

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKLEY COUNTY
Court of Common Pleas

Edgar W. Dickson, Circuit Judge

Case No. 2020-CP-08-00773
Appellate Case No. 2021-001173

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SC Court of Appeals

Stephanie Michelle Gardner Appellant,
vs.

Berkeley County Sheriff's Office and
Town of Moncks Corner, ... Respondents,

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	
	)	Civil Action No. 2020-CP-08-00773
Stephanie Michelle Gardner,	)	
	)	
Plaintiff,	)	
	)	ORDER GRANTING
v.	)	TOWN OF MONCK'S CORNER'S MOTION
	)	FOR SUMMARY JUDGMENT
Berkeley County Sheriff's Office and	)	
Town of Moncks Corner,	)	
	)	
Defendants.	)	
	)	

This matter came before the Court on April 5, 2021 on the motion of Defendant Town of Moncks Corner (hereinafter "Defendant") seeking summary judgment pursuant to SCRCR Rule 56(c). Louis D. Nettles of Nettles Law Firm appeared on behalf of Plaintiff, while James E. Haarsgaard of Richardson, Plowden & Robinson, P.A. appeared on behalf of the Defendant. The Court had before it the pleadings and motions filed in the above-captioned litigation, including the Town of Moncks Corner's Motion for Summary Judgment, the accompanying Memorandum of Law in Support, and Plaintiff's Memorandum in Opposition. Based upon this Court's review of the documents filed in this litigation and the testimony and other evidence presented at the hearing, the Court hereby grants the Defendant's Motion for Summary Judgment for the reasons set forth herein.

I. FACTUAL FINDINGS AND PROCEDURAL HISTORY

On the night of April 27, 2018, members of the Berkeley County Sheriff's Office (hereinafter "BCSO") Drug Enforcement Unit and narcotics Detective Brooks Barlow of the Town of Moncks Corner Police Department arrived at 112 Lodestone Court in Moncks Corner to locate an individual with an outstanding arrest warrant. Upon their arrival, law enforcement observed the suspect run into the front door of the residence. Detective Barlow then traveled to the back door

of the home where he encountered a resident named Samantha Eason. Ms. Eason confirmed that the suspect was present inside the home, and Detective Barlow entered through the back door where he encountered several other individuals, including the Plaintiff, who was sitting on a couch.

During the course of arresting the suspect, Detective Barlow observed what was later confirmed to be marijuana in plain view as well as the strong odor of marijuana in the home. He also observed that the home was without power or running water. Additionally, law enforcement observed Ms. Eason smoke marijuana in their presence and drug paraphernalia lying in plain view. Based upon his observation of the marijuana in plain view, Detective Barlow received both verbal and written consent from Ms. Eason to search the residence. The search uncovered a large quantity of illegal drugs under a living room couch cushion roughly ten (10) feet away from the location where Detective Barlow observed Plaintiff at the time he made entry into the residence. None of the occupants claimed ownership of the drugs following Detective Barlow's inquiry as to the same.

Based on the foregoing facts, Detective Barlow determined that he had probable cause to place all individuals inside the home, including Plaintiff, under arrest for constructive possession of the drugs found in the living room couch. Following the arrests, Detective Barlow appeared in front of a local magistrate judge who signed warrants charging each occupant of the home, including Plaintiff, with Trafficking Cocaine and Trafficking Methamphetamine as well as Possession of Heroin and Cocaine Base. Following her arrest, Plaintiff did not post her bond for forty-five (45) days.

Plaintiff's charges were subsequently dismissed on October 24, 2018 following a determination by the Solicitor's Office that it was unable to prove the charges beyond a reasonable doubt. Plaintiff then filed this lawsuit on March 20, 2020 through which she alleges false arrest, malicious prosecution and a violation of the South Carolina Constitution against both the Town of Moncks Corner and BCSO as well as defamation against BCSO only.

II. STANDARD OF REVIEW

Rule 56(c) of the South Carolina Rules of Civil Procedure provides a motion for summary judgment shall be granted if “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” See Progressive Max Ins. Co. v. Floating Caps, Inc., 405 S.C. 35, 42, 747 S.E.2d 178, 181 (2013). “In determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences that may be drawn therefrom in the light most favorable to the party opposing summary judgment.” Id.; Wachovia Bank, N.A. v. Coffey, 404 S.C. 421, 425, 746 S.E.2d 35, 38 (2013). “The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” Dawkins v. Fields, 354 S.C. 58, 69, 580 S.E.2d 433, 438 (2003) (citations omitted).

III. DISCUSSION

A. **DEFENDANT’S SOUTH CAROLINA TORT CLAIMS ACT, S.C. CODE ANN. § 15-78-10, *ET. SEQ.* DEFENSES.**

The South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et. seq.* (Supp. 2004), which provides the exclusive remedy in tort against the Defendant, is a limited waiver of governmental immunity. Under the Act, a governmental entity is not liable for a loss resulting from the enforcement of any law. S.C. Code. Ann. § 15-78-60(4). Additionally, a governmental entity is not liable for a loss resulting from “the performance of any act or service which is in the discretion or judgment of a governmental employee.” S.C. Code. Ann. § 15-78-60(5). “To establish discretionary immunity, the governmental entity must prove its employees, faced with alternatives, actually weighed competing considerations and made a conscious choice” while utilizing “accepted professional standards appropriate to resolve the issues before them.” Clark v.

S.C. Dep't of Pub. Safety, 362 S.C. 377, 386, 608 S.E.2d 573, 578 (2005).

Plaintiff did not address Defendant's assertion of the Act's immunities and protections in his Memorandum in Opposition or during the oral arguments on Defendant's Motion. Defendant, however, produced evidence in the form of Detective Barlow's deposition testimony that he used his discretion when he made the decision to arrest all of the occupants in the home rather than any one individual. The Court finds that this decision was made during Detective Barlow's efforts to enforce S.C. Code Sections 44-53-370 and 44-53-375 which make it illegal to possess the illegal drugs recovered from the home. Therefore, the Court finds that the Defendant is entitled to the immunities and protections it has asserted under the South Carolina Tort Claims Act, and Plaintiff's claims are dismissed with prejudice. Notwithstanding these immunities and protections, the Court will address the merits of Plaintiff's causes of action against Defendant.

B. PLAINTIFF'S FALSE ARREST CAUSE OF ACTION.

Plaintiff's first cause of action against Defendant is for false arrest. She alleges that she was arrested without probable cause and that the warrants at issue were facially invalid. The elements of false arrest in South Carolina are