <input type="checkbox"/> Victim <input checked="" type="checkbox"/> Subject #1 <input type="checkbox"/> Runaway <input type="checkbox"/> Wanted <input type="checkbox"/> Arrest <input type="checkbox"/> Missing <input type="checkbox"/> Jail <input type="checkbox"/> Other		Subject Name (Last, First, Middle) <b>Crumpton, Jack Boyd</b>																																																
	Address <b>1107 NE Main St A</b>		City    State    Zip Code <b>Stumpville    SC    29681</b>																																																
	Height    Weight    Hair    Eyes <b>511    190    Brn    Bro</b>		Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Psychological, Etc.																																																
	<input type="checkbox"/> Victim No. <input type="checkbox"/> Visible Injury <input type="checkbox"/> Complaint of any Non-Visible Injuries <input type="checkbox"/> Victim Using Alcohol <input type="checkbox"/> Victim Using Drugs		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No																																																
	Subject No. <b>1</b> Using Alcohol <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Unknown    Using Drugs <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Unknown		<input type="checkbox"/> Arrested on Current Offense <input type="checkbox"/> Cleared By Arrest on Prior Offense																																																
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Juvenile Disposition <input type="checkbox"/> Handled Released <input type="checkbox"/> Referred To Other Authority		Gang Affiliation: <b>NG - Not Gang Related</b>																																																	
Arrest Location		Arrest Location																																																	
<b>Overflow:</b> Crumpton Jack Boyd: Subject 1 Subject Types: Suspect SSN: ██████████ DL STATE/NUMBER: ██████████																																																			
<b>Narrative:</b> ***** Supplemental ***** Status: Active On 11-07-12, I responded to 301 University Ridge (County Square) to inquire on video evidence that may support the Victim's complaint of assault and battery. I met with the Deputies that work at county square and we reviewed the surveillance video for this incident. Reviewing the angle of camera 15, around 1609 hours on 10/30/12, the surveillance video captured a clear image of the suspect in this case serving the Victim with the civil papers without incident. It was evident that this was a false complaint and that no injury resulted from this civil process. Due to the video evidence, this case is unfounded. A copy of this evidence was signed over to me and I placed it into property and evidence on 11-07-12. This case will remain active due to the Complainant giving false statements to create this report. I have contacted the Complainant by telephone and explained that this case can not go forward without her written statement for how this incident allegedly occurred. I have attempted to contact the Complainant on several working days but have had missed calls/voice mails. Today, 11-12-12 Complainant stated that she wants to voluntarily provide a written statement to this office on Friday 11-16-12 around 1400 hours. She has agreed to meet me at the LEC. If the Complainant provides a written statement and it is also inaccurate, this case will be brought before a magistrate for obtaining a warrant against the Complainant for filing a false police report. At this time, this case is active.																																																			
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Make</th> <th>Property Type</th> <th>Quantity</th> <th>Property Make</th> <th>Color</th> <th>Description</th> <th>Serial #/ID#</th> <th>Value</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>				Make	Property Type	Quantity	Property Make	Color	Description	Serial #/ID#	Value																																								
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Subject Identified <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Subject Located <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input checked="" type="checkbox"/> Active <input type="checkbox"/> Admin Closed <input type="checkbox"/> Unfounded		<input type="checkbox"/> Arrested Under 18 <input type="checkbox"/> Cleared Under 18																																													
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EXHIBIT 5

Exhibit 6

Greenville County Sheriff's Office  
4 McGea St.  
Greenville, South Carolina 29601

FILE UNDER CASE  
12-168507

VICTIM/WITNESS STATEMENT

Case Number 12-160032  
Date 16 NOV 2012

I, Donna Boyd, do hereby give freely and voluntarily this statement to M. Holman 235 \*1146 and W. McCarry B34 \*1194 who have identified themselves to me to be Deputies of the Greenville County Sheriff's Office, Greenville, South Carolina.

I am <sup>over</sup> 21 years old and I reside at 6 Pelham Tonnes Drive, 29615  
continued:

This man exhibited aggression and racial hostility. This man was obviously stalking me because I have never met this man before but he followed me to Greenville County Square and found me in the ~~crowd~~ crowd of many people. He never asked me my name. I do not feel safe in my home or public. END OF STATEMENT

\* On 10/31/12 I did go to the hospital for treatment for injured shoulder arm and hand. Diagnosis: sprain. Also went on 14 Nov 2012 to check arm for possible blood clot. Diagnosis: tear

I have read the above statement of 2/2 pages and it is true and correct as best as I recall.

WITNESS:  
M. Holman 235 \*1146  
W. McCarry B34 \*1194

Donna Boyd  
I have received a copy of this statement.  
Donna Boyd

Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_

NOTARY PUBLIC FOR SOUTH CAROLINA

GSO 00019

5/19/12/22/2012

16 NOV 2012 22 57

P. 75/75

FAX NO. 884 983 0029

JAN-07-2013 MON 02:19 PM Fairview Summary Court

ARREST WARRANT

2012A2330204055

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenville

THE STATE against 12-166607

Donna C Boyd

Address:

Phone: (773)266-2711

Sex: F Race: B Height: Weight:

DL State: SC DL #:

DOB: Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriff's Office

Prosecuting Officer: M. Holman - 1146

Offense: Report / Filing a false police report of a Misdemeanor violation

Offense Code: 2598

Code/Ordinance Sec: 16-17-0722(C)

This warrant is CERTIFIED FOR SERVICE in the County/ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

Signature of Judge (L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on 11-16-12

Signature of Constable or Law Enforcement Officer

RETURN WARRANT TO: Fairview/Austin Summary Court 205 North Maple Street, Suite 4 Simpsonville, SC 29681

ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenville

Personally appeared before me the affiant M. Holman who being duly sworn deposes and says that defendant Donna C Boyd did within this county and able on or about 10/30/2012

violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Greenville) in the following particulars:

DESCRIPTION OF OFFENSE: Report / Filing a false police report of a Misdemeanor violation

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:

On 10/30/12 the Defendant, Donna Boyd, filed a police report against a male subject who served her with civil papers (reference case # 12-160032). The investigation revealed the suspect to be Jack Crumpton with Foothills Investigations. Further investigation revealed video evidence from GC80 depicting at County Square, unfounding the Defendant's complaint, that Mr. Crumpton "aggressively" approached the Defendant and "forcefully" shoved Donna Boyd of the Defendant's handbag, causing her injury to her shoulder, arm, and hand. The Affiant has a written statement from the Defendant, in her own words and her own hand writing, falsely accusing Mr. Crumpton. This offense occurred at County Square, 301 University Ridge, Greenville, S.C. in Greenville County.

Absolutely No Articulate Facts to support Warrant

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenville

Affiant's Address 4 Magee Street Greenville, SC 29601-

Affiant's Telephone (864)271-5210

Please Note Absolutely no mention of Judge Hudson viewed the videotape ARREST WARRANT before Warrant Issued.

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 or about 10/30/2012 defendant Donna C Boyd did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Report / Filing a false police report of a Misdemeanor violation

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 11/16/2012

Signature of Judge (L.S.) James B. Hudson Judge Code: 5031

Judge's Address 4 Magee Street, Room 116-B Greenville, SC 29601-

Judge's Telephone (864)467-5302

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

Exhibit 7

Exhibit 7

Exhibit 7 ORIGINAL AFFIDAVIT

Form Approved by S.C. Attorney General April 27, 2009 SC024 013

Where are Facts to Support Probable Cause

No Probable Cause

# Exhibit 7A-1

Agency I.D.  
SC0220000

ES5 11/18/2012-10:24:32

## GREENVILLE COUNTY SHERIFF'S OFFICE

Supplemental Report Ent: chgllstrap 11/22/2012 20:01:50

Case Number

12000168507

<input type="checkbox"/>	Original Report	<input type="checkbox"/>	Status Change	<input type="checkbox"/>	Additional Victims	<input type="checkbox"/>	Additional Stolen Property	Incident Type <u>Filing False Police - Misdemeanor</u>																								
<input checked="" type="checkbox"/>	Supplemental Report	<input type="checkbox"/>	Other Report	<input type="checkbox"/>	Additional Defendants	<input type="checkbox"/>	Additional Recovered Property	Patrol District <u>CJ11</u>	Page <u>1</u> of <u>1</u> Pages																							
I.D. OVERFLOW	<input type="checkbox"/>	Complainant	Subject's Name (Last, First, Middle)				Victim Relationship To Subject	Ethnicity	Resident	Race	Sex	Age	Date of Birth																			
	<input type="checkbox"/>	Victim	Address				City	State	Zip Code	Patrol District	Day Phone	Evening Phone																				
	<input type="checkbox"/>	Subject	Height	Weight	Hair	Eyes	Facial Hair, Scars, Tattoos, Glasses, Clothing, Physical, Peculiarities, Etc.																									
	<input type="checkbox"/>	Runaway	<input type="checkbox"/>	Victim No.	<input type="checkbox"/>	Visible Injury	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Complaint of any Non-Visible Injuries	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Unk	<input type="checkbox"/>	Victim Using Alcohol	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Unk	Two-Man Veh	<input type="checkbox"/>	One Man Veh	<input type="checkbox"/>	ALONE	<input type="checkbox"/>
	<input type="checkbox"/>	Wanted	Explain:	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Unk	Drugs	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	Type:	<input type="checkbox"/>	Arrested on Current Offense	<input type="checkbox"/>	Unk	<input type="checkbox"/>	Cleared By Arrest on Prior Offense	<input type="checkbox"/>	On View Arrest	<input type="checkbox"/>	Summoned	<input type="checkbox"/>	Custody					
<input type="checkbox"/>	Arrest	Subject No.		<input type="checkbox"/>	Using Alcohol	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	<input type="checkbox"/>	Unk																					
<input type="checkbox"/>	Missing			<input type="checkbox"/>	Using Drugs	<input type="checkbox"/>	No	<input type="checkbox"/>	Yes	Type:																						
<input type="checkbox"/>	Jail																															
<input type="checkbox"/>	Other																															
		Arrestee Armed		<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	Weapon Type																								
		Juvenile Disposition		<input type="checkbox"/>	Handled Released	<input type="checkbox"/>	Referred To Other Authority																									
		Arrest Location																														
		OverFlow:		<p>Boyd, Donna: Subject 1 Subject Types: Suspect, Arrest</p> <p>Primary: [REDACTED] DL STATE/NUMBER: SC [REDACTED] DOB: [REDACTED]</p> <p>Narrative: This report is to document that the Subject, Donna Boyd, filed a false police report on 10/30/12 for assault and battery (3rd) against a subject who served her with civil papers, while she stood in line to vote at County Square. The case to reference is 12-160032. The subject in that case, Jack Crumpton, (employed by Foothills Investigations) was found to be clear of the allegations after the R/O investigated the surveillance video footage from County Square on that date &amp; time. The R/O has video evidence that was retrieved by Deputies working at County Square, which proves the complaint made by the Subject, Donna Boyd, was false. Ms. Boyd voluntarily gave a written statement in her own handwriting and in her own words which contradicted the video evidence on today's date.</p> <p>The R/O retrieved the video evidence from Property and Evidence, then collected Ms. Boyd's written statement, and then presented both to Judge Hudson. After reviewing the original complaint and the video evidence, Judge Hudson issued the R/O an arrest warrant for Ms. Boyd for filing a false police report - misdemeanor (warrant # 2012A2330204055). The R/O reported back to the main lobby where Ms. Boyd was located and explained that the Judge issued an arrest warrant for the false report. Ms. Boyd was advised that she was under arrest and placed in handcuffs. Deputy Vickers, who was present at the front desk, signed and served the warrant on Ms. Boyd. Due to the R/O's vehicle being located in the back lot of the LEC, Deputy May (A35) advised that he would transport both the R/O and Ms. Boyd to the detention center. Once at the detention center, Ms. Boyd was turned over without incident.</p> <p>Holman stated that he retrieved the video from P/E and collected victim's written statement and presented to Judge Hudson. BUT P/E reports fails to show that evidence was signed out on November 16, 2012.</p>																												
		Arrest Location																														
PROPERTY	Status		Property Type	Quantity	Property Make	Color	Description	Serial #/QAN	Value																							
ADMIN	Subject Identified		Subject Located		<input type="checkbox"/> Active <input type="checkbox"/> Admin Closed		<input type="checkbox"/> Arrested Under 18		<input type="checkbox"/> Ex-Cleared Under 18																							
	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Unfounded		<input checked="" type="checkbox"/> Arrested 18 and Over		<input type="checkbox"/> Ex-Cleared 18 and Over																							
	Reason For Exceptional Clearance		<input type="checkbox"/> Offender Death		<input type="checkbox"/> No Prosecution		<input type="checkbox"/> Victim Declines Cooperation		<input type="checkbox"/> Extradition Denied		<input type="checkbox"/> Juvenile No Arrest																					
Reporting Officer(s)		Date	Unit/Star#	Approving Officer		Date	Unit/Star#																									
HOLMAN, M.		11/16/2012	B35/01148	TAYLOR, CHRISTOPHER		11/16/2012	B1/00450																									
				Follow Up Investigation		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No																										

# Exhibit 7A-2

Agency I.D.  
SC0230000

ECS 11/19/2012 08:07:56

## GREENVILLE COUNTY SHERIFF'S OFFICE

Supplemental Report Ent: grobertson 01/16/2013  
14:38:51

Case Number

12000160032

<input type="checkbox"/> Original Report		<input checked="" type="checkbox"/> Status Change		<input type="checkbox"/> Additional Victims		<input type="checkbox"/> Additional Stolen Property		Incident Type <u>M092 - Assault &amp; Battery</u>																																																																																	
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	<input type="checkbox"/> Victim		<u>Crumpton, Jack Boyd</u>				<u>N</u>		<u>J</u>		<u>W</u>		<u>M</u>																																																																												
	<input checked="" type="checkbox"/> Subject #1		Address		City		State		Zip Code		Patrol District		Employee #																																																																												
	<input type="checkbox"/> Runaway		<u>1107 NE Main St A</u>		<u>Simpsonville</u>		<u>SC</u>		<u>29681</u>		<u>CH14</u>		<u>05/11/1990</u>																																																																												
	<input type="checkbox"/> Wanted		Height		Weight		Hair		Eyes		Race		Sex																																																																												
<input type="checkbox"/> Arrest		<u>511</u>		<u>190</u>		<u>Brn</u>		<u>Brn</u>		<u>W</u>		<u>M</u>																																																																													
<input type="checkbox"/> Missing		<input type="checkbox"/> Victim No.		<input type="checkbox"/> Visible Injury		<input type="checkbox"/> Complaint of any Non-Visible Injuries		<input type="checkbox"/> Victim Using Alcohol		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unk		<input type="checkbox"/> Time-Non Veh		<input type="checkbox"/> One-Min Veh <input type="checkbox"/> ALONE																																																																											
<input type="checkbox"/> Jail		Expire:		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Drugs		<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Type:		<input type="checkbox"/> Detective		<input type="checkbox"/> Other <input type="checkbox"/> ASSIGNED																																																																											
<input type="checkbox"/> Other		Subject No. <u>1</u>		<input type="checkbox"/> Using Alcohol		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Unk		<input type="checkbox"/> Using Drugs		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Type:		<input type="checkbox"/> Arrested on Current Offense		<input type="checkbox"/> Cleared By Arrest on Prior Offense																																																																											
Arrested Armed		<input type="checkbox"/> Yes <input type="checkbox"/> No		Weapon Type				<input type="checkbox"/> On View Arrest		<input type="checkbox"/> Summoned		<input type="checkbox"/> Custody																																																																													
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Arrest Location				Gang Affiliation		<u>NG - Not Gang Related</u>																																																																																			
<p><b>Overflow:</b></p> <p>Crumpton Jack Boyd: Subject 1 Subject Type: Suspect SSN: [REDACTED] DL STATE/NUMBER: [REDACTED]</p> <p><b>Narrative:</b> ***** Supplemental *****</p> <p>Status: Unfounded</p> <p>On 11-16-12 the Complainant/Victim in this case provided a written statement which contradicted the video evidence collected for this case. This information was discussed with Judge Hudson who issued the R/O a warrant against Ms. Boyd for filing a police report. Reference case# 12-168507. This case 12-160032 is unfounded.</p> <p><i>* Please note that Deputy Holman stated that this information was "Discussed" with Judge Hudson. But in his narrative Deputy Holman specifically stated that he retrieved the "video" from P/E, collected Applicant's statement and presented both to Judge Hudson. Video not signed out 11/16/12!</i></p>																																																																																									
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Plate</th> <th>Property Type</th> <th>Quantity</th> <th>Property Make</th> <th>Color</th> <th>Description</th> <th>Serial/ID#</th> <th>Value</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>														Plate	Property Type	Quantity	Property Make	Color	Description	Serial/ID#	Value																																																																				
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Exhibit 7A-2

# SC VOTING LAWS

## **SECTION 7-25-80. Threatening, intimidating, or abusing voters.**

A person who, at any of the elections, general, special, or primary, in any city, town, ward, or polling precinct, threatens, mistreats, or abuses a voter with a view to control or intimidate him in the free exercise of his right of suffrage, is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.

**HISTORY:** 1962 Code Section 23-657; 1952 Code Section 23-657; 1950 (46) 2059; 1993 Act No. 184 Section 12, eff January 1, 1994.

## **SECTION 7-13-150. Penalty for failure to assist in maintaining order.**

Any person who, when summoned or called upon by peace officers shall fail or refuse to assist him in maintaining the peace and good order at the polls shall be fined in a sum not to exceed one hundred dollars or imprisoned not to exceed thirty days.

**HISTORY:** 1962 Code Section 23-400.6; 1952 Code Section 23-361; 1950 (46) 2059; 1966 (54) 2340.

## **SECTION 7-13-160. Peace officers shall enter polling place only on request or to vote.**

No sheriff, deputy sheriff, policeman or other officers shall be allowed to come within the polling place except to vote unless summoned into it by a majority of the managers. On failure of any sheriff, deputy sheriff, policeman or other officer to comply with the provisions of the preceding sentence, the managers of election, or one of them, shall make affidavit against such sheriff, deputy sheriff, policeman or other officer for his arrest.

**HISTORY:** 1962 Code Section 23-400.7; 1952 Code Section 23-362; 1950 (46) 2059; 1966 (54) 2340.

Exhibit 7B

State knew that Applicant was in Law School

STATE OF SOUTH CAROLINA ) IN THE MAGISTRATE'S COURT  
COUNTY OF GREENVILLE )  
STATE OF SOUTH CAROLINA )  
Vs. )  
Donna Caroline Boyd )  
Defendant(s). ) Warrant #: 2012A2330204055

TO: DONNA [REDACTED] BOYD  
6 PELHAM TOWNES DR.  
GREENVILLE, SC 29615

Counsel gave notice of representation on 11/22/12 but notice sent to Applicant

PLEASE TAKE NOTICE THAT THE ABOVE CAPTIONED CASE HAS BEEN SCHEDULED FOR TRIAL WITH THE GREENVILLE COUNTY SUMMARY COURT AT:

ADDRESS: Fairview / Austin Summary Court  
205 N. Maple Street Suite 4  
Simpsonville, SC 29681

ROLL CALL WILL COMMENCE AT 1:00 PM ON MONDAY, 3/17/14.

JURY SELECTION WILL BE HELD AT 9:30 AM ON TUESDAY, 3/18/14.

DATE/TIME OF TRIAL: TO BE SET AT OR BEFORE JURY SELECTION

Date: 2014-02-18

*Devin Ford*  
Judge Ford

DEFENDANT AND/OR HIS ATTORNEY MUST BE PRESENT AT ROLL CALL. IF THE DEFENDANT OR HIS/HER ATTORNEY ARE NOT PRESENT, THE NON-APPEARANCE WILL RESULT IN WAIVER OF TRIAL BY JURY AND A BENCH TRIAL IN YOUR ABSENCE WILL BE HELD AT THAT TIME. IF A GUILTY VERDICT IS RENDERED, JAIL TIME MAY BE SENTENCED AND A BENCH WARRANT ISSUED FOR YOUR ARREST.

State well outside the jurisdictional time me to

Exhibit 8

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA

Vs.

Donna Caroline Boyd

Defendant(s).

IN THE MAGISTRATE'S COURT

SUBPOENA TO APPEAR AND  
NOTICE OF JURY TRIAL  
(CRIMINAL)

CHARGE: REPORT / FILING A  
FALSE POLICE RPT OF A

Warrant #: 2012A2330204055

TO: DONNA ~~XXXXXXXXXX~~ BOYD  
6 PELHAM TOWNES DR.  
GREENVILLE, SC 29615

PLEASE TAKE NOTICE THAT THE ABOVE CAPTIONED CASE HAS BEEN  
SCHEDULED FOR TRIAL WITH THE GREENVILLE COUNTY SUMMARY  
COURT AT:

ADDRESS: Fairview / Austin Summary Court  
205 N. Maple Street Suite 4  
Simpsonville, SC 29681

ROLL CALL WILL COMMENCE AT 3:00 PM ON MONDAY, 5/12/14.

JURY SELECTION WILL BE HELD AT 9:30 AM ON TUESDAY, 5/13/14.

DATE/TIME OF TRIAL: TO BE SET AT OR BEFORE JURY SELECTION

Date: 2014-04-09

*Counsel  
Relieved  
by Judge Ford*

*Don Ford / J*  
Judge Ford

DEFENDANT AND/OR HIS ATTORNEY MUST BE PRESENT AT ROLL CALL. IF THE  
DEFENDANT OR HIS/HER ATTORNEY ARE NOT PRESENT, THE NON-APPEARANCE  
WILL RESULT IN WAIVER OF TRIAL BY JURY AND A BENCH TRIAL IN YOUR ABSENCE  
WILL BE HELD AT THAT TIME. IF A GUILTY VERDICT IS RENDERED, JAIL TIME MAY  
BE SENTENCED AND A BENCH WARRANT ISSUED FOR YOUR ARREST.

*Applicant placed on Docket  
Immediately after Counsel  
reli*

*Exhibit BA*

Exhibit 8B

Exhibit 8B

STATE OF SOUTH CAROLINA

COUNTY/CITY OF GREENVILLE

Donna Boyd  
6 Pelham Townes Dr  
Greenville, SC 29615

Applicant arrived before scheduled time. Applicant notes that she was

SUMMARY COURT SUMMONS

You are hereby summoned to be and appear in the Fairview/Austin Summary Court, 205 North Maple Street, Suite 4, on June 25, 2014 at 9:00 AM, to serve as a defendant/defense counsel/witness in the Jury Trial of State vs. Donna C Boyd, Case Number: 2012A2330204055, Charge: Report / Filing a false police report of a Misdemeanor violation.

the only case

Judge Ford

Failure to appear by the defendant, without leave of the Court, may subject the defendant to trial in absentia.

Don Ford I.S.P.  
JUDGE

had that

Greenville County/City  
Fairview/Austin Summary Court  
205 North Maple Street, Suite 4  
Simpsonville, SC 29681  
Phone: (864) 963-3457 Fax: -

She was in court for almost seven (7) hours on a misdemeanor charge

May 9, 2014

PLEASE NOTE JURY SELECTION WILL BE Tuesday 6/24/14 AT 9:30 AM

Jury Selection Day Before All White Jury. Chosen by Prosecutor State determined to get a conviction by all means

M17

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

IN THE MAGISTRATE COURT

The State, )  
vs. )  
Donna Boyd, )  
Defendant. )

**NOTICE OF MOTION  
AND  
MOTION FOR CONTINUANCE  
DUE TO DEFENDANT'S UNAVAILABILITY,  
RACIAL DISCRIMINATION AND  
UNCONSTITUTIONAL CONTROL  
OF THE TRIAL DOCKET BY THE  
SOLICITOR'S OFFICE  
2012A-23-30204055**

**TO: The Magistrate Dean Ford, Walt Wilkins, Esquire, Solicitor and  
Rick Loveday, Assistant Solicitor**

**PLEASE TAKE NOTICE** that the above defendant, through her undersigned  
counsel, will immediately move before the Honorable Dean Ford, Magistrate for  
Greenville County, for an Order **CONTINUING** the trial of this case until after the week  
of March 17, 2014, and especially until after the defendant completes her Spring Semester  
of Law School on the grounds 1) That the defendant is in Law School out of State of  
South Carolina and she has Mid-Semester Law School Exams during the week of  
September 17, 2014; 2) That Assistant Solicitor Rick Loveday's ridiculous, unfair and  
unreasonable objection to this case being continued beyond the Defendant's Mid-Semester  
Exams in Law School during the week of March 17, 2014, has a strong odor of racial  
discrimination; and 3) The Solicitor's Office's attempted Control of the Trial  
Docket is an unconstitutional violation of the Separate Branches of Government,  
and for the other reasons described below as follows, to-wit:

1. That the defendant was charged with the pending charge over a year ago but

FILED

the defendant's undersigned attorney has never heard from the Solicitor's Office or the Court since November, 2012;

2. That although the defendant was placed on the Trial Docket for the week of March 17, 2014, the defendant's undersigned attorney was never notified by either the Court or the Solicitor's office and only learned that the defendant was only on the Trial Docket of March 17, 2014 from the defendant herself, which, by itself, is a Denial of due process considered that this interferes with the defendant being able to request a Continuance and reasonable Discovery from the Asst. Solicitor who is handling the case.

3. That since a denial of a Continuance for the defendant beyond the week of March 17, 2014 will most likely result in the defendant probably losing a Semester from Law School or probably dropping out of Law School, the defendant's undersigned attorney is informed and believe that, if the defendant and her undersigned attorney were white, it is highly unlikely that Assistant Rick Loveday, who appears to be white, and/or the Solicitor's Office would have objected to a reasonable Continuance, considering that this is the first time that this case has appeared on the Trial Docket and due to the fact that the defendant has a legitimate reason to request a Continuance..

4. That further, it is unconstitutional for the Solicitor, being a member of the Executive Branch of Government, to control the Trial Docket, which has already been recognized by the .C. Supreme Court and it is unconstitutional for Assistant

Exhibit 9

Solicitor Rick Loveday to "attempt to control the Trial Docket and speak for the Court,"

5. That although the defendant is scheduled to be in Mid-Semester Exams during the week of March 17, 2014, Assistant Solicitor Rick Loveday, who has never spoken to Defendant's undersigned attorney, contacted defendant's undersigned attorney in place of the Court and notified him with the attached email stating "we object to a continuance..." and the roll call will continue as scheduled."; However, Assistant Solicitor Rick Loveday is not the Court and it is unlawful and unconstitutional for him to attempt "to attempt to speak for the court."

6. That further, although the undersigned attorney's daughter was scheduled to assist him with defendant's case, the undersigned attorney's daughter is not available during the week of March 17, 2014 because one of her clients is scheduled to testify before the "State Grand Jury" during the week of March 17, 2014 in Columbia, S. C.

7. That in 38 years of the Practices of Law, the objection of Assistant Solicitor Rick Loveday and/or the Solicitor's Office to this request for a Continuance is the most ridiculous, unreasonable and unfair objection to a continuance that this undersigned attorney has ever seen;

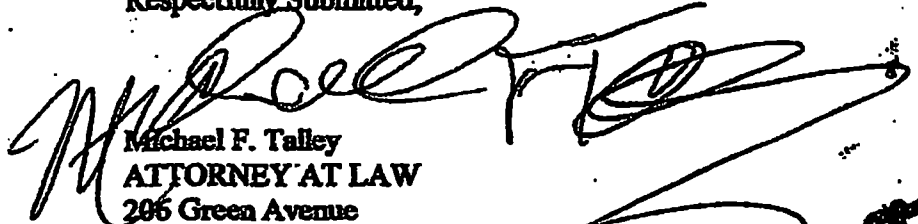
8. That since this undersigned attorney does not want to be a party to causing this defendant to drop out of Law School this Semester and/or fail her Law School Courses this Semester, this undersigned attorney is asking this court to immediately afford him

EXHIBIT A

an expedited Hearing on this within Motion for Continuance **THIS WEEK** and, not allow Assistant Solicitor Rick Loveday and/or the Solicitor's Office to interject their/its discretion and opinion and speak for the Court; and

9. On the applicable provisions of the U. S. Constitution;

Respectfully Submitted,



Michael F. Talley  
ATTORNEY AT LAW  
206 Green Avenue  
Greenville, S. C. 29601  
(864) 233-6229  
(864) 370-0071 (fax)

Dated: March 8, 2013 *2-14*

Exhibit 9

Court News

Exhibit 10

# South Carolina Court Administration

South Carolina Supreme Court  
Columbia, South Carolina

ROSALYN W. FRIERSON  
DIRECTOR

1015 SUMNER STREET, SUITE 200  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1800  
FAX: (803) 734-1355

## MEMORANDUM

TO: Magistrates and Municipal Judges

FROM: Robert L. McCurdy, Assistant Director

RE: Time Disposition Orders for Summary Courts

DATE: February 15, 2011

Arrest 11/16/12  
Placed on Docket 3/5/14

474 DAYS

I have attached two Orders of the Chief Justice dated February 14, 2011, revoking and replacing two previous Orders of the Chief Justice dated June 26, 1980. The Orders provide administrative time lines for disposal of civil and criminal cases, to include traffic, in magistrates and municipal courts. The previous Orders required that civil cases be disposed within ninety (90) days of filing, and criminal cases, to include traffic, be disposed within sixty (60) days of filing. The new Orders provide the following guidelines:

- Non-jury criminal cases, to include non-jury traffic, must be disposed within sixty (60) days of filing.
- Jury criminal cases, to include jury traffic, must be disposed within one-hundred twenty (120) days of filing **474 DAYS**
- Non-jury civil cases filed in magistrate court must be disposed within ninety (90) days of filing.
- Jury civil cases filed in magistrate court must be disposed within one-hundred twenty (120) days of filing.
- The Orders provide that, upon request, summary courts must provide Court Administration with a status report of pending civil and criminal cases, to include traffic.
- The Orders provide that the provisions of the Orders raise no substantive rights or defenses for parties involved in those cases.
- The new time lines are effective immediately.

Should you have questions concerning these Orders, please do not hesitate to contact this

EXHIBIT 10

Office.

RLM/mhb  
Attachments

2011-02-14-01

# The Supreme Court of South Carolina

RE: Disposition of Criminal Summary Court Cases

## ORDER

The judges of the magistrate and municipal courts of South Carolina being a part of the statewide unified judicial system, and pursuant to the provisions of Article V, Section 4, South Carolina Constitution,

IT IS ORDERED that each magistrate and municipal judge of this State shall try or otherwise dispose of all non-jury criminal cases, including non-jury traffic cases, within sixty (60) days of the return of the charging paper to the court, in the absence of good cause shown to the court.

IT IS FURTHER ORDERED that each magistrate and municipal judge of this State shall try or otherwise dispose of all criminal cases, including traffic cases, in which a jury trial has been requested within one-hundred twenty (120) days of the return of the charging paper to the court, in the absence of good cause shown to the court.

IT IS FURTHER ORDERED that magistrates and municipal judges shall report, upon request, to the Office of South Carolina Court Administration the reason that any criminal cases, including traffic cases, have not been tried or otherwise disposed within the time limits prescribed in this Order. The provisions of this Order in and of itself raise no substantive rights or defenses to parties involved in magistrate or municipal court criminal cases, including traffic cases.

This Order revokes and replaces the previous Order of the Chief Justice dated June 26, 1980, addressing the timely disposition of criminal summary court cases, including traffic cases. The provisions of this Order are effective immediately and remain in effect unless amended or revoked by subsequent Order of the Chief Justice.

[ s/Jean Hofer Toal  
Jean Hofer Toal  
Chief Justice ]

February 14, 2011  
Columbia, SC

EXHIBIT 10

# The Supreme Court of South Carolina

RE: Disposition of Civil Magistrate Court Cases

ORDER

The judges of the magistrate courts of South Carolina being a part of the statewide unified judicial system, and pursuant to the provisions of Article V, Section 4, South Carolina Constitution,

IT IS ORDERED that each magistrate of this State shall try or otherwise dispose of all non-jury civil cases within ninety (90) days of the date on which the complaint or other pleading initiating the action was filed, in the absence of good cause shown to the court.

[ IT IS FURTHER ORDERED that each magistrate of this State shall try or otherwise dispose of all civil cases in which a jury trial has been requested within one-hundred twenty (120) days of the date on which the complaint or other pleading initiating the action was filed, in the absence of good cause shown to the court.

[ IT IS FURTHER ORDERED that magistrates shall report, upon request, to the Office of South Carolina Court Administration the reason that any civil cases have not been tried or otherwise disposed within the time limits prescribed in this Order. The provisions of this Order in and of itself raise no substantive rights or defenses to parties involved in magistrate court civil cases.

This Order revokes and replaces the previous Order of the Chief Justice dated June 26, 1980, addressing the timely disposition of civil magistrate court cases. The provisions of this Order are effective immediately and remain in effect unless amended or revoked by subsequent Order of the Chief Justice.

s/Jean Hofer Toal  
Jean Hofer Toal  
Chief Justice

February 14, 2011  
Columbia, SC

20110214

Exhibit 10A

**MICHAEL F. TALLEY, LLC**

**Attorney at Law**  
206 Green Avenue  
Greenville, South Carolina 29601  
talkylaw@aol.com

Post Office Box 10081

Fax: 864-370-0071  
Phone: 864-233-6339

November 22, 2012

**BY FAX TRANSMISSION AND U. S. MAIL:**

**(864) 963-0029**

**The Honorable Dean Ford**  
**Greenville County Magistrate**  
**205 North Maple Street**  
**Simpsonville, S. C. 29681**

**RE: My Client: - Ms. Donna Boyd**  
**Alleged Offense: - Filing a False police Report of a Misdemeanor**  
**Warrant/Case No. - 2012A-23-302040SS**

**Dear Judge Ford:**

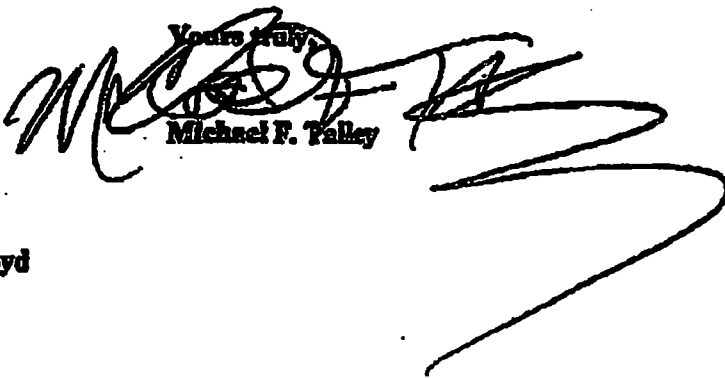
**Please note my representation of the above 100% Disabled Veteran, Ms. Donna Boyd, on the above alleged offense.**

**We respectfully request a jury trial on the above alleged offense for Ms. Boyd. Please schedule a trial by jury on the above alleged offense and kindly inform our office of its date and time.**

**A copy of Ms. Boyd's Arrest Warrant is enclosed for the Court's review.**

**Thank you.**

Yours Truly,



Michael F. Talley

**MFT**

**Enclosures:**

**cc: Ms. Donna Boyd**

Exhibit 10A

Exhibit 11

**MICHAEL F. TALLEY, LLC**  
Attorney at Law  
206 Green Avenue  
Greenville, South Carolina 29601  
Across from Greenville High School  
talleylaw@aol.com

Post Office Box 10081

March 10, 2014

Fax: 864-370-0071  
Phone: 864-233-6229

**The Honorable Dean Ford**  
Magistrate for Greenville County  
205 N. Maple Street  
Simpsonville, S. C. 29681

**RE: State vs. Donna Boyd**  
2012A-23-30204055

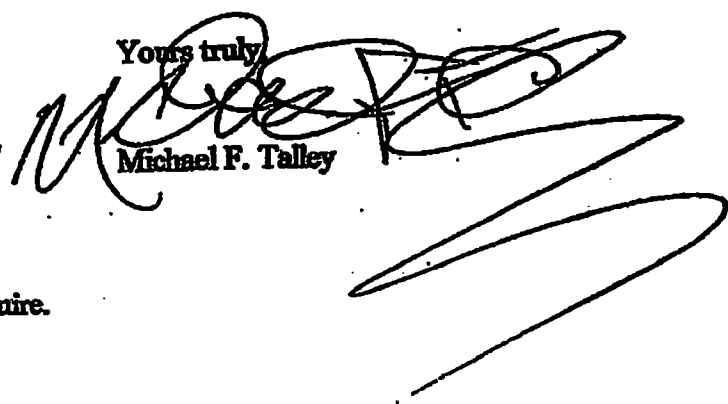
**Dear Judge Ford:**

Enclosed please find the original and one (1) copy of a Rule 5 and Brady Request for filing on behalf of the above defendant.

After filing, please forward filed copies to our office in the enclosed self-addressed-stamped envelope.

With kindest regards.

Yours truly



Michael F. Talley

MFT/  
Enclosures:  
cc: Mr. Rick Loveday, Esquire.

Exhibit 11

FAIRVIEW-AUSTIN  
MAR 13 2014  
SUMMARY COURT

Exhibit 11

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

IN THE MAGISTRATE COURT

The State, )  
vs. )  
Donna Boyd, )  
Defendant. )

REQUEST PURSUANT TO RULE 5  
OF THE S. C. RULES OF CRIM. P.

2012A-23-30204055


TO: Mr. Walt Wilkins, Esquire, Solicitor; Mr. Rick Loveday, Esquire, Asst. Solicitor For The 13th Judicial Circuit:

**PLEASE TAKE NOTICE** that the above defendant, Donna Boyd, hereby requests that you comply with Rule 5 of the S. C. Rules of CrimP. at least ten (10) days prior to the call of this case for trial.

Please provide all information subject to disclosure under Section (a), Subsections 1 (A), (B), (C), and (D). Further, the defendant expressly requests to inspect and/or copy any written statements of the defendant, of the alleged victim(s) and any witnesses, Confidential Informer(s) and/or Co-Defendants who has/have decided to testify against this defendant and information on whether any alleged victim(s), witnesses, Confidential Informer(s) and/or Co-Defendants was/were promised preferential treatment in exchange for testimony implicating this defendant to this charge.

And the Defendant, by his attorney, so requests.

Respectfully Submitted,

  
Michael F. Talley  
206 Green Avenue  
Greenville, S. C. 29601  
(864) 233-6229 (O);  
(864) 370-0071 (fax)

Dated: March 8, 2014

EXHIBIT 11

Exhibit 11

**MICHAEL F. TALLEY, LLC**

**Attorney at Law**

206 Green Avenue  
Greenville, South Carolina 29601  
Across from Greenville High School  
[talleylaw@aol.com](mailto:talleylaw@aol.com)

Post Office Box 10081

March 10, 2014

Fax: 864-370-0071  
Phone: 864-233-6229

**The Honorable Dean Ford  
Magistrate for Greenville County  
205 N. Maple Street  
Simpsonville, S. C. 29681**

**RE: State vs. Donna Boyd  
2012A-23-30204055**

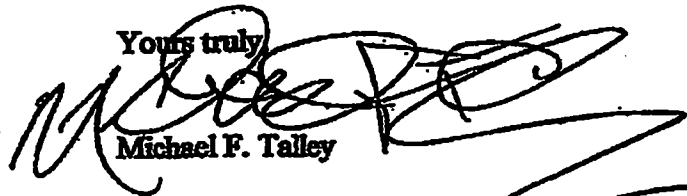
**Dear Judge Ford:**

Enclosed please find the original and one (1) copy of a Rule 5 and Brady Request for filing on behalf of the above defendant.

After filing, please forward filed copies to our office in the enclosed self-addressed-stamped envelope.

With kindest regards.

Yours truly



Michael F. Talley

MFT/  
Enclosures:  
cc: Mr. Rick Loveday, Esquire.

Exhibit 11

FAIRVIEW-AUSTIN  
MAR 13 2014  
SUMMARY COURT

Exhibit 11

STATE OF SOUTH CAROLINA ) IN THE MAGISTRATE COURT  
COUNTY OF GREENVILLE )

THE STATE, )  
vs. ) BRADY MOTION  
Donna Boye, )  
Defendant. ) 2012A-23-30204055

[ TO: Mr. Walt Wilkins, Esquire, Solicitor; Rick Loveday, Asst. Solicitor For The 13th Judicial Circuit ]

The Defendant does hereby move, pursuant to Brady vs. Maryland, 373 U. S. 383 (1963) and U. S. vs. Agurs, 427 U. S. 97 for disclosure by the State of the following at least ten (10) days prior to the call of this case for trial.

1. Any prior criminal record of the State's witnesses? —
2. Any prior criminal record of the defendant and/or any Co-Defendants? —
3. Any prior criminal records of the Defendant's accuser(s)? —
4. Any facts supporting the basis of reasonableness for the issuing of the arrest warrant of the above defendant for this charge?. —

5. Any written statement(s) of any alleged victims(s), State witness(es); Confidential Informer(s), Co-Defendants or the defendant on the above alleged charge(s)?

[ 6. Any supporting facts or evidence that the Greenville Sheriff Deputy had any "probable cause" to arrest the defendant? ]

EXHIBIT 11

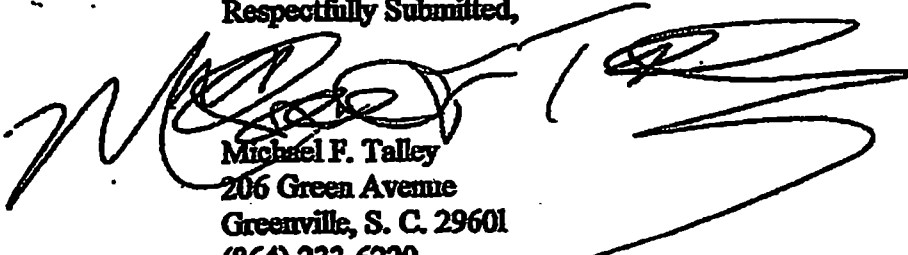
Exhibit 11

7. Any supporting facts or evidence that the arresting police officers had any Video Tapes or electronic tapes to give him/them "probable cause" to arrest the defendant.

8. Any evidence that the Greenville County Deputies had no evidence giving them "probable cause" to arrest the defendant? and,

9. Furnish the defendant's attorney(s) with a complete listing and/or recitation of any and all evidence or lack of evidence in the State's possession which may be favorable to the defendant.

Respectfully Submitted,

  
Michael F. Talley  
206 Green Avenue  
Greenville, S. C. 29601  
(864) 233-6229  
(864) 370-0071 (fax)

Dated: March 8, 2014

Exhibit 11

From: Loveday, Rick <rloveday@greenvillecounty.org>

To: talleylaw <talleylaw@aol.com>

Subject: Continuance Request

Date: Wed, Mar 6, 2014 4:08 pm

Attachments: Attachment (0)

No Discovery disclosed to Def  
at this time

Michael,

[ We received your continuance request for Donna Boyd. Per Mitchell Byrd, we object to a continuance on the reasons set forth in your request. The roll call will proceed as scheduled. ]

Thanks,

Rick Loveday  
Greenville Solicitor's Office  
Magistrate Assistant  
Phone: 864-467-8348  
Fax: 864-467-8640

Current Dockets Available Online at:  
<http://www.greenvillecounty.org/docket/magistratesdocket.asp>  
<blocked>: <http://www.greenvillecounty.org/docket/magistratesdocket.asp>

CONFIDENTIALITY NOTICE: This e-mail and any files transmitted with it are confidential and may contain information which is legally privileged or otherwise exempt from disclosure. They are intended solely for the use of the individual or entity to whom this e-mail is addressed. If you are not one of the named recipients or otherwise have reason to believe that you have received this message in error, please immediately notify the sender and delete this message immediately from your computer. Any other use, retention, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited.

EXHIBIT 13

474 Days passed since  
arrest on November 16, 2012.  
And State has the gall to deny  
Applicant's request for Continuance



**DEAN E. FORD**  
SUMMARY COURT JUDGE  
205 North Maple Street  
SUITE 4  
SIMPSONVILLE, S.C. 29681  
(864) 963-3457

Michael F. Talley/Attorney at Law  
Representing

Donna Boyd  
DEFENDANT

**IN THE MAGISTRATE COURT**

**CASE NUMBER: 2012A2330204055**

**ORDER TO RELEASE ATTORNEY**

The motion to withdraw as the defendant's attorney has been granted.

**IT IS SO ORDERED.....**

This 9th day of April 2014

  
\_\_\_\_\_  
JUDGE DEAN E. FORD

Exhibit A

**Loveday, Rick**

---

**From:** Loveday, Rick  
**Sent:** Tuesday, March 11, 2014 11:58 AM  
**To:** Michael Talley (talleylaw@aol.com) (talleylaw@aol.com)  
**Subject:** Discovery Donna Boyd 2012A2330204055  
**Attachments:** Discovery Donna Boyd 2012A2330204055.docx

Michael,  
Discovery is now available on the web in the above referenced case.

**To Include:**

1. Copy of warrant 2012A2330204055, 1 page
2. GCSO Incident Report by M Holman from 10/30/12, 3 pages
3. Statement by Donna Boyd, 2 pages
4. GCDPS Property Report, 1 page
5. GCSO Supplemental Report by M Holman from 11/4/12, 1 page
6. GCSO Supplemental Report by M Holman from 11/2/12, 1 page
7. GCSO Supplemental Report by M Holman from 11/16/12, 1 page
8. GCSO Supplemental Report by M Holman from 11/7/12, 1 page
9. GCSO Incident Report by M Holman from 11/16/12, 2 pages
10. Statement by Donna Boyd, 2 pages
11. SCDMV Certification for Court, 2 pages
12. NCIC, 1 page

Thanks,

Rick Loveday  
Greenville Solicitor's Office  
Magistrate Assistant  
Phone: 864-467-8348  
Fax: 864-467-8640

Current Dockets Available Online at: <http://www.greenvillemagistrate.org/docket/magistratesdocket.asp>

[ NO ATTACHMENTS ]

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Exhibit 15

Exhibit 16A

State of South Carolina  
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8847  
Telefax: 864-467-8810



Greenville County Courthouse  
305 E. North Street, Suite 325  
Greenville, SC 29601-2185

Solicitor  
W. Walter Wilkins

**NOTICE OF UNAVAILABILITY FOR COURT**

(PRINT FULL NAME)

**NAME:** Deshler C. Mansel

**AGENCY:** Greenville County Sheriff's Office

**WORK PHONE #** 864-271-5210

**PAGER #** \_\_\_\_\_

**HOME PHONE#**                     

**DATES UNAVAILABLE** \_\_\_\_\_

**STARTING:** 3/10/2014

**ENDING:** 3/21/2014

**REASON FOR UNAVAILABILITY:** \_\_\_\_\_

Going out of town

**DATE OF NOTICE:** 1/7/2014

**SIGNATURE OF OFFICER:** \_\_\_\_\_

D.C. Mansel

**SIGNATURE OF SUPERVISOR:** \_\_\_\_\_

Det. Keith [unclear] #420 B-4

**PLEASE RETURN THIS COMPLETED FORM BY FAX OR EMAIL.**

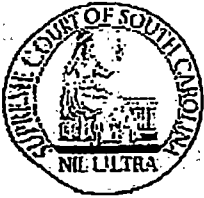
Rita Carter, Admin Assist.

13<sup>th</sup> Circuit Solicitor's Office

Fax # 467-8610 – EMAIL – [rcarter@greenvillecounty.org](mailto:rcarter@greenvillecounty.org) – Phone# 467-8265

Exhibit 16A

# Exhibit 16



## Greenville County 13th Judicial Circuit Public Index



Greenville County Home Page South Carolina Judicial Department Home Page

Family Court Public Index

Switch View

### The State of South Carolina vs. Donna C Boyd

Case Number:	2012A2330204055	Court Agency:	Fairview/Austin Summary Court	Filed Date:	11/16/2012
Case Type:	Criminal	Case Sub Type:			
Status:	Disposed	Assigned Judge:	Ford, Dean Eugene	Disposition Judge:	Ford, Dean Eugene
Disposition:	Guilty Jury Trial				
Disposition Date:	06/25/2014	Date Received:		Arrest Date:	11/16/2012
Law Enf. Case:	12-168507	True Bill Date:		No Bill Date:	
Prosecutor Case:		Indictment Number:		Waiver Date:	
Probation Case:					

#### Case Parties Charges Sentencing Associated Cases Actions Financials Bonds

Click the  icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
<input checked="" type="checkbox"/> Boyd, Donna C	6 Pelham Townes Dr Greenville SC 29615	Black	F	1964	Defendant		06/26/2014
<input checked="" type="checkbox"/> Boyd, Donna C	6 Pelham Townes Dr Greenville SC 29615				Bond Entity		11/16/2012
Burdine, J	4 Mcgee Street Greenville SC 29601				Officer		05/09/2014
Crompton, Jack	1107-A N E Main Street Simpsonville SC 29681				Witness		05/09/2014
Griffin, D	4 Mcgee Street Greenville SC 29601				Officer		05/09/2014
Holman, M.	4 Mcgee Street Greenville SC 29601-				Officer		11/16/2012
Mansel, D C	4 Mcgee Street Greenville SC 29601				Officer		05/09/2014
<input checked="" type="checkbox"/> Talley, Michael F. Sr. (Inactive)	206 Green Avenue Greenville SC 29601				Defendant Attorney		05/09/2014

These "witnesses" were not "Eyewitness  
to the incident that occurred on 10/30/12  
These three "witnesses" are the GCSO  
deputies that the state used to LIE and  
present FALSE EVIDENCE against the

STATE OF SOUTH CAROLINA ) IN THE MAGISTRATE'S COURT  
 COUNTY OF GREENVILLE ) SUBPOENA TO APPEAR AND  
 ) NOTICE OF JURY TRIAL  
 ) (CRIMINAL)  
 STATE OF SOUTH CAROLINA )  
 Vs. )  
 )  
 Donna Caroline Boyd ) CHARGE: REPORT / FILING A  
 ) FALSE POLICE RPT OF A  
 )  
 Defendant(s) ) Warrant #: 2012A2330204055  
 )  
 .....

TO: C MANSEL  
 GREENVILLE COUNTY SHERIFF'S OFFICE  
 4 MCGEE STREET  
 GREENVILLE, SC 29601

PLEASE TAKE NOTICE THAT THE ABOVE CAPTIONED CASE HAS BEEN SCHEDULED FOR TRIAL WITH THE GREENVILLE COUNTY SUMMARY COURT AT:

ADDRESS: Fairview / Austin Summary Court  
 205 N. Maple Street Suite 4  
 Simpsonville, SC 29681

ROLL CALL WILL COMMENCE AT 1:00 PM ON MONDAY, 3/17/14.

JURY SELECTION WILL BE HELD AT 9:30 AM ON TUESDAY, 3/18/14.

DATE/TIME OF TRIAL: TO BE SET AT OR BEFORE JURY SELECTION

Date: 2014-02-18 Dean Ford / SP  
 Judge Ford

DEFENDANT AND/OR HIS ATTORNEY MUST BE PRESENT AT ROLL CALL. IF THE DEFENDANT OR HIS/HER ATTORNEY ARE NOT PRESENT, THE NON-APPEARANCE WILL RESULT IN WAIVER OF TRIAL BY JURY AND A BENCH TRIAL IN YOUR ABSENCE WILL BE HELD AT THAT TIME. IF A GUILTY VERDICT IS RENDERED, JAIL TIME MAY BE SENTENCED AND A BENCH WARRANT ISSUED FOR YOUR ARREST.

RECEIVED

PROOF OF SERVICE

SERVED BY \_\_\_\_\_  
 UNIT/STAR # \_\_\_\_\_  
 DATE SERVED \_\_\_\_\_

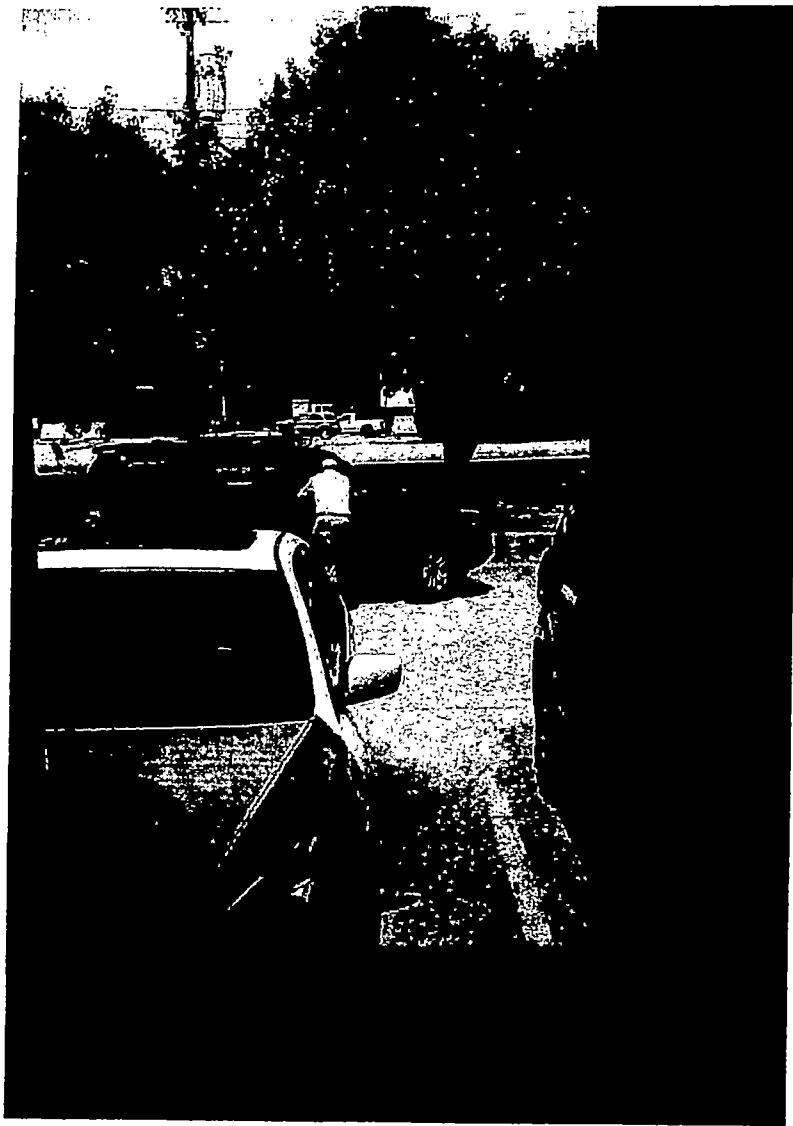


Exhibit 18

Suspect

June 25, 2014, white male subject  
Jack Crump talking to female  
Juror.



Suspect Jack Crump

Exhibit 18 A

09 40

Exhibit 19-1

FILED-CLERK OF COURT  
GREENVILLE CO. S.C. 2014-CP-23-3740

PAUL D. WICKENSIMMER

COMMON PLEAS CASE NUMBER

STATE OF SOUTH CAROLINA 2014 JUL 7 PM 3 09

COUNTY OF Greenville

MAGISTRATE CIVIL CASE NUMBER

Donna Boyd

APPELLANT(S)

IN THE COURT OF COMMON PLEAS

VS.

NOTICE OF CRIMINAL APPEAL

State of South Carolina

RESPONDENT(S)

The plaintiff (defendant) (circle one), Donna Boyd hereby gives notice of appeal from the judgment of the magistrate's court in the above action, to the Circuit Court of Common Pleas, in the county of Greenville

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 25 day of June, 2014

The appellant's exceptions to the judgment of the magistrate are set forth as follows:

1) Absolutely No Probable Cause prior to arrest or at time of arrest. 2) Solicitor Lyall admitted that videotape destroyed since 2012. However, in 2014 discovery. Asst. Solicitor Boyd alludes that evidential in be in PTE. 3) Late Discovery, rec'd Discovery on date of trial 6/25/14. Witness for the State notified summoned to meet privately with Judge Ford and Solicitor Lyall before being forced to go to trial on June 25, 2014. Both Judge and Solicitor did to intimidate, harass, and induce witness to consent to pre-trial intervention.  
4) Due Process Defendant denied right to plan and or call witnesses. Also, the State's withholding of evidence to gain the advantage. Judge refused to grant continuance. Judge refused and failed to properly instruct jury. Jury admitted not understanding what probable cause is.

Dated: 07 July 2014

Donna Boyd  
Appellant (or his attorney)

41  
Jury Tampering  
6) While jury deliberated, state's witness, Jack Crump did approach and speak with the alternate juror as she was exiting the parking lot. Crump later stated to the court that he asked the female, white, juror - how -

SCCA/720 (Amended 8/1/2011)

# Exhibit 19-1

FILED-CLERK OF COURT  
GREENVILLE CO. S.C. 2014-CP-23-3740  
PAUL J. VIGLERS COMMON PLEAS CASE NUMBER

STATE OF SOUTH CAROLINA 2014 JUL 7 PM 3 09

COUNTY OF Greenville

Donna Boyd  
APPELLANT(S)

MAGISTRATE CIVIL CASE NUMBER

IN THE COURT OF COMMON PLEAS

VS.

NOTICE OF CRIMINAL APPEAL

state of South Carolina  
RESPONDENT(S)

The plaintiff/defendant (circle one), Donna Boyd hereby gives notice of appeal from the judgment of the magistrate's court in the above action, to the Circuit Court of Common Pleas, in the county of Greenville.

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 25 day of June, 2014.

The appellant's exceptions to the judgment of the magistrate are set forth as follows:

1) State deliberately destroys evidence  
2) required testimony by Deputy Holman state that he did not know Jack Crum or anyone that knew Crum prior to the arrest of Defendant on 16 November 2012  
Deliberate delay to adjournate the case in order to gain advantage. Defendant made complaint on October 30 2012. However Discovery of evidence more available until 2014.

3) RACIAL ANIMUS  
Judge allowing Solicitor to repeatedly use certain racial code words to incite and prejudice "all white jury". Solicitor allowed to roam the entire courtroom including where the jurors were in the back. Solicitor's control. Doke

Dated: 07 July 2014

[Signature]  
Appellant (or his attorney)

**Byrd, Mitchell**

---

**From:** roster@greenvillecounty.org  
**Sent:** Wednesday, July 09, 2014 4:28 PM  
**To:** Byrd, Mitchell  
**Cc:** Lopez, Stephen  
**Subject:** Motion "MOFREE-Magistrate Crinnal Appeal" for Case "2014CP2303740- South Carolina State Of vs. Donna Boyd" was added to a Motions Roster for 8/12/2014 at 10:00 AM

A Hearing in this case is SCHEDULED - DATE and TIME listed on Action line above.  
Movant is responsible to notify all counsel and/or self represented parties.  
CHECK THE ONLINE ROSTER at <http://www.greenvillecounty.org/scid/courtrosters/>  
Please address requests for continuance to the Chief Administrative Judge; send via e-mail to the Non-Jury Coordinator and copy all counsel and/or parties if pro se If Resolved or Withdrawn please contact Steve Lopez (864)467-8546  
[nicoord@greenvillecounty.org](mailto:nicoord@greenvillecounty.org) \*\*MEMO REQUIREMENTS\*\* at  
<http://www.greenvillecounty.org/courtsupport/MemPolicies.asp>  
(File w Clerk AND Deliver paper copy of Brief or Memo to Presiding Judge 72 Hours Prior to Hearing)

Exhibit 19-2



## JUDGE DEAN E. FORD

*"... At Your Service"*

Donna Boyd  
PO Box 1168  
Mauldin, S.C. 29662

I am in receipt of your request for the recordings of your hearing. No recordings are available for that session of court. The audio tool used malfunctioned. Sorry for the inconvenience.

  
Judge Ford

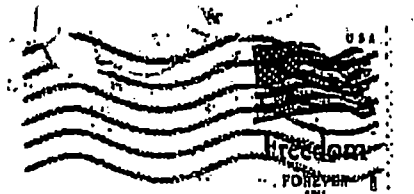
*\* Please note that letter not dated \*  
However Envelope dated 23 July 2014.*

**5/10/14-20**

EXHIBIT - OA

Judge Dean E. Ford  
205 North Maple St.  
Simpsonville, S.C. 29681

GREENVILLE SC 296  
23 JUL 2014 PM 6 T



Donna Boyd  
PO Box 1168  
Mauldin, S.C. 29662

29662\$1168



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Davis Adv. Sh. No. 29  
S.E. 2d

THE STATE OF SOUTH CAROLINA

In The Supreme Court,

In the Matter of George

K. Lyall, Respondent.

Opinion No. 24700

Submitted Septembr 4, 1997 - Filed October 13, 1997

DEFINITE SUSPENSION

Wilburn Brewer, Jr., of Columbia, for respondent.

A. Camden Lewis, Special Disciplinary Counsel.

PER CURIAM: In this attorney disciplinary matter, respondent

admits he has committed misconduct and consents to a suspension of up to nine months. We accept respondent's admissions and suspend him from the practice of law for nine months.

Padgett Trust Matter

Respondent and his wife served as co-trustees of a trust established

on behalf of their children by respondent's father-in-law, Christian D. Padgett.

In the past several years, Mr. Padgett would forward appropriate documents to

respondent and his wife, request their endorsement as co-trustees, and have

them return the documents to Mr. Padgett for filing, recording, deposit, or

negotiation. Included in the documents were checks made payable to respondent

and his wife as co-trustees.

p38

In January 1995, respondent, in his capacity as co-trustee, received

a check in the amount of \$23,000 from Mr. Padgett to invest in stock for the

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1 3

respondent converted the money on his own use to pay South Carolina state taxes owed by him and his wife. Respondent has made cash restitution to the children's trust.

In November 1996, respondent received a check representing the proceeds of the sale of certain real estate by Mr. Padgett on behalf of the children's trust. The check was made payable to respondent and his wife, in their capacity as co-trustees, in the amount of \$26,057.01. Mr. Padgett intended for respondent and his wife to endorse the check, then return it to him for deposit into the children's trust.

Instead, respondent endorsed the check and endorsed his wife's signature without her prior consent or knowledge. He personally took the check to a bank and negotiated it for two cashier's checks. Respondent negotiated one cashier's check in the amount of \$23,566.14 to Richland County Treasurer to pay 1994 delinquent taxes on three properties owned by the 1325 Partnership, of which respondent was a partner. Respondent negotiated the second cashier's check in the amount of \$2,490.87, payable to himself, and used the funds for his own purposes.

Respondent wrote a letter to Mr. Padgett in February 1997, apologizing for his conduct but not revealing what he had done with the \$26,057.01 check. In March 1997, five months after demands were made of him to explain the missing check, respondent sent Mr. Padgett an "assignment and bill of sale" of his partnership interest in the 1325 Partnership. Respondent stated in a letter that he was resigning as co-trustee and transferring his partnership interest to the children's trust in exchange for the missing check. The 1325 Partnership agreement provides that any transfer or assignment of a partner's interest must be approved by the remaining partners. The other partners had no knowledge of respondent's assignment of his partnership

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1997 and backdating it to November 1996. Respondent has made  
restitution to the children's trust.

#### 1325 Partnership Matter

Respondent was the managing partner of the 1325 Partnership,  
formed in 1986 to invest in real estate. As managing partner, respondent was  
in charge of all records and the checking account.

An examination by the state Attorney General's Office of the  
partnership's financial records from 1992 to 1997 revealed that respondent had  
withdrawn, in about forty-five check transactions not authorized by the

p39

partnership, a total of \$47,587.42 for his personal use. The transactions began  
in late 1992 and continued through 1996. In an effort to make up for the  
withdrawals, respondent during the same period deposited into the partnership  
account or paid on the partnership's behalf the total sum of \$36,656.43.

Respondent has agreed to make full restitution to the partnership.

#### Hathcock v. Navistar Matter

Michael Hathcock and his wife brought separate civil actions  
against Navistar International Transportation Corp. ("Navistar") after Mr.  
Hathcock was badly burned in an accident in which the truck he was driving  
burst into flames after a collision. Hathcock alleged that Navistar,  
manufacturer of the truck, had negligently designed the fuel system, making it  
defective and unreasonably dangerous. Navistar retained respondent as local  
counsel in 1992.

Hathcock's counsel served detailed interrogatories and requests for  
production on respondent as local counsel for Navistar. In the preamble of the  
discovery requests, Hathcock's counsel defined certain terms specifically,

including the term "fuel system" in an interrogatory. Hathcock's counsel

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system in Hathcock's truck or any similar fuel systems in other vehicles manufactured by Navistar.

In response, respondent signed answers listing eighteen prior lawsuits, but unilaterally limited the answers to only those suits involving post-collision fuel-fed fires and allegations involving the fuel system of the particular type of truck Hathcock was driving. Hathcock's counsel asked respondent to supplement Navistar's responses, and again informed respondent that the interrogatories were not limited to the particular type of truck Hathcock was driving. Respondent again denied knowledge of any additional suits in supplemental responses.

Hathcock's counsel obtained information from sources other than Navistar about three past lawsuits filed against Navistar by plaintiffs named Podvin, Ryan, and Shilts. Respondent, in consultation with Navistar, had not listed those suits in answers to interrogatories or provided any information about them. In August 1993, Hathcock's counsel informed respondent he had located two of the prior plaintiffs and intended to call them at trial.

Two weeks later, respondent notified Hathcock's counsel that he had documents from the Podvin and Shilts cases, and produced hundreds of documents from those cases. Respondent admits the three suits involved in-cab fires in Navistar trucks with essentially the same type of fuel system as the truck Hathcock was driving. The Shilts case involved the same type of truck as the one Hathcock was driving; the other two cases involved a medium-duty truck

p40  
IN THE MATTER OF LYALL

and a pickup truck.

In other interrogatories, Hathcock's counsel asked respondent to

identify all employees who helped answer the interrogatories and all employees

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background information about the employees. In response, respondent objected to identifying those individuals and suggested Hathcock's counsel depose one Navistar official and then determine whether additional information was needed. In an internal letter from respondent to Navistar concerning this discovery request, respondent stated,

[It is my understanding we would rather not produce the information currently available. It is my belief [the federal court] would require us to produce some background information if the issue were brought before [it]; therefore, we need to consider whether we should voluntarily produce a document of our choice or face the risk of producing a document we would rather not produce.

Respondent admits there is an appearance of impropriety and misconduct in the discovery process in Hathcock's case, and respondent acknowledges he is responsible for that appearance.

#### Conclusion

In the Padgett Trust and 1325 Partnership matters, respondent admits he converted money belonging to another to his own use, concealed and refused to explain what he had done with the money, improperly created and backdated an assignment and bill of sale of his interest in a partnership, and endorsed his wife's signature on a check without her prior consent. We conclude respondent engaged in conduct involving a criminal act that reflects adversely upon his honesty, trustworthiness, and fitness as a lawyer. He engaged in conduct involving moral turpitude. He acted in a dishonest and fraudulent manner, and engaged in conduct tending to pollute the administration of justice or to bring the courts and legal profession into disrepute. By his actions,

20B

Conduct contained in Rule 407, SCACR, and Rule 7(a)(5) of the Rules for Lawyer Disciplinary Enforcement contained in Rule 413, SCACR.

Finally, a lawyer has an obligation to not unlawfully obstruct another party's access to evidence, and to make reasonably diligent efforts to comply with proper discovery requests. Rules 3.4(a) and (d) of Rule 407, SCACR. Respondent's actions in the Hathcock matter clearly create the appearance that respondent has violated those provisions.

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We find that respondent's conduct warrants a definite suspension of nine (9) months from the practice of law. Within fifteen (15) days of the date of this opinion, respondent shall file an affidavit with the Clerk of Court showing he has complied with Rule 30 of Rule 413, SCACR. In addition to all other requirements respondent must meet to be reinstated under Rule 413, SCACR, no petition for reinstatement shall be accepted until respondent has filed proof that he has made full restitution to the 1325 Partnership as he has agreed to do.

**DEFINITE SUSPENSION**

Finney, C.J., not participating

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Dear Commission on Judicial Conduct,

I respectfully request an investigation of a hearing held before the Honorable Magistrate Judge Dean E. Ford.

Facts

I went before the Judge Ford on June 25, 2014, regarding the criminal misdemeanor complaint of filing a false police report on October 30, 2012 and subsequently arrested on November 16, 2012. As I waited in the lobby, I was summoned to meet privately with Judge Ford and Assistant Solicitor George K. Lyall. I noticed immediately upon entering the room, my mug shot placed strategically on the table. It was obvious that Judge Ford had met prior with Lyall and that he had discussed the case because their entire approach was well scripted. Both Judge Ford and Lyall, attempted to intimidate and coerce me into accepting Pretrial Intervention. I asked about the discovery and was told that discovery had been emailed to my former attorney on March 11, 2014. Judge Ford very nastily stated that I should have requested the discovery after former counsel was relieved.

Judge Ford stated that I could get a copy and coincidentally, Lyall had an extra copy of the discovery. Lyall stated that the charges against me were serious as to suggest that I should consider the potential ramifications and how this charge would affect my legal career. I asked about the "videotape" which would prove that the event happened as I stated. I was told for the first time on June 25, 2014, that the 'videotape' allegedly was destroyed in 2012. Judge Ford feigned not knowing that the tape was destroyed. Also, feigned having an issue with the 'tape' being destroyed, however, when I asked that the charges be dismissed due to lack of probable cause, Judge Ford refused and stated that was a motion that I could raise. Also, I was told by Lyall that a jury had been chosen on June 24, 2014. When I inquired as to the racial makeup, I was told that the jury was 'all white' and had I been there I could have chosen the jury. Judge Ford also stated that it was the jury's duty to determine if there was probable cause and suggested that decision could be made only after hearing the 'officers' testimony.

Both Judge Ford and Lyall insisted that three officers come into the room and state what they were going to testify in the event a hearing took place that day. The officers came into the room one at a time and Lyall asked them what they observed. Ironically, all three asserted that they saw the 'video' but all gave inconsistent testimony. One deputy stated that he saw the video four times; however, all three officers failed to make sworn statements as to what they saw. The discovery failed to list any witnesses for the State. Also, stated that these officers in their review of the tape would testify that the process server was not hostile and aggressive. Also, the discovery dated March 11, 2014, alluded that videotape evidence may be available in property evidence. However, the State admitted that the 'videotape' had been destroyed since 2012.

Again, I raised my concerns to Judge Ford about the lack of probable cause, destroyed tape, untimely discovery, and a continuance since I had received the discovery for the

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first time that day. I strenuously asked that the charges be dismissed and was told by Judge Ford that I could raise those motions, but he was moving forward with the hearing and there would be no delay. Before the hearing, Judge Ford walked over to the table where I was sitting, stated, "I'm not saying that you are guilty", and placed a PTI pamphlet in front of me on the table. I am also concerned about solicitors being selectively used in magistrate court cases. When I served the notice of appeal with the solicitors' office, I was told that George K. Lyall did not work for the solicitor and that Lyall was contracted by the solicitors' office to litigate the matter. I find this very concerning because why would the State go to such an extent as to hire an attorney with his own law practice to prosecute an almost two year old a misdemeanor case? Recently, I was informed that a similar situation happened with a traffic ticket.

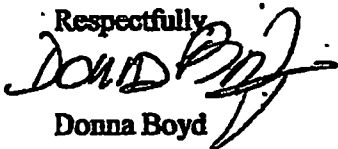
The Black defendant stated that he was charged with driving to slow and when he was stopped, asked if he had any drugs in the car. The defendant stated that when he requested a jury trial, Judge Ford and the solicitor tried to intimidate the defendant from going forward by stating that in the event he lost the fine would be \$900. Also, defendant stated that after he made it clear he would go forward with a jury trial; Judge Ford stated that he would waive the fine if he would just accept the ticket. It seems that the State is using this practice to intimidate and win by any means necessary.

On July 18, 2014, I sent a certified letter to Judge Ford requesting the transcript of the hearing held on June 25, 2014. On July 25, 2014, I received an undated letter from Judge Ford acknowledging receipt of my request. Judge Ford asserted that there were no recordings available for that session of court and that the audio tool used malfunctioned. I find these assertions very concerning because this is the second time that something mysteriously happened or disappeared. First, the October 30, 2012, video-tape corroborating my version of events was allegedly destroyed in 2012. Second, the tape recording of the hearing held on June 25, 2014, which by the way lasted over six hours, mysteriously malfunctioned.

Judge Ford was bias and it was evident that the decisions that he made on June 25, 2014, were not premised on a notion of fairness.

· Canon 3, (5) A judge who manifests bias or any bias in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

Respectfully



Donna Boyd

July 28, 2014

NOCC

**Subject:** August 12, 2014 Hearing  
**From:** Donna Boyd (dcarolineis@yahoo.com)  
**To:** njcoord@greenvillecounty.org; dcarolineis@yahoo.com;  
**Date:** Monday, August 11, 2014 12:28 PM

Dear Honorable Chief Administrative Judge,

On July 18, 2014, I sent a certified request for the transcript of the hearing held on June 25, 2014, before Honorable Judge Dean Ford. On July 25, 2014, I received an undated response from Judge Ford asserting that no recordings were available for that session of court because allegedly the audio tool used malfunctioned. I find this recent event concerning because on June 25, 2014, prior to the start of the hearing, contracted solicitor George K. Lyall informed me that the 'videotape evidence' to support my version of the event had been destroyed in 2012. Also, I received discovery for the first time on June 25, 2014. I asked that the charge be dismissed due to lack of probable cause but was told by Judge Ford that the jury would make that decision. Also asked for a continuance since I had received discovery for the first time, again Judge Ford denied my request. Prior to the hearing Judge Ford and Solicitor George K. Lyall did meet privately with me in an attempt to intimidate, harass, and coerce me into accepting pretrial intervention. Also contracted solicitor Lyall admitted choosing an 'all white jury' on June 24, 2014, because he believed that they would support the State's position. I did make a complaint with the Commission on Judicial Conduct, requesting that it investigate the hearing held on June 25, 2014. Since Honorable Judge Dean Ford alleges that there are no recordings available for the hearing held on June 25, 2014, I ask that the charge be dismissed without a hearing on August 12. I am currently preparing for a new semester of law school and also using my very limited time to tend to other personal matters. I respectfully request that the charge be dismissed, as it should have been in 2012. Also, I ask that I not be further subjected to any racial animus or harassment by the Solicitors Office or the State of South Carolina.

Printed

Respectfully,

Ms. Donna Carolina Boyd

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**Subject:** Request re: 8/12 hearing  
**From:** Hill, D. Garrison Law Clerk (Weston J. White) (ghillic@sccourts.org)  
**To:** dcarolineis@yahoo.com;  
**Cc:** slopez@greenvillecounty.org;  
**Date:** Monday, August 11, 2014 3:20 PM

Dear Ms. Boyd,

[ The Court is in receipt of your email regarding your 8/12 hearing. Please send the email again and cc the opposing counsel, Mr. Mitchell Byrd. His contact information is below: ]

Law Office of Mitchell Byrd  
 216 Pimlico Rd,  
 Greenville, SC 29607  
 Phone - 864-331-9630  
 Email - mitchell@mitchellbyrdlaw.com

Best,  
Weston White

**Weston Jones White**  
 Law Clerk to the Honorable D. Garrison Hill  
 305 E. North Street, Suite 213  
 Greenville, SC 29601  
 Office: (864) 467-8490  
 Fax: (864) 467-8595

EMPH-21A

~~~~ CONFIDENTIALITY NOTICE ~~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

COURT OF COMMON PLEAS  
2014-CP-23-03740

STATE OF SOUTH CAROLINA,  
PLAINTIFF,

VS.

TRANSCRIPT OF RECORD

DONNA BOYD,

DEFENDANT.

**ORIGINAL**

August 12, 2014  
Greenville, South Carolina

**B E F O R E:**

THE HONORABLE D. GARRISON HILL, JUDGE.

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

MITCHELL K. BYRD, SR., ESQ.  
Attorney for the Plaintiff

HOLLIE M. JENKINS  
Circuit Court Reporter

EMPH 23B

64

I N D E X

( There were no witnesses called. )

E X H I B I T S

( There were no exhibits introduced. )

State asserted in Form 9  
on August 14, 2014, " This  
action came to trial or  
hearing before the court.  
The issues have been tried  
or heard and a decision  
rendered.

EXHIBIT 23B

PROCEEDINGS

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THE COURT: The next case is State v. Donna Boyd.

MR. BYRD: I don't see her, Your Honor. But we'll check and see if she's outside.

*state given notice on 8/11/14 that Applicant would be Absent.*

THE COURT: All right.

(Pause.)

MR. GEORGE LYLE: Your Honor, if I may introduce myself to the Court.

THE COURT: Yes.

*Why introduction if Judge already knew LYLE*

MR. GEORGE LYLE: My name is George Lyle.

THE COURT: Yes, sir, Mr. Lyle. Good to see you.

MR. GEORGE LYLE: Mr. Byrd is handling this appeal.

But he never met Ms. Boyd, so would not know what she looked like. [I just went out into the hall, walked up and down, and saw no one. literally, there's no one in the hall.]

*simultaneously*

THE COURT: Okay. Well, let's see.

Mr. Anderson, do you want to go out there and with your booming voice bellow out the name of Donna Boyd?

BAILIFF ANDERSON: Yes, sir.

(Pause.)

BAILIFF ANDERSON: Your Honor, I called Donna Boyd three times in the hallway. There was no response.

THE COURT: All right, sir. Thank you.

Well, it's her appeal. She's not here. So the

*Suppose to be outside with Byrd looking for Applicant*

*No*

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[ appeal is dismissed for failure to prosecute. ]

\* MR. BYRD: Thank you, Your Honor. \*

THE COURT: Thank you.

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

Solicitor Byrd did not request dismissal.

\* Fabricated Transcript \*

Exhibit 23B

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA            )  
COUNTY OF GREENVILLE            )

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth 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 the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 12th day of August, 2014.

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

October 27, 2014

*Hollie M. Jenkins*

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

Exhibit 23B

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )  
STATE OF SOUTH CAROLINA )

2014 JUL 23 AM 8 53  
2014-CP-23-03740

VS

RETURN OF MAGISTRATE

Donna Boyd )

*Applicant arrested 11/16/12  
but case brought to  
on June 25 2014. Alm  
+ two years later. Alm  
Jury chosen  
by Lyall on  
6/24/14*

**IN ANSWER**

I. This case was placed before this court on warrant number 2012-4055. The charge of Filing a False Police Report was made by Deputy Holman with the Greenville County Sheriffs Office. A Jury Trial was held on June 25, 2014 and the Jury returned with a guilty verdict. The state was represented by Assistant Solicitor George Lyall and the defendant was PRO SE.

*Applicant Denied right to Counsel*

At the pre-trial hearing the appellant asked for a continuance based on the fact that she had not received a response to discovery requests. The state showed the court that the request was satisfied. The Appellant had hired Michael Talley to represent her and a request for discovery was made March 10, 2014 and the information was sent by the Solicitors Office on March 11, 2014 to Mr. Talley. Mr. Talley was released by the Appellant on April 9, 2014. Also the Appellant asked that the case be dismissed based on the fact that a video had been destroyed by the State. This motion was denied based on the fact that the State planned to call witnesses of the incident and the appellant would have an opportunity to cross examine these witnesses.

*Judge  
ord + Lyall  
net private  
with Applicant  
ried to  
orce  
Applicant to  
accept to  
PTI  
was not  
pretrial  
hearing*

The Appellant was given a copy of the file that the State had put together and then she was given an opportunity to interview all of the witnesses that the state was planning to call to testify.

*witnesses disclosed on 6/25/14  
day of hearing*

The Appellant was offered the opportunity to go to Pre-Trial Intervention and she was told about the program and that if she decided to attend the program that it would not be an admission of guilt. She declined this offer and the Jury was sworn.

*Exhibit 29  
provided  
this info  
on 6/25/14  
day of  
hearing*

II Addressing numbered reasons

1. Appellant alleges no Probable Cause for the warrant.

This court reviewed the face of the warrant that was issued by Judge Hudson November 16, 2012. Based on the facts stated on the warrant, this court agreed with Judge Hudson.

NO FACTS  
in the  
warrant  
to support  
Probable  
Cause

Assistant Solicitor Byrd stated that the Video was in the Greenville County's Property and Evidence locker.

Assistant Solicitor Byrd was not present at this hearing.

3. Discovery issue. State failed to Disclose to Attorney and Applicant

The State showed that the Discovery motion was sent to the attorney of record. Appellant took over her own defense and never requested any discovery from the State.

4. Summoned to meet privately.

This court has a pretrial hearing in all Jury Trials. Appellant was offered PTI and she did not want to take the program. No intimidation was ever used by this court or Solicitor Lyall. The appellant's family was asked to attend the hearing after the appellant began saying that race was the basis for her arrest. She also had the opportunity to interview all of the witnesses that the State had summoned.

5. Due Process, withholding evidence, and Jury Charges.

Appellant was arrested on November 16, 2012; she has had approximately sixteen months to prepare her case. No request was made to this court by the appellant to summon any witnesses in her defense.

This court is not aware of any evidence that the State withheld during the trial.

Applicant informed on June 25 2014 that evidence destroyed sometime in 2012. State failed to Disclose.

State admitted on June 25, 2014 Evidence Destroyed

Evidence Deliberately Withheld

Property Record showed that videotape put in evidence on 11/7/12. But no record of destruction

Applicant not informed of witnesses against her until June 25, 2014 state fabricated "witnesses" Three Deputies

Exhibit 2A

Improper Instructions to Jury  
Judge Ford instructed Jury to find  
Probable Cause

An objection was made by the Appellant about the standard jury charges given by the Court. Appellant did ask that the charge on probable cause charge be read to the Jury. The Court brought the Jury back into the courtroom and gave the standard probable cause charge to the jury, thereby curing the Appellant's objection

Probable Cause should have been established before Arraignment

6. Jury Tampering

11/16/12

A State's witness did speak with an alternate juror who had been excused before the jury was sworn in.

Witness spoke with Juror after Jury Sworn. Juror relieved after Jury Sworn

7. State deliberately destroyed evidence.

No proof of this was given to this court.

8. Perjured Testimony.

No proof of this given to this court

9. Racial Animus.

This court was not aware of any hostile attitude displayed towards the Appellant. Also this court was unaware of any of the secret code words used by the Solicitor during the trial and no codes were ever objected to by the appellant. Also Solicitor Lyall was never in the back of the office near the jurors or jury room. Appellant never brought this issue up to the attention of the court the day of trial.

Deputy Holman gave perjured testimony.  
All witnesses gave perjured testimony.

No witness testimony as required by 18-3-40  
Also witnesses did not sign testimony as required by 18-3-40

Respectfully Submitted,

*Dean E. Ford*  
Judge Dean E. Ford

11-16-12

completed "Certificate of Transmittal" (Form SCCA-215).

Note that the magistrate or municipal judge is responsible for securing the return of the original warrant after the arrest of the accused and transmitting the papers within 15 days of the arrest. Therefore, it is recommended that the magistrate or municipal judge check periodically (at least once each week) with the Sheriff's Office or other law enforcement agency to which a warrant has been delivered for service to ascertain if such warrant has been served and the defendant arrested.

**c. Notice to Clerk of Court and Solicitor of Request for Preliminary Examination**

**Magistrate & Municipal Judge**

In those cases in which the accused timely requests a preliminary examination (see CRIMINAL, Preliminary Examination), the magistrate or municipal judge should request from the clerk of court a certified copy of the arrest warrant and notify the Solicitor of the defendant's request. This should be accomplished by completing the "Notice to Clerk of Court and Solicitor of Judicial Circuit" (Form SCCA-509) and mailing a copy of this form to both the clerk of court and the solicitor.

**d. Return of Papers to Clerk of Court After Preliminary Examination**

**Magistrate & Municipal Judge**

After the preliminary examination has been held, the magistrate or municipal judge should forward all papers related to the case immediately to the clerk of court. These papers (endorsed legibly with the title of the case, nature of the offense, kind of proceeding, and judge's name) shall include a report of the case with the names and addresses of all material witnesses and a synopsis of all testimony. The magistrate or municipal judge should complete and attach to these papers a "Certificate of Transmittal" (Form SCCA-215) and forward to the clerk of court.

**e. Papers to Clerk of Court in Criminal Appeals**

**(1) Magistrate**

In cases of criminal appeals from a magistrate's court, if the appellant serves notice of appeal upon the magistrate within the specific time period (see CRIMINAL, Appeals), the magistrate must, within ten (10) days of receiving the notice of appeal, file the notice of appeal in the office of the clerk of court, together with the record, a certified transcript, or a statement of all proceedings in the case and the testimony in writing taken at trial and signed by the witnesses. (S.C. Code Ann. § 18-3-40).

**(2) Municipal Judge**

In cases of criminal appeals from the municipal court, if the appellant serves notice of appeal upon the municipal judge or the clerk of municipal court within the specified time period (see CRIMINAL, Appeals), the municipal judge must make a return, consisting of the written report of the charges preferred, the testimony (the reporter's transcript, if taken by a reporter), the proceedings,

EXHIBIT 2A

**RULE 18  
APPEALS**

a) All appeals of judgments rendered by the magistrates court shall be to the circuit court of the county where the judgment was rendered. Within thirty (30) days after delivery of written notice of judgment to the parties or their attorneys, a party wishing to appeal shall serve on the respondent and file a notice of appeal containing a statement of the grounds for appeal with the magistrate rendering the judgment and with the Circuit Court of the County where the judgment was rendered. If the judgment is announced at the trial in the presence of the parties or their attorneys, the notice of appeal shall be served and filed within thirty (30) days of the date the judgment is announced. At the time of the filing of the notice of appeal, the appropriate filing fee shall be paid by the appellant to the clerk of the circuit court to which the appeal is taken, unless a motion for leave to proceed *in forma pauperis* and an affidavit showing the appellant's inability to pay the fee required to appeal an action accompanies the filing of the notice of appeal. The right of appeal from a judgment exists for thirty (30) days after the denial of a motion for a new trial.

b) Within thirty (30) days of the date of filing of the notice of appeal with the Circuit Court, the magistrate shall file the return to the notice of appeal with the Clerk of the Circuit Court for the county wherein the judgment was rendered, together with the record, a statement of all proceedings in the case, and, if necessary, the testimony taken at trial. Upon motion for good cause shown, the Circuit Court may allow a definite extension of time in which to file the return.

c) Pursuant to Rule 75, SCRCP, upon receipt of the magistrate's return, the clerk of the Circuit Court to which the appeal is taken shall give notice in writing to the parties that the return has been filed.

Did not receive notice that  
Magistrate Return Filed on 7/23/2014

EXHIBIT 2A-A-1

1 solicitor's office.

2 MR. MITCHELL: Your Honor, at this time, the State  
3 would move State's Exhibit No. 1 into evidence.

4 THE COURT: Any objection?

5 MS. BOYD: No.

6 THE COURT: Without objection, so entered.

7 (WHEREUPON, State's Exhibit No. 1 was admitted into  
8 evidence.)

9 MR. MITCHELL: Thank you, Your Honor.

10 BY MR. MITCHELL:

11 Q Now, Mr. Talley [sic], let me ask you, I heard a  
12 conversation -- or I guess testimony, I should say, from  
13 Ms. Boyd concerning a videotape of the actual incident.  
14 To your -- I guess to your recollection, do you recall if  
15 there -- there was a videotape, if there ever was a  
16 videotape?

17 A Yes. What I -- again, I believe it was the evening  
18 before this case was scheduled for trial, I sat down. I  
19 looked at the file. There was an indication that there  
20 was a videotape. I contacted Deputy Holman that night.  
21 Deputy Holman was the arresting officer. And I asked him  
22 about the videotape.

23 His explanation was that when the original case  
24 number was created, which was the allegation of assault  
25 and battery, a case number was assigned to that allegation

1 and to that investigation. And that the videotape was  
2 matched, or mated, or paired with that case number.

3 Subsequently, when it was determined by Deputy Holman  
4 that Ms. Boyd had given false information, that generated  
5 a new case number, a second case number. And the original  
6 case number was closed out. That was the allegation of  
7 assault and battery. That case was closed.

8 Unfortunately, at that point, when evidence is  
9 associated with a case that has been administratively  
10 closed, it was the policy of property and evidence, at  
11 that time, to discard all evidence. So that video was --  
12 and I was told this by Deputy Holman. That video was, in  
13 fact, destroyed, thrown away, whatever in 2012 when the  
14 case involving the allegations of assault and battery were  
15 administratively closed by the sheriff's office.

16 Q Okay. And so just for -- just for the record  
17 purposes, initial case was opened for the charges that  
18 Ms. Boyd filed a report on saying that she had been  
19 assaulted?

20 A Yes.

21 Q And so there was a videotape that was -- that  
22 accompanied that case?

23 A Correct.

24 Q And so officers investigated the case that was opened  
25 that she filed, saw the video. The video was attached to

1 that. They determined that there was no evidence of it.  
2 And so they closed the case and then, also, discarded the  
3 videotape that was a part of that case; correct?

4 A That is correct.

5 Q And so a new case was opened in which they now  
6 charged Ms. Boyd with filing a false police report.  
7 But -- but instead of making, I guess, a duplicate copy, I  
8 should say, to place in that file, the file was destroyed  
9 before that happened?

10 A I don't know the exact timing. I -- I do know that  
11 what should have happened is when a new case is opened and  
12 if the videotape was valuable evidence, then the videotape  
13 should have been attached to the new case number. That  
14 would have -- I mean, it's obvious that that is a --

15 THE COURT: Counsel, I'm going to -- I'm going to  
16 just ask a question.

17 MR. MITCHELL: Sure. Go right ahead.

18 EXAMINATION

19 BY THE COURT:

20 Q That absolutely makes no sense to me.

21 A Well, Your Honor --

22 Q Let me ask you this question. The charge upon which  
23 they are charging Ms. Boyd with, they're basing it upon --  
24 one of the pieces of evidence was the videotape. So it  
25 makes absolutely no sense to me why the videotape would

1 not be attached to that case number. I understand what  
2 you're saying about the first case. I understand that.  
3 But the probable cause for the second charge had to be  
4 based upon the videotapes.

5 So why in the world -- you're being -- you're working  
6 with the -- the solicitor's office. You're -- you're a  
7 contract lawyer there. Explain to me -- I don't  
8 understand that -- that connection. Is that how they do  
9 business over there?

10 A Well, Your Honor, I -- I hope I made it clear at  
11 the -- at the front end. I am repeating to the Court  
12 what -- Deputy Holman's explanation.

13 Q Well, I -- I'm just -- and I need to be clear, as the  
14 trial judge in the matter, as to the process.

15 A Yes, sir.

16 Q And I'm just asking about the process. And, I mean,  
17 you're the witness that the State's calling. So I'm just  
18 concerned about the process. That the subsequent charge  
19 in which this -- Ms. Boyd was charged with was based  
20 primarily on -- one of the pieces of evidence was the  
21 video. And the video was destroyed?

22 A Yes, Your Honor.

23 Q Is that -- is that what you're telling the Court?

24 A Yes, sir, I am.

25 Q Okay. I'm clear.

1 A And -- and I was told that the procedures and  
2 policies of the sheriff's office --

3 Q Who told you that?

4 A Deputy Holman when I questioned him as to how this  
5 happened and why this happened.

6 THE COURT: Holman's going to be one of your  
7 witnesses?

8 MR. MITCHELL: He -- he's not subpoenaed today, Your  
9 Honor.

10 THE COURT: All right.

11 MR. MITCHELL: But I'm happy to hold the record open  
12 if Your Honor wants an affidavit or to continue the case.

13 THE COURT: Well, I'll make that determination.

14 Go on.

15 MR. MITCHELL: Okay.

16 CONTINUED DIRECT EXAMINATION

17 BY MR. MITCHELL:

18 Q So you find out that the video is destroyed. So this  
19 case proceeds to the day of trial?

20 A Correct.

21 Q Sometime in July, is that -- if memory serves me.

22 A June or July. If -- it's June 25th.

23 Q June 25th. Okay. So the trial starts on June 25th.  
24 Ms. Boyd shows up. She -- she's representing herself at  
25 this point; correct?

1 A Correct. Now, we've had no contact from Ms. Boyd  
2 prior to this point. I say "we," I am now speaking for  
3 the solicitor's office. I knew -- I knew that Mr. Talley  
4 had been excused. I did not know whether Ms. Boyd would  
5 attend or not attend it.

6 EXAMINATION

7 BY THE COURT:

8 Q Did she get her discovery materials on the day of the  
9 trial?

10 A Yes, sir.

11 Q All right. And you -- and is it customary to give  
12 defendants the discovery material in any case on the day  
13 that the trial is being called before the Court? Is that  
14 customary?

15 A Yes, sir.

16 Q In all cases -- in all cases that the solicitor's  
17 office's prosecutes, they provide -- and I'm talking about  
18 all cases because this is the case that's being  
19 prosecuted. In all cases in which it's prosecuted by the  
20 State, are you telling me that all defendants are given  
21 discovery on the day of the trial?

22 A No, sir. I am telling you --

23 Q Why is this one different?

24 A I -- because Ms. Boyd had an attorney. Her attorney  
25 was provided the discovery materials. And we had

1 absolutely no contact from Ms. Boyd until the day of trial.

2 Q Well, my question is, there were two -- two charges.

3 One was the initial charge that it -- was, subsequently,

4 closed. Mr. Talley asked for discovery as it relates to

5 that charge?

6 A No, sir.

7 Q That was --

8 A No, sir. Mr. Talley represented Ms. Boyd on the

9 assault -- I mean, excuse me, on the false information.

10 Q All right.

11 A And -- and so we provided all -- we -- the  
12 solicitor's office provided all relevant discovery available.

13 Q But the discovery -- but, in essence, the discovery  
14 was given to this Defendant on the day of the trial?

15 A For the second time. It was given to her through her  
16 attorney, first, in March. And then, secondly, the first  
17 time we actually --

18 Q You gave it to her the day of the trial?

19 A Yes, sir.

20 THE COURT: Go ahead. Go ahead, Mr. Mitchell.

21 MR. MITCHELL: Thank you, Your Honor.

22 CONTINUED DIRECT EXAMINATION

23 BY MR. MITCHELL:

24 Q So she receives the discovery. Does she make a  
25 motion for a continuance at all before Judge Ford?

1 A I don't recall. I -- I honestly do not have any  
2 recollection of whether she did or did not.

3 Q Okay. So prior to -- normally, it's customary to, I  
4 guess -- and I don't practice in magistrate's court. So  
5 when is a jury selected for magistrate's court? Is it  
6 selected before or -- right before the trial, or is it  
7 selected --

8 A Juries are selected for every case scheduled for that  
9 week on Tuesday morning of the week of trial.

10 Q Okay.

11 A So in this case -- in this case, the notice that went  
12 to Ms. Boyd advised that her trial was scheduled June 25th  
13 at 9:00 a.m. And there is -- as part of the notice, it  
14 says, Please notice jury selection will be Tuesday,  
15 June 24th at 9:30 a.m.

16 Q Okay.

17 A And since I'm reading from a document, we may want to  
18 introduce that.

19 MR. MITCHELL: If I can get this marked as State's  
20 Exhibit No. 2.

21 THE COURT: Any objection?

22 MS. BOYD: No.

23 THE COURT: State's Exhibit No. 2.

24 (WHEREUPON, State's Exhibit No. 2 was marked for  
25 identification only.)

1 BY MR. MITCHELL:

2 Q I'll hand this back to you, Mr. Talley [sic]. And  
3 that's a document from --

4 THE COURT: You called him "Mr. Talley." It's  
5 Mr. Lyall.

6 MR. MITCHELL: I apologize.

7 Thank you so much.

8 THE WITNESS: I consider it a compliment. I think  
9 the world of Mike Talley.

10 THE COURT: You should. You should.

11 THE WITNESS: Yes, sir.

12 BY MR. MITCHELL:

13 Q I apologize, Mr. Lyall.

14 That's a document from the magistrate court's office  
15 here in Greenville; correct?

16 A That is correct.

17 Q And it outlines that jury selection is to take place  
18 before the actual trial; correct?

19 A That's correct.

20 MR. MITCHELL: Your Honor, at this time, the State  
21 would ask that this document be moved into evidence.

22 THE COURT: Any objection?

23 MS. BOYD: No.

24 THE COURT: All right. That's State's Exhibit No. 2  
25 or State's Exhibit No. 3?

1 MR. MITCHELL: State's Exhibit No. 2.

2 THE COURT: State's Exhibit No. 2 without objection.

3 (WHEREUPON, State's Exhibit No. 2 was admitted into  
4 evidence.)

5 BY MR. MITCHELL:

6 Q So, Mr. Lyall, that notice was sent out. So a jury  
7 had been picked by the time Ms. Boyd showed up for her  
8 trial that morning?

9 A That is correct.

10 Q Okay. So the trial -- the trial starts. How many  
11 witnesses -- do you have any witnesses on your schedule to  
12 call or your trial list to call?

13 A I would think that we probably called three  
14 witnesses. There were three deputies there. I -- I have  
15 nothing to verify that. It's possible there was a fourth.  
16 But, again, in the neighborhood of three or four  
17 witnesses. Actually, there was a fourth because it was  
18 the process server, who initially -- Mr. Crump, who was,  
19 initially, investigated for the assault and battery  
20 allegation.

21 Q Okay.

22 A So, say, three deputies and a man by the name of  
23 Crump.

24 Q Okay. Now, let me ask you if you -- I know it's been  
25 a while. If you can recall, do you know if there was any

1 alternate jurors that were selected at all?

2 A There was one alternate.

3 Q Okay. Now, you said Mr. Crump, the -- the man who --  
4 the process server was there at trial?

5 A Correct.

6 Q Do you recall a situation where -- where Mr. Crump  
7 somehow talked to or engaged a -- a juror? Are you  
8 familiar --

9 A I do. I -- I remember it well. There -- I didn't  
10 see it, but it was reported either by Ms. Boyd or some  
11 of -- there were a couple of women with her, maybe family  
12 members. I don't know. But, anyway, there were a couple  
13 of women.

14 Somebody brought it to the Court's attention that  
15 Mr. Crump was speaking to the alternate juror. Now, the  
16 jury was in the process of deliberating is my --  
17 deliberating is my recollection. So that was done without  
18 anyones knowledge.

19 So Mr. Crump was brought back into the courtroom,  
20 under oath -- verified under oath, and asked him, did he  
21 know that alternate juror. Because, at that point, the  
22 allegation was -- Ms. Boyd's allegation was that Mr. Crump  
23 was friends with a juror. And that would have been very  
24 improper if that were the case. Even if she was an  
25 alternate, it would be very improper.

1           So I put Mr. Crump back on the witness stand and  
2           asked him whether he knew that alternate juror. His  
3           testimony was, no. He -- and he was still under oath.  
4           His testimony was, no, he had never seen that woman in his  
5           life. However, because she had sat through the entire  
6           trial, he was interested to know what her take was on the  
7           trial. And that was the end of it.

8           Because -- and, again, this is important. That  
9           alternate juror never once, not even for one second, sat  
10          in with the jury during breaks. The alternate juror was  
11          treated as all alternate jurors are. They listen to a  
12          hundred percent of the testimony, but they are sequestered  
13          from the jury. So she was -- this alternate juror was  
14          largely just a spectator during the trial because she was  
15          never needed.

16         Q     Okay. So that -- ultimately, that juror is excused.  
17         Now, prior to -- or I guess during deliberations, does the  
18         jury send out a note that they have a question, or  
19         something to that effect?

20         A     I believe they did, yes.

21         Q     Okay. What's your recollection of that?

22         A     Well, it -- it was an odd question. Because you  
23         ought not to even have an issue of probable cause in a  
24         trial. Those matters are determined in advance.

25                 But Ms. Boyd had repeatedly, during the trial,

1 brought up the issue of probable cause. And so Judge Ford  
2 then instructed the jury on probable cause since she had  
3 made it an issue during trial. And the jury did have a  
4 question about probable cause. I remember the -- I would  
5 agree with Ms. Boyd's recollection that the jury was in  
6 their deliberation room. And Judge Boyd [sic] wanted  
7 to --

8 THE COURT: Judge Ford.

9 THE WITNESS: Judge Ford. Excuse me.

10 Thank you, sir.

11 Judge Ford wanted to -- once he learned what the  
12 question was, he wanted to let Ms. Boyd and myself know  
13 what the question was. And out of an -- I assume out of  
14 an abundance of caution -- I'm not here to speak for Judge  
15 Ford. He wanted Ms. Boyd and myself to hear what he was  
16 going to tell the jury.

17 So rather than bring them into the courtroom,  
18 Ms. Boyd and myself stood next to Judge Ford. And he  
19 explained to the jury that he had given them a definition  
20 of probable cause as part of the charge to the jury. And  
21 he was unable to clarify it in any way. That it would be  
22 their duty to interpret the law. That is --

23 EXAMINATION

24 BY THE COURT:

25 Q And this -- this dialogue took place with the Judge

1 and the jury in the jury room with you and Ms. Boyd  
2 present?

3 A Yes, sir.

4 Q And -- and in your experience, Mr. Lyall, is that  
5 normally how it's conducted with the -- with the attorneys  
6 in the jury room with the jury with the question? Is  
7 that -- is that --

8 A Your Honor, I -- I -- if you're asking if I've seen  
9 that before --

10 Q Yeah. I'm asking -- I'm asking you if you've seen  
11 that before. You've been practicing law for 30 years?

12 A Yes, sir.

13 Q And have you ever seen that?

14 A Yes, sir.

15 Q When?

16 A But if you want to ask me what the traditional method  
17 is, the --

18 Q I know what the traditional method is. And probably  
19 the -- the -- probably the more proper method to do that  
20 is the way it's done that you've seen hundreds of times.  
21 But for the Judge to go back in the jury room with the two  
22 lawyers and ask questions, that's rare and far between,  
23 isn't it?

24 A Yes, sir. It's unusual. But he didn't ask  
25 questions. He -- he wanted us to hear what he was going

1 to tell the jury.

2 Now, the more standard practice would be to bring the  
3 jury into the courtroom.

4 Q Well, you know that and I know that.

5 A Yes, sir.

6 THE COURT: All right. Go ahead.

7 MR. MITCHELL: Thank you, Judge.

8 CONTINUED DIRECT EXAMINATION

9 BY MR. MITCHELL:

10 Q So this happened. Ultimately, the jury comes back  
11 with a verdict?

12 A Correct.

13 Q Okay. So the verdict is -- they've determined that  
14 they find Ms. Boyd guilty. Now, after that, she appeals  
15 the case. Were you involved, at any point, beyond that?

16 A No, sir. The solicitor's office takes over primary  
17 responsibility for all appeals in magistrate's court. My  
18 boss, Assistant Solicitor Mitchell Byrd, would have  
19 handled that.

20 I did attend the appeal hearing -- the scheduled  
21 hearing on the appeal. I sat in the back of a courtroom.  
22 I had no participation in what was going to be the  
23 argument. I -- I was not even involved in the preparation  
24 of any argument the solicitor's office was going to  
25 advance.

1 MR. MITCHELL: I beg the Court's indulgence, Your  
2 Honor.

3 (Pause.)

4 BY MR. MITCHELL:

5 Q And I know you said you weren't involved, so you may  
6 not be able to answer this question. Do you know if  
7 Ms. Boyd asked for any type of continuance prior -- after  
8 she filed an appeal?

9 A I was present in the courtroom when there was some  
10 discussion of an e-mail she sent to Judge Hill's clerk.  
11 What I heard was that she had not copied Mr. Byrd on the  
12 request for a continuance. That's all I remember. But  
13 I -- I am aware that she had made a continuance request.

14 MR. MITCHELL: Thank you so much, Mr. Lyall.  
15 Please answer any questions Ms. Boyd may have for  
16 you.

17 THE WITNESS: Absolutely.

18 THE COURT: Ms. Boyd, do you have any questions?

19 MS. BOYD: Yes.

20 I'm going to step up.

21 CROSS-EXAMINATION

22 BY MS. BOYD:

23 Q Hello, Mr. Lyall.

24 A Ms. Boyd.

25 Q How are you doing today?

1 A I'm doing well.

2 Thank you.

3 Q Okay. You agree that Mr. -- Mr. Talley was relieved;  
4 right?

5 A Yes, he was.

6 Q On April the 9 -- on April the 9th?

7 A I -- let me see if I can confirm that date. I know  
8 he asked the Court to be relieved on April the 7th. I,  
9 also, know that request was granted.

10 I'm unable to tell you what date the request was  
11 granted.

12 Q Okay. And when did I appear for court after that?

13 A The day of trial, which would have been --

14 Q Yeah, the day of trial. What's the date of trial?

15 A June 25th.

16 Q Did you attempt to provide discovery to me between  
17 those -- between those two dates?

18 A No, ma'am.

19 Q Okay. Did -- do you know of the solicitor's office  
20 attempting to provide discovery to me during those dates?

21 A Oh, well, I'm -- I'm responding on behalf of the  
22 solicitor's office. At no --

23 Q Okay.

24 A -- have I ever, with the solicitor's office, been in  
25 charge of providing discovery.

1 Q Okay. And you said that you sent discovery to  
2 Attorney Talley on March the 11th of 2014?

3 A The solicitor's office sent an e-mail containing  
4 discovery on March 11th, yes, ma'am.

5 Q Okay. But you couldn't -- you did not confirm  
6 receipt, did you?

7 A Yes, ma'am. We do have a piece of paper that said it  
8 was delivered. My testimony was I don't have a clue if  
9 Mr. Talley or anyone on his staff opened that e-mail.

10 Q Okay. Did you provide a copy of the discovery to me  
11 on June the 25th of 2014?

12 A Yes, ma'am.

13 Q Okay. And why did you provide a copy to me?

14 A As a courtesy. Because you, obviously, did not have  
15 the discovery from your attorney.

16 Q Okay. And you do agree that I made a written  
17 statement to Deputy Holman; right, on November the 16th?

18 A I -- I apologize. I don't have that document in  
19 front of me. But, yes, ma'am, I do know you made --

20 Q Okay.

21 A -- a written statement to Deputy Holman.

22 Q Okay. And Deputy Holman -- are you aware of the --  
23 the Greenville County Sheriff's policy that all statements  
24 must be written by the -- the complainant?

25 A I'm not aware of that policy, but it would be a good

1 one.

2 Q Okay. Well, let me ask you a question. Did Jack  
3 Crump make a written statement?

4 A Ma'am, I -- I don't know. I have no idea.

5 Q I was looking at a conversation that -- that Deputy  
6 Holman had with Jack Crump on November the 3rd. Now, mind  
7 you, I made my complaint on October the 30th. Now, in  
8 between October the 30th and November the 3rd, I'm  
9 speaking with Deputy Holman. And he told me that he had  
10 not spoken -- he did not speak with Jack Crump. But I  
11 found --

12 MR. MITCHELL: Judge, is there a question here?

13 THE COURT: All right. You've got -- you can't --  
14 you can't testify. You've got to ask a question.

15 So objection sustained.

16 Ask a question.

17 BY MS. BOYD:

18 Q So I'm asking you, are you -- are -- do you know  
19 whether or not Jack Crump made a statement?

20 A No, ma'am. I have no idea.

21 Q Okay. In the -- in the warrant -- do you have a copy  
22 of the warrant?

23 A I -- I do not. Although, it is part of State's  
24 Exhibit No. 1.

25 THE COURT: Do you need to see it?

1 MS. BOYD: Yes. Could you let him see it?

2 THE COURT: Well, you've got to --

3 MS. BOYD: Okay. The warrant.

4 BY MS. BOYD:

5 Q Could you possibly show me in the -- in the warrant  
6 how probable cause was established?

7 A May I see it?

8 Q Yes.

9 A On this warrant, as would be the case in --

10 Q Yes. Could you just read it?

11 A To let you know where we are, we're at the bottom of  
12 the center of the warrant --

13 Q Excuse me, sir. Could you just, please, read the --  
14 the whole -- just read the whole --

15 A Okay. Having found probable cause and the above  
16 affiant having sworn before me, you are empowered and  
17 directed to arrest the said defendant and bring him or her  
18 before me forthwith to be dealt with according to law. A  
19 copy of this arrest warrant shall be delivered to the  
20 defendant at the time of its execution, or as soon  
21 thereafter as is practicable. Sworn to and subscribed  
22 before me on November 16, 2012. And then there's a  
23 signature of James E. Hudson, who is a judge.

24 Q Okay. Now, could you read in the description how  
25 that probable cause was established?

1 A I will be glad to read from the warrant, but I'm  
2 unable to tell you --

3 Q No. Just --

4 A -- exactly what was told to Judge Hudson with that  
5 clarification.

6 Q Okay. Well, I just want you to read what's in what  
7 he stated in the warrant.

8 A Sure. On October 30th, 2012, the Defendant, Donna  
9 Boyd, filed a police report against a male subject who  
10 served her with civil papers, reference case number  
11 12-160032.

12 The investigation revealed the suspect to be Jack  
13 Crumpton with Foothills Investigations. Further,  
14 investigation revealed video evidence from Greenville  
15 County Sheriff's Office deputies at county square  
16 unfounding the Defendant's complaint that Mr. Crumpton --  
17 now, it's Crumpton -- aggressively approached the  
18 Defendant and forcefully shoved papers inside the  
19 Defendant's handbag causing her injury to her shoulder,  
20 arm, and hand.

21 The affiant has a written statement from the  
22 Defendant in her own words and her own handwriting falsely  
23 accusing Mr. Crumpton. This offense occurred at county  
24 square, 301 University Ridge, Greenville, South Carolina,  
25 in Greenville County.

1 Q Okay. Thank you, sir.

2 Now, you -- you saw that word "unfounded"?

3 A Yes.

4 Q You saw the word "unfounded"?

5 A Yes.

6 Q Were there any facts listed -- are there any facts  
7 listed as to how it was unfounded, her complaint was  
8 unfounded? Are there any facts?

9 A No, ma'am. It just says, Further investigation  
10 revealed video evidence from Greenville County Sheriff's  
11 Office deputies at county square.

12 Q Okay. Sir, you're well versed in probable cause;  
13 right?

14 A I feel as though I'm familiar with it, yes, ma'am.

15 Q Okay. And what -- define probable cause.

16 A It's a reasonable belief that a crime has been  
17 committed.

18 Q Okay. And it's based on what?

19 A You'd have to give me a fact situation --

20 Q Based on articulable facts; right? And  
21 circumstances; right? Articulable facts and  
22 circumstances; right?

23 A Yes.

24 Q It can't be a hunch, or I feel, or whatever. It has  
25 to be articulable -- articulable facts; right?

1 A Reasonable belief.

2 Q Exactly. Are there any articulable facts in that  
3 warrant?

4 A Based on video evidence is what Deputy Holman said.

5 Q Okay. But, however, on June 25th, the videotape was  
6 destroyed?

7 A I don't know the date the videotape was destroyed.

8 Q Okay. And, also, you said based on the videotape;  
9 right?

10 A I am reading from the warrant that you requested.

11 Q Exactly. Based on the videotape -- I was trying to  
12 find --

13 MS. BOYD: Excuse me, Your Honor.

14 BY MS. BOYD:

15 Q I'm trying to find -- do you have a copy of the  
16 property and evidence? Here it is, a copy of the property  
17 and evidence.

18 A Yes. That is part of State's Exhibit No. 1.

19 Q Okay. Part of State's Exhibit No. 1.

20 Okay. What is the date the evidence was entered?

21 A It appears November 7th, 2012.

22 Q Okay. And whose signature -- who was it received by?

23 A Wow. I don't know. I mean, I -- it's received by --  
24 it looks like Julie Thaxton.

25 Q Okay. And what was entered into evidence?

1 A A Memorex CDR inside a case.

2 Q Okay. Also, go to the bottom -- almost like the  
3 bottom of the page. Well, I guess my question is, does it  
4 show that this video once it was entered into -- on  
5 November the 7th, does it show this video -- this video  
6 was ever taken out of property and evidence?

7 A This particular document does not.

8 Q Okay. And you stated earlier that the -- that the  
9 evidence was -- was destroyed. And that was an  
10 administrative -- what did you say earlier?

11 A I said when the -- when your allegation of assault  
12 and battery was administratively closed, the tape was  
13 destroyed.

14 Q Okay. It was destroyed. Is there -- is there a  
15 record or something showing that it was signed off, that  
16 the evidence -- it was signed -- it was signed off to be  
17 destroyed?

18 A I have absolutely no idea.

19 Q Okay. Because I'm looking at the authorization for  
20 disposition. And it states that it is the authorizing  
21 officers responsibility to notify owners to claim property  
22 and that when I spoke -- and that -- at the bottom, it  
23 says, Type of disposition. And then it has a few boxes  
24 clear for destruction, released from, or whatever. Is  
25 that box checked off on this -- on this form, that it was

1 cleared for -- for destruction?

2 A No, ma'am. There's nothing filled in at the bottom  
3 of the sheet of paper I'm looking at.

4 Q Okay. And on June -- June -- On June the 25th, is it  
5 your testimony that you did -- that you informed me of the  
6 videotape being destroyed?

7 A Yes, ma'am.

8 Q Okay. Prior to that, did you inform me or Attorney  
9 Talley that the videotape had been destroyed?

10 A I previously testified that it was the evening of  
11 June 24th that I, first, reviewed the file. At that time,  
12 I realized that there should be a video. And I contacted  
13 Deputy Holman.

14 Q How long -- okay. How long had -- how long did you  
15 have -- how long did you have the file? When were you  
16 assigned this particular file?

17 A I would have picked it up the Friday beforehand.

18 Q The Friday beforehand?

19 A Yes.

20 Q Okay. So you said that you reviewed it the day  
21 before?

22 A Actually, the evening before, yes, ma'am.

23 Q The evening -- the evening before.

24 Did you inform the Court that the -- the videotape  
25 had been destroyed?

1 A I don't recall, but I probably would have, yes.

2 Q You probably would have?

3 A The next morning. I mean, are you asking me did I  
4 pick up the phone and call a Judge at 8:00 in the evening?  
5 The answer is no.

6 Q That videotape -- when I spoke -- when I spoke to you  
7 on June the 25th when you all summoned to meet privately  
8 with me in the courtroom, did I ask you when that -- when  
9 it was destroyed, that evidence was destroyed?

10 A You may have. I have no recollection of that  
11 question.

12 Q And -- okay. Did you -- did you instruct the jury  
13 that -- that the -- the evidence was destroyed?

14 A I did not instruct the jury anything. That's the  
15 judge's job.

16 Q I -- I apologize. Wrong word.

17 A I did acknowledge to the jury probably in opening  
18 statements and, again, in closing argument that this was a  
19 case where there was a video that had been inadvertently  
20 destroyed. Yes, ma'am.

21 Q Okay. When did you -- when were the officers  
22 summoned to appear?

23 A I -- I have absolutely no idea. Again, I don't  
24 participate in the issuance of subpoenas for trial, so.

25 MS. BOYD: Okay. Your Honor, I just want to -- I

1       guess can I put this on the record? That the officers  
2       were, actually, summoned on May the 9th.

3             THE COURT: You've -- you've already testified.

4             MS. BOYD: Yes.

5             THE COURT: See, you're representing yourself. So  
6       you've already testified.

7             Ms. BOYD: Okay.

8             THE COURT: So your portion -- what -- what you're  
9       doing now is you're asking him questions.

10            MS. BOYD: Okay.

11            THE COURT: This is not where you get to testify.

12            MS. BOYD: Okay.

13       BY MS. BOYD:

14       Q     Okay. I guess what I'm trying to do is determine  
15       when those officers were summoned to appear?

16       A     Ms. Boyd, you indicated just a second ago that you  
17       seemed to have the answer to that question. But I -- I  
18       don't have the answer to that question.

19       Q     And, also, in regards to -- you stated earlier -- you  
20       stated earlier that -- that I -- that I received notice --  
21       I received notice from the Court to appear.

22       A     The file contained a copy of a document that was sent  
23       to you. I don't have it in front of me. I believe it's  
24       now State's Exhibit No. 2. But it was sent to an address  
25       on Pelham Road. That's -- that's a hundred percent of

1        what I know.  You -- I'm assuming you got it because you  
2        showed up for trial.

3        Q        And in regards to the jury, how was the jury chosen?

4        A        Can you be a little more specific?

5        Q        I mean, what was -- what was the racial make up of  
6        the jury?

7        A        The jury was all white.

8        Q        And when were they chosen?

9        A        The day before, which would have been the 24th at --  
10       among other juries selected at 9:30 in the morning.  I  
11       cannot tell you whether that was the first jury, second  
12       jury, third jury.  I don't know.

13       Q        Okay.  And what -- what -- what did judge -- what did  
14       Judge Ford instruct the jury before they went out to  
15       deliberate?  What did he instruct them to do?

16       A        Gosh, that's a broad question, but return -- return a  
17       fair verdict.

18       Q        Well, did he -- did he -- did he instruct them to  
19       determine probable cause?

20       A        No.  I think he defined probable cause.  Because  
21       that, to you, was a very important issue at trial.  And so  
22       he didn't -- my recollection is because you made it an  
23       issue during trial, he felt as though the jury should have  
24       the definition of it.

25       Q        Okay.  But you -- do you agree that we were summoned

1 to the jury room?

2 A Yes. I've -- I've already described that.

3 Q And what did -- what did the jury -- what was the  
4 question the jury -- one of the jurors asked Judge --  
5 Judge Ford?

6 A My recollection is they wanted a better definition of  
7 probable cause.

8 Q So it's your understanding they had an issue with  
9 probable cause?

10 A They had a question, yes, ma'am.

11 Q Okay. You -- you stated earlier -- do you -- would  
12 you agree -- you said something earlier that probable  
13 cause should have been determined in advance?

14 A Well, probable cause was determined in advance by  
15 Judge Hudson when the warrant was issued. A judge will  
16 not sign off on a warrant if probable cause is not  
17 provided to him or her.

18 Q But we were in a -- but wouldn't you agree, we were  
19 in the courtroom without evidence?

20 A We were in the courtroom with testimony as to what  
21 deputies had previously viewed on a video.

22 Q Okay. Were -- were those deputies eyewitnesses?

23 A To what happened?

24 Q To the incident.

25 A No, ma'am.

1 Q The incident on October the 30th?

2 A Mr. Crump was an eyewitness and he testified. You  
3 were an eyewitness and you testified.

4 Q The three deputies, were they eyewitnesses to the  
5 crime?

6 A No, ma'am. There were two eyewitnesses to your  
7 allegation of assault and battery. The only witness to  
8 the crime for which you were charged was Deputy Holman.

9 Q Who -- who was the eyewitness of -- who were those  
10 eyewitnesses?

11 A You and Mr. Crump are the only two people that know  
12 from an eyewitness perspective what happened. And you  
13 both testified to the jury what happened.

14 Q Okay. And -- and there were three officers; correct?

15 A Three officers who were not eyewitnesses who did  
16 testify at trial.

17 Q Okay. Did you see -- have -- have you looked at the  
18 magistrate return?

19 A No, ma'am. I've never seen it.

20 Q Okay. I want to pull up the magistrate's return. Do  
21 you have a copy of the magistrate's return?

22 A Ma'am, I don't have a copy and I've never seen it.

23 MS. BOYD: Your Honor, I apologize. This is not  
24 my -- this is not my original file. I got this from the  
25 State's attorney. And it's in a different order than

1 mine. But I want to take a look at the -- the magistrate  
2 return.

3 May I step away for a second and just grab it right  
4 here?

5 THE COURT: All right. While she's doing that, I'll  
6 tell you what, we're going to take a 10-minute break.

7 (WHEREUPON, a break was taken.)

8 THE COURT: All right. Yes, ma'am.

9 BY MS. BOYD:

10 Q I just wanted you to take a look at the magistrate's  
11 return. But before I -- I get there, Mr. Lyall, it's your  
12 testimony that the officer saw the videotape?

13 A I know Deputy Holman saw the videotape. And my  
14 recollection is the other two deputies had, also, seen it.

15 Q Okay. So I'll ask you a question. The videotape was  
16 destroyed, what, sometime -- sometime in 2012?

17 A That's correct.

18 Q Okay. When did -- could you tell me when the  
19 officers saw the videotape?

20 A He saw it -- his testimony was he looked at that  
21 videotape prior to asking you to come down to the LEC and  
22 sign a statement.

23 Q Okay.

24 A Once you signed a statement that you were assaulted,  
25 forcefully attacked, he then showed that videotape to

1 Judge Hudson, who issued the warrant.

2 Q Okay.

3 A That was Deputy Holman's testimony.

4 Q Okay. Did -- did the officers make sworn statements?

5 A There were no written statements from any law  
6 enforcement officer, other than the report, the code five  
7 that Deputy Holman wrote in his supplemental report. I  
8 don't consider that to be a written statement. I consider  
9 that simply to be a report.

10 Q Okay. So is it -- is it standard to -- to --  
11 standard procedure to just destroy evidence? I mean, I  
12 hadn't had my court appearance yet. However, the -- the  
13 evidence was destroyed.

14 THE COURT: Ask a question now. Make sure you ask a  
15 question.

16 BY MS. BOYD:

17 Q Is that the standard procedure regarding evidence? I  
18 mean, is it a timeframe as to when evidence is -- when  
19 it's okay to destroy evidence? Is there, like, a  
20 timeframe?

21 A I'm not able to answer that question. I don't work  
22 for the sheriff's office. The explanation was that this  
23 tape was only attached to one case number and not the  
24 other. So I -- I think it's undisputed why it happened.  
25 I'm not going to defend the fact that it did happen.

1 Q Did Deputy Holman give you something in writing when  
2 he gave you a reason as to why the evidence was destroyed?  
3 Did he give you -- did he give you something in writing to  
4 support that?

5 A No, ma'am. And I, certainly, didn't ask him for  
6 anything in writing.

7 Q Would you agree that the evidence was -- was key to  
8 my case?

9 A I think the evidence -- if the evidence showed what  
10 the deputy stated it showed, it would be critical to the  
11 State's case. And it would have been devastating to your  
12 case.

13 Q But the -- but the officers testified; correct?

14 A Yes, ma'am.

15 Q And -- but the -- the video was not submitted into  
16 evidence?

17 A The video had been destroyed.

18 Q Okay. So how could they testify -- how could they  
19 corroborate their testimony if there's no videotape?

20 A It was a matter of credibility. It was just like  
21 Mr. Crump testified as to what happened. He was the man  
22 who was the process server. He testified what happened.  
23 You had an opportunity to cross-examine him. Because you  
24 and he, certainly, had different viewpoints of exactly  
25 what happened. And, you know, the -- the very nature of a

1 trial is every witness is subject to attack on their  
2 credibility.

3 Q But that credibility -- wouldn't you agree that  
4 credibility is -- is based on evidence?

5 A Oh, gosh. I mean --

6 Q I mean, it's established with evidence, credibility?

7 A No, ma'am. I mean, I think a jury is free to access  
8 credibility. And, ultimately, it's a jury who decides  
9 who's credible and not credible. And the jury can use a  
10 number of things, other than evidence, to assess the  
11 credibility of a witness.

12 Q Okay.

13 A And, as a matter of fact, in a jury instruction in  
14 any case, judges spend several paragraphs worth of  
15 instructions to the jury describing for them their duty to  
16 access credibility.

17 Q Okay. Are you familiar with Arizona v. Youngblood?

18 A No, ma'am, I'm not.

19 MS. BOYD: Okay. Your Honor --

20 THE WITNESS: I may, but not -- not by -- not by  
21 simply the case name.

22 MS. BOYD: Your Honor, may I cite Arizona v.  
23 Youngblood?

24 THE COURT: You can do whatever -- you can do  
25 whatever you want to. You're -- you're handling your own

1 case.

2 MS. BOYD: Okay.

3 THE COURT: I can't give you any advice.

4 MS. BOYD: It says, In South Carolina, criminal  
5 cases -- criminal cases, the issue of spoliation is viewed  
6 through the lens of due process.

7 MR. MITCHELL: Your Honor, I'm going to object. Is  
8 there a question or --

9 THE COURT: Are you -- is -- what's the question?  
10 Are you going to -- because he said he's not --

11 You said you're not familiar with the case?

12 THE WITNESS: No, sir. I may be -- I mean, I'm not  
13 real good on remembering about --

14 THE COURT: Are you going to ask him something about  
15 the case, or are you -- because if you're just citing the  
16 case, I'll let you cite the case. But if you -- if you're  
17 going to tell me what -- tell him what's in the case and  
18 ask him about it if he indicated he didn't -- he's not  
19 familiar with the case, I'm not going to allow you to do  
20 that.

21 MS. BOYD: I just wanted to cite the case of -- of --  
22 to --

23 THE COURT: But you've got to ask him a question. If  
24 you wanted the Court to -- to note -- note for the record  
25 a case and the cite, I'll let you do that. But in terms

1 of going into what the case states, if he says he's not  
2 familiar with the case, I don't know how you could ask him  
3 a question about it.

4 MS. BOYD: Okay. Well, let's note the case of -- of  
5 Arizona v. Youngblood.

6 THE COURT: All right.

7 MS. BOYD: And this is in regards to the evidence.

8 THE COURT: All right.

9 MS. BOYD: I guess, Your Honor -- I guess my issue  
10 is, I mean, there was no other --

11 THE COURT: Ma'am, I can't answer any questions.

12 MS. BOYD: Yeah. I understand.

13 THE COURT: Do you understand that?

14 MS. BOYD: I understand that.

15 THE COURT: But you've got to ask him a question.

16 You can't ask me.

17 MS. BOYD: Let's see. I'm just trying to word this  
18 right.

19 (Pause.)

20 BY MS. BOYD:

21 Q How could the -- how could I establish my case  
22 without that -- that videotape?

23 A Well, let's start with -- I assume you're talking  
24 about your defense. Because you had absolutely -- I mean,  
25 the State has the burden of proof. So you did not have a

1 case to establish whatsoever.

2 However, if you're talking about how could you defend  
3 yourself, assuming that you wanted to take the witness  
4 stand or, you know, cross-examine witnesses, you had  
5 options. For example, making the State look like it had  
6 something to hide. And I believe you did argue that to  
7 the jury. And I think you pretty much accused Mr. Crump  
8 of being a liar because his version of what happened was  
9 different than yours.

10 So, you know, I -- I don't think you were without  
11 argument. Because you -- you fashioned a number of  
12 arguments to defend yourself.

13 Q Was I -- was I given an opportunity to -- to review  
14 the discovery before -- before the trial started?

15 A You know, I don't know what you did with your time.  
16 I know we spent two hours in pre-trial motions and --  
17 before this trial ever began. And that -- during that two  
18 hours, you had the discovery packet, which I had provided  
19 you.

20 Now, did you look at it? Did you read it? I -- I do  
21 not know.

22 Q How soon after -- how soon after -- after you gave me  
23 the discovery did the -- did the case start?

24 A A couple of hours.

25 Q And how long did the case take?

1 A Forever. My recollection is you walked into the  
2 courtroom that morning at 9:00. And the jury rendered a  
3 verdict after 5:00. That -- those are approximate times.

4 Q Okay. Let's see. Was I offered pre-trial  
5 intervention?

6 A Judge Ford did suggest to you that that was an  
7 option, yes, ma'am. And he did that in my presence.

8 Q Did I request a continuance?

9 A I think I previously answered that question. I  
10 don't -- I don't recall you doing it. But I'm not in a  
11 position to argue with you if you did or did not.

12 Q Did -- did I ask that the case be dismissed due to  
13 the destruction of the evidence?

14 A I believe that was one of your pre-trial motions,  
15 yes, ma'am.

16 MS. BOYD: Your Honor, I -- I would like to put the  
17 magistrate return --

18 THE COURT: I already have it.

19 MS. BOYD: Can I put it into --

20 THE COURT: I've already got it.

21 MS. BOYD: Yeah. Okay. The magistrate's return into  
22 evidence.

23 I think that's all my questions.

24 THE COURT: All right. Any other questions --  
25 anything else, Mr. Mitchell?

1 MR. MITCHELL: No, Your Honor.

2 THE COURT: All right. I don't -- I do have one  
3 question.

4 THE WITNESS: Yes, sir.

5 EXAMINATION

6 BY THE COURT:

7 Q Do you recall Judge Ford bringing the alternate -- I  
8 know you said he brought Mr. Crump in to ask questions  
9 about contact with the juror -- alternate juror. Did he  
10 ever bring the alternate juror in to ask her or him and  
11 question whether or not Mr. Crump had contacted that  
12 particular juror? And, if so, what was discussed? I  
13 mean, I know you said he brought Mr. Crump in. But did he  
14 ever bring that -- that particular juror in and ask some  
15 questions?

16 A Your Honor --

17 Q That you recall?

18 A No, sir. I mean, I -- the reason I can recall no is  
19 that Mr. Crump apparently approached her. I did not see  
20 this. But Mr. Crump apparently approached her while she  
21 was in her vehicle leaving.

22 Q This was after she -- she had been dismissed as a  
23 juror?

24 A Yes, sir.

25 Q All right. Now, let me go back to something you said

1 earlier. During the deliberations -- now, during the --  
2 she never participated -- this particular juror never  
3 participated in -- in the deliberations?

4 A She never participated in the deliberations. And she  
5 never went back to the jury room when all -- for example,  
6 if there was a break during the trial for --

7 Q She -- she was sequestered in a room by herself?

8 A Yes, sir.

9 Q All right. And it was a female?

10 A It was a female, yes, sir.

11 THE COURT: All right. That's all I have.

12 MS. BOYD: Okay. Your Honor, can you -- can I  
13 possibly put this into evidence as well?

14 THE COURT: What is -- what is that?

15 MS. BOYD: This is showing the picture of Mr. Crump  
16 leaning into the vehicle speaking with the juror.

17 THE COURT: Well, I think there's already been  
18 testimony.

19 MS. BOYD: Okay.

20 THE COURT: I don't think there's -- that testimony  
21 has been unrefuted. I don't think there's any question  
22 that's been not disputed by anyone.

23 All right. Mr. Lyall, you can step down.

24 THE WITNESS: Thank you.

25 Your Honor, may I be released from my subpoena, or --

1 Mr. Mitchell, do you anticipate --

2 MR. MITCHELL: I have no objection to that, Judge.

3 THE COURT: All right. Any objection to Mr. Lyall  
4 being released, Ms. Boyd?

5 MS. BOYD: No, sir.

6 THE COURT: All right. Thank you, Mr. Lyall.

7 THE WITNESS: Yes, sir.

8 Thank you.

9 THE COURT: Good to see you.

10 All right. Two questions of you, ma'am.

11 Stand for a second. Two questions.

12 MS. BOYD: Yes, sir.

13 EXAMINATION

14 BY THE COURT:

15 Q Why didn't -- okay. Did you show up -- okay. I  
16 think in response to Counsel's question, you said that the  
17 jury was chosen when you got there. Did you get the  
18 letter telling you when jury selection was going to be?

19 A No, I did not. What happened, I called Judge Ford's  
20 office.

21 Q So the -- the document that Mr. Lyall -- that's part  
22 of the -- State's Exhibit No. 2, which is a letter  
23 addressed to you with your address, 6 Pelham Townes Drive,  
24 Greenville?

25 A Yes. That is my address.

1 Q All right. So you're saying that you never -- did  
2 you receive the summary court summons that told you when  
3 the trial was going to be?

4 A I -- No. I called them. I called Judge Ford's  
5 office. And I was told that the case would be on June --  
6 on June the 25th. She didn't tell me to report on  
7 June the -- on June the 24th.

8 Q All right. So it's your -- your testimony that you  
9 never received this summary court summons that's State's  
10 Exhibit No. 2?

11 A Yes, Your Honor.

12 Q You never received it?

13 A Yes, Your Honor.

14 Q Yes, you didn't, or, yes, you did?

15 A No, I -- I did not. I was -- I called and was  
16 informed that I was to appear.

17 Q All right. And when you did make the call, they did  
18 not tell you that they were going to pick the jury the day  
19 before?

20 A No. They did not tell me, no. She just told me to  
21 report on June the 25th. And that if I did not appear, I  
22 would be arrested, a warrant would be issued for my  
23 arrest.

24 Q Next -- next question. Why -- what's the reason,  
25 again, you didn't appear for your appeal before Judge Hill

1 on the -- whatever date that was?

2 A August the 12th.

3 Q August the 12th, why didn't you appear?

4 A I did --

5 Q First of all, let me -- let me ask you this. Did you  
6 know -- were you given notice to appear?

7 A Yes. I was given notice.

8 Q All right. So you knew that you had -- you were  
9 supposed to appear?

10 A Yes.

11 Q But you chose not to appear?

12 A I did -- I -- I had reasons. I --

13 Q Well, you know, you can't -- you know, you've got to  
14 have reasons for a lot of things. But when the Court says  
15 you've got a hearing and you've been invested in this  
16 matter as much as you have to this point, don't you think  
17 it's important that you show up at every time that you're  
18 given notice of -- of an appearance? Don't you think  
19 that's important?

20 A Sir, definitely.

21 Q So why didn't you show up on the -- on the date of  
22 the -- of the magistrate's court appeal in the circuit  
23 court? Why didn't you show up for that?

24 A I requested that they go forward with my case. I --  
25 I did not try to delay my case in any way. I timely filed

1 my appeal on July the --

2 Q Okay. That's not what I'm asking you --

3 A I --

4 Q Stop. Here's -- I'm trying to narrow this down. So  
5 you told -- you -- you told someone to go forward with the  
6 appeal of the magistrate court matter without you being  
7 present?

8 A I requested that --

9 Q Is that a -- that's a "yes" or a "no" now.

10 A Yes, yes, Your Honor.

11 Q Who did you -- you told somebody from the clerk's  
12 office? Who did you call?

13 A I -- I wrote the -- I sent an e-mail to the chief  
14 administrative judge. Weston White, the law clerk for D.  
15 Garrison -- for Judge D. Garrison Hill, responded.

16 Q All right. But you sent an e-mail saying you would  
17 not be present at that hearing?

18 A I requested that they make a decision. I didn't just  
19 flat out say -- I asked if they would make a decision in  
20 my absence.

21 Q In your absence?

22 A Yes, I asked.

23 Q And so you were -- you were willing to be bound by  
24 whatever decision that was going to be?

25 A Yes. I asked them if they would make a decision

1 without requiring my -- my presence.

2 Q All right.

3 A And I was -- absolutely, Your Honor. I  
4 was willing -- I was willing to be bound by whatever  
5 decision that was.

6 Q All right. But the decision -- the decision that  
7 came out was dismissing the magistrate's court appeal.  
8 That's what -- that's what Judge Hill's decision was.

9 Wasn't that right?

10 MR. MITCHELL: That's correct, Your Honor.

11 BY THE COURT:

12 Q That was the decision that came out of that hearing.

13 A The -- the record shows there was no hearing on  
14 August the 12th. There was no hearing on August the 12th.  
15 And the transcript is void of any -- and -- and as a  
16 matter of fact, I noted --

17 Q Well, ma'am, here's -- here's --

18 What do you want to say?

19 MR. MITCHELL: I was just going to say it's my  
20 understanding that the Judge dismissed it for failure to  
21 prosecute. Ms. Boyd didn't show up.

22 BY THE COURT:

23 Q Well, based on your -- based on your -- you called or  
24 you e-mailed the law clerk of the Judge that says you were  
25 not going to appear, to make whatever decision the Judge

1 wants to in your absence. Is that what you -- that's what  
2 you just said.

3 A Sir, that's --

4 Q Isn't that what you just said?

5 A What I said, I asked that they make a decision --  
6 asked if they would make a decision in my absence  
7 requesting whether they're going to say "yes" or "no."  
8 And I was willing to be bound. If they said "no," I knew  
9 I had to appeal.

10 Q But, ma'am -- but, ma'am, here's what I'm asking you.

11 A Yes.

12 Q As invested as you were in this case, here was a -- a  
13 hearing that was scheduled on your magistrate court  
14 appeal, an appeal that you have been invested in in this  
15 matter from day one. Didn't -- don't you think it was  
16 incumbent upon you because of your investment to -- to  
17 show up at that date and -- just like you argued here  
18 today, all these issues.

19 These are some of the same things that you could have  
20 argued before Judge Hill on that and you chose not to show  
21 up. You gave -- sent a message and asked the Court to  
22 make a decision in your absence. And the Court dismissed  
23 the case for failure -- failure of you to prosecute the  
24 matter. That's -- that's -- so I have two issues here.

25 A Yes, sir.

1 Q One is the fact that you didn't show up that day.  
2 And you allege that the -- the jury was all white and  
3 the -- if you're familiar with the Batson case, if you  
4 showed up for jury selection, at the -- at the time of  
5 jury selection, you can make a Batson motion, you know, on  
6 the magistrate level, or you can make a Batson motion up  
7 here in GS -- or General Sessions.

8 A Yes, sir.

9 THE COURT: You didn't -- you weren't there to do  
10 that. And here's the deal. You say you weren't notified  
11 of that, of jury selection. And I -- the only thing I've  
12 got is -- is State's Exhibit No. 2. And I asked you prior  
13 to -- when -- when Counsel moved for the entry of this  
14 exhibit, I, specifically, asked you did you have any  
15 objection to it. And you said, No.

16 And prior to entering into -- entering this exhibit  
17 into evidence, he read -- and I'm talking about  
18 Mr. Mitchell. He read on here that tells -- that speaks  
19 about, Please note the jury selection will be Tuesday,  
20 June the 24th, 2014, at 9:30 a.m. This is on the document  
21 that you had no problems entering into evidence. I asked  
22 you did you have any objection. You said, No. Those are  
23 the two problems I have.

24 After having listened to you today and as much as  
25 you're invested into the case -- but those were two

1 critical appearances that you did not participate in, one,  
2 jury selection, which you could have at that time  
3 challenged any -- the racial makeup of the jury. I'm not  
4 saying what the Judge would or would not have done.

5 Secondly, you did not appear at this particular -- at  
6 the appeal of your magistrate court matter. Now, those  
7 are the two concerns I have.

8 Now, what I do have, on the other hand,  
9 Mr. Mitchell -- and this is -- this is what I am grappling  
10 with. And, you know, I think that every defendant whether  
11 that defendant -- defendant appears in magistrate court,  
12 whether that defendant appears in municipal court,  
13 whether that defendant appears up here, or whether that  
14 defendant appears in federal court, I am a firm believer  
15 that every defendant irregardless of race, color, creed,  
16 or whatever is afforded a fair trial when they walk in the  
17 doors of the tribunals. I'm a firm believer of that.

18 Now, what -- what I'm concerned about is -- is  
19 something that I can't come to a decision on as I sit  
20 here. And I heard Mr. Lyall's interpretation of it. But  
21 it just appears to me -- and I've -- and I've practiced  
22 law before I took -- before I took the bench almost  
23 some -- almost 11 years ago. I practiced law for 25 years  
24 in all the courts in the state, state court, federal  
25 court, you name it, I've been there, and magistrate's

1 court and municipal court.

2 I've had jury trials in magistrate court. And I've  
3 had jury trials in municipal courts. I've had jury trials  
4 in the Court of General Sessions. I've had jury trials in  
5 the Court of Common Pleas. I have never in my experience  
6 known of any instance where a jury has a question and  
7 the -- the sitting judge summons the Defendant, and her  
8 family, and the prosecuting attorney into the jury room  
9 for the question to be vetted. I've never seen that.

10 And what I'm grappling with is, is that improper? Is  
11 that prejudicial? What is that? I've never seen that.  
12 And I can't put my -- my cerebrum, and my cerebellum, and  
13 everything else around that thought about why that  
14 occurred. I've just never seen that. And, certainly, I  
15 don't know.

16 You've got -- you know, you've got a Sixth Amendment  
17 right to a fair trial. There are components to that,  
18 whether it's on the State level or on the federal level.  
19 There are components to that. And I think it's incumbent  
20 upon all the participants, you know, not just the  
21 prosecuting attorney, but the Defense attorney and the  
22 trial judge. We've got all roles in that process of  
23 fairness.

24 And I don't know -- maybe -- maybe that wasn't  
25 anything of any significance. But I've never seen that.

1 Because I am certain that -- and I wasn't there. But --  
2 but I don't know what the dialogue was about. But  
3 certainly -- and, also, secondly, if there was a  
4 conversation with a juror by one of the witnesses in the  
5 case, which has -- which has been admitted to by -- it's  
6 unrefuted. It was an alternate juror. But for the  
7 Court -- the lower court not to make inquiry of some sort  
8 as to the dialogue between the alternate juror and the  
9 witness in the case -- nothing may have come out of it.  
10 It could have very well been. But what I'm hearing is  
11 that.

12 Thirdly, the other issue that I have is you've got an  
13 initial arrest warrant where some officer found probable  
14 cause to issue it on behalf of this -- Ms. Boyd. There  
15 was -- there was a determination of probable cause at the  
16 issuance of that warrant. And that was based on the  
17 officer looking at the video -- because the video was in  
18 existence at that time -- looking at the video, talking to  
19 the witnesses. And, based upon that, probable cause was  
20 issued for that warrant. It was only after that -- and if  
21 I'm wrong on the facts, you tell me. Because I'm  
22 listening. And I've read this record.

23 Only after that, there was an investigation done.  
24 And if you look on the warrant that you -- that the State  
25 provided me in this packet, somebody scratched out what

1 was on the original warrant and wrote the word "probable  
2 cause," and put a question mark behind it. I don't know  
3 who did that. But that's what you gave me.

4 So there was the investigation after that to  
5 determine probable cause really didn't exist on the back  
6 end when you're supposed to determine probable cause on  
7 the front end. And then according to Attorney Iyall's  
8 testimony that it's the -- it's the practice of the  
9 solicitor's office if they close the case, then if there's  
10 any evidence that's -- that's associated with that case  
11 and, in this case, being the video, that automatically  
12 goes away. And then we open up this new file for giving a  
13 false statement. That's the new file. That's the new  
14 file.

15 And you're -- you're trying to convince the Court --  
16 or whomever that the probable cause for that was not, at  
17 least, the video being a possible probable cause for that.  
18 But you've destroyed that.

19 So you take the video out of that equation, how in  
20 the world do you get the probable cause in the second case  
21 for failing -- for -- for filing a false report? How do  
22 you get that? You don't get there. And I cannot for the  
23 life of me wrap my -- my mind around that logic. You  
24 cannot do that.

25 It is incumbent upon the State in these cases on the

1 appellate level, on the trial -- on the state level, and  
2 even at the level of post-conviction relief to be fair.  
3 And if you tell me how they get there -- Mr. Lyall's  
4 argument, fine lawyer, knowing -- knowing George for a  
5 long time. He's been out there as long as I have. I know  
6 him. I don't have any problem with George, good lawyer.  
7 But he can't get there.

8 So I don't -- I've got a -- so I've got this problem  
9 over here with -- with Ms. Boyd for her inability or her  
10 failure to show up at two critical places in this process  
11 that she wasn't there. For whatever reason it was, she  
12 wasn't there.

13 But I've, also, got this problem over here. And  
14 I've, also, got a -- and I know that the solicitor's  
15 office gets a ton of cases. I understand that. But  
16 Mr. Lyall himself said he got the case -- he looked at it  
17 the day before the trial and figured out it wasn't a big  
18 deal. It wasn't a big deal.

19 So if he just looked at it the day before the trial  
20 and he's -- he's the lawyer and he didn't -- and he didn't  
21 think it was such a big deal to, at least, have some  
22 dialogue about the video. He knew that either Mr. Talley  
23 or somebody had requested the video in the prior case if  
24 he knew about it. He said he didn't know anything about  
25 that.

1           But if that's the basis, I've got a hard time getting  
2 to the fact that this Defendant is not entitled to that  
3 information. And -- and the State has not taken me there.  
4 The -- this case -- to cure all of this -- you know,  
5 sometimes, cases come before the Court and they could have  
6 been cured, you know. Sometimes, we get sores that start  
7 out as scabs. And scabs we can take care of. Sores,  
8 sometimes, we can't. This case started out as a scab that  
9 all that needed to be done was grant the continuance,  
10 grant the continuance. Everybody gets a fair shot. Come  
11 in, grant the continuance. Everybody gets a fair shot.  
12 Try the case. Do all that.

13           And, now, I will say this, that I have not gotten an  
14 advisory opinion or I have not gotten any information that  
15 can tell me. But if you provide me anything from anyone  
16 of -- of -- in some authority that it is proper for the --  
17 for the magistrate to take the family -- the Defendant,  
18 and some of her family, and the prosecuting attorney back  
19 into the jury room and have a conversation about what  
20 questions were asked and let them dialogue right in front  
21 of the jury, I cannot see how that's not prejudicial. And  
22 Mr. Lyall says, well, he's seen it done. And, you know,  
23 I've -- I've never seen it done. And I've been around a  
24 minute. I've never seen that done.

25           If I did that up here, they'd be running down to

1 Columbia to -- to -- to appeal if I did that. As a matter  
2 of fact, they'd get to Columbia before I could get to  
3 Laurens if I did that -- if I did that in here. And, you  
4 know, so I'm not accepting that -- that rational.

5 So having said all of that, having said all of that,  
6 I've got some issues on both sides of the fence. And --  
7 and I'm not the kind of Judge that's just going to hide --  
8 duck and hide and tell you what I'm going to do. [ I'm  
9 going to tell you exactly what I'm going to do. ]

10 I'm going to send this matter right back to the  
11 magistrate court. I'm going to remand it back there, have  
12 it retried, and -- and go through the process. I -- I  
13 just think that's the right thing to do. I really think  
14 that's the right thing to do.

15 And if the State has a problem with that ruling, you  
16 know what you got -- you know what you can do. But I  
17 think -- I think fairness is ultimate on both sides. And  
18 you can't tell me that this case doesn't -- first, it  
19 reeks of some irresponsibility on behalf of Ms. Boyd. She  
20 didn't -- there's some things she could have done better.

21 It reeks of some unfairness on -- on -- on the side  
22 of the -- the -- the -- and I'm not -- and you notice I'm  
23 careful not to use the word prosecutorial misconduct. And  
24 I know that was alleged in her application.

25 But what I'm -- what I'm really hanging my hat on,

1 Mr. Mitchell, is the Sixth Amendment right, that Sixth  
2 Amendment, which she did put -- she did put in her  
3 application. That's in her application.

4 So I'm not -- I'm not hanging my hat on anything  
5 about prosecutorial misconduct. I -- I don't have -- I  
6 don't have that to hang my hat on. And I think that was  
7 one of the allegations. And I'm not hanging -- and I'm,  
8 also, not hanging my hat on anything that's got to do with  
9 race. And that was in her application. I'm not hanging  
10 my hat on any of that. I'm not hanging my hat on any --  
11 any racial bias on behalf of the -- the Judge. I'm not  
12 hanging my hat on the jury being all white. I'm not  
13 hanging my hat on all that.

14 I am hanging my hat on the fact that, in this case,  
15 there were some things that were done on both sides that  
16 could have been done better. As a matter of fact -- and I  
17 don't want to keep repeating this, but I've stated  
18 what I -- what I thought.

19 So I don't -- and, Counsel, as you stand there before  
20 me, if you can tell me -- give me something that tells me  
21 differently from what I saw and what I heard -- you know,  
22 sometimes, when the magistrate court -- one of the things  
23 that -- that happens in magistrate's court all the time --  
24 they've got a ton of cases over there. And I know they're  
25 trying to just -- they're trying to turn them out as

1 quickly as they can. But, sometimes, when you do that,  
2 you inadvertently step on the toes of not necessarily the  
3 Prosecution, but, you know, sometimes, you step on the  
4 toes of the other side. So both toes are stepped on on  
5 both sides.

6 So, sometimes, you know, you've just got to sit back,  
7 take a deep breath and says [sic], okay, what do I need to  
8 do with this situation? In my estimation, in this  
9 situation, all that needed to be done was to grant the  
10 continuance, have the case heard. And then you won't be  
11 standing here with this case. Ms. Boyd wouldn't be  
12 standing here with this case. And -- and the jury reaches  
13 whatever verdict it does. And everybody goes on their  
14 merry way. That's where I'm at.

15 MR. MITCHELL: And, Your Honor, I'd be happy to --  
16 I -- I just wanted to make sure you were done -- brief any  
17 of these issues, if Your Honor would deem it necessary. I  
18 do believe -- and I know you didn't say prosecutorial  
19 misconduct, so I -- I won't go into that.

20 In terms of the Judge -- I think -- in terms of jury  
21 selection, our appellate courts have -- have stated that  
22 it's not automatic reversal when a -- when the Judge goes  
23 into a jury room. That it's not automatically harmless --  
24 harmless error. And I'll be happy to provide the Court  
25 with sufficient case law to that effect. In this case,

1 since it's PCR and the equivalent would be whether it's  
2 sufficient prejudice that's been found from that.

3 In terms of -- I think the appropriate probably  
4 course of action, Your Honor, if -- if you would entertain  
5 it, would be the ability to be able to brief these issues  
6 for you in written format, if that's suitable for Your  
7 Honor.

8 THE COURT: Both sides?

9 MR. MITCHELL: Both sides.

10 THE COURT: It may not change my mind, but you can.  
11 What window of time do you need?

12 MR. MITCHELL: I could have it to you probably by  
13 next -- next Friday or either the Monday after that, if I  
14 could get a week. If I could get until November 5th.  
15 That -- not this coming Monday, but the following --

16 THE COURT: All right. Now, keep in mind, the case  
17 that you're reading -- and I know the case you just -- you  
18 know, you're talking about. But, see, the -- I want  
19 you -- when you brief that, I want you to make it clear  
20 the testimony was -- is that she, along with her family  
21 members, were summoned by the Judge --

22 MR. MITCHELL: I don't recall the family -- I don't  
23 recall the family members going back. I thought it was  
24 just --

25 MS. BOYD: It was me and Attorney George K. Lyall.

1 THE COURT: I thought you said your family was  
2 peeking through the door. Did I miss -- did I --

3 MS. BOYD: I think you --

4 MR. MITCHELL: It was you and --

5 MS. BOYD: It was me and George K. Lyall.

6 THE COURT: All right. Well, you can brief me and  
7 send me that.

8 Do you understand what we're doing?

9 MS. BOYD: Yes.

10 THE COURT: He's going to send me a brief, you're  
11 going to send me one.

12 MS. BOYD: And -- and, Your Honor, I, also, want to  
13 note that Deputy Holman --

14 THE COURT: Okay. You're going to put that in your  
15 brief. You know, any -- you know, we've -- we've already  
16 concluded the testimony part. We're not going into that.  
17 The only thing that's happening right now is I'm allowing  
18 Mr. Mitchell -- I'm going to put -- I'm going to put my  
19 ruling on pause.

20 MR. MITCHELL: I appreciate that, Judge.

21 THE COURT: I'll put it on pause. And he's going to  
22 send me some information for me to look at. And I'll give  
23 you more than 10 days. I'll give you 20 days.

24 All right. Because I'm going to -- I'm going to give  
25 20 days, ma'am. He's going to send me a brief regarding

1 his prospective positions. Keep in mind, you can send me  
2 one as well.

3 MS. BOYD: Okay.

4 THE COURT: But I am closing the door on  
5 prosecutorial misconduct. And I'm closing the door on  
6 race. Those are things you raised.

7 So when I say you brief -- when you send me the  
8 brief, you don't need to address those issues because I'm  
9 not -- I'm not going to take those into consideration.  
10 I'm closing the door on prosecutorial misconduct. I'm  
11 closing the door on race.

12 And what else did I say I was closing the door on?  
13 Is that it?

14 MR. MITCHELL: The issues that I have that you were  
15 concerned about was, obviously, the jury question with the  
16 jurors.

17 THE COURT: Right.

18 MR. MITCHELL: The conversation about the alternate  
19 juror.

20 THE COURT: Right.

21 MR. MITCHELL: And then I have the third about --  
22 well, I had it down as discovery. But you said you were  
23 closing the door on it. I think you framed it as a Sixth  
24 Amendment right.

25 THE COURT: Well, I do have -- I do have some issue

1 regarding that whole -- the video, the discovery aspect.  
2 Why wouldn't that be a part of the discovery for the  
3 second case as well, that video? And that's a crucial  
4 issue. And that video was destroyed because of the rule  
5 that Mr. Lyall talked about.

6 But that's -- so those are the three areas. And  
7 you've really got to get -- I think you're going to have  
8 to -- that's your meat and potatoes right there. Because,  
9 basically, I still think that the -- the probable cause  
10 for the second warrant had to be -- that video had to play  
11 a part in that. You can't -- you can't get there without  
12 that.

13 And, ma'am, keep in mind, you know, I'm not at -- I'm  
14 not in this hearing able to dismiss your case or throw it  
15 out, you know. It's like anything else, it's a PCR. So  
16 I -- my remedy is granting a new trial. And that's why I  
17 said that. So that's where I'm at.

18 And I'm allowing learned Counsel, Mr. Mitchell, and  
19 yourself to submit me something that would take the needle  
20 off of pause and put it back on go, what I just said. And  
21 I'm going to give you 30 -- 20 days to get that to me, not  
22 21 days, 20 days. And you've got to get that to me. And  
23 then I'll make a decision on that.

24 MR. MITCHELL: Sounds good.

25 Thank you, Judge.

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MS. BOYD: Thank you, Your Honor.

THE COURT: Take care.

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

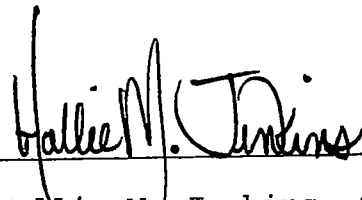
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA            )  
COUNTY OF GREENVILLE            )

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth 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 the evidence introduced in the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 26th day of October, 2018.

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

May 10, 2019



Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

# The Supreme Court of South Carolina

Donna Boyd, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2019-000458

Lower Court Case No. 2017CP2307725

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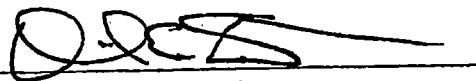
## ORDER

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Petitioner has failed to provide this Court with a copy of correspondence with the court reporter showing that the transcript has been timely ordered from the court reporter (including agreement regarding payment for the transcript) as required by Rules 243(b) and 207(a)(1) of the South Carolina Appellate Court Rules (SCACR). Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY



CLERK

< Columbia, South Carolina  
April 22, 2019 >

cc: Megan Harrigan Jameson, Esquire  
Ms. Donna Boyd

**The Supreme Court of South Carolina**

DANIEL E. SHEAROUSE, CLERK OF COURT

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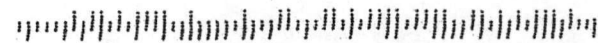
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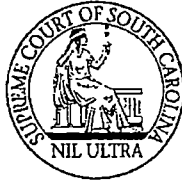


ZIP 29201  
011D12602823

DONNA BOYD  
PO BOX 1168  
MAULDIN SC 29662

2966281168 8013





# The Supreme Court of South Carolina

DANIEL E. SHEAROUSE  
CLERK OF COURT

BRENDA F. SHEALY  
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April 23, 2019

Ms. Donna Boyd  
PO Box 1168  
Mauldin SC 29662

Re: Donna Boyd v. State  
Appellate Case No. 2019-000458

Dear Ms. Boyd:

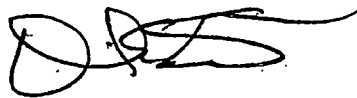
This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at [www.sccourts.org/courtreg](http://www.sccourts.org/courtreg). Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at [www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02](http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02). Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review

filings for redaction or to determine if materials should be sealed.

Very truly yours,

A handwritten signature in black ink, consisting of a large initial 'D' followed by several loops and a long horizontal stroke extending to the right.

CLERK

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cc:

Taylor Z. Smith, Esquire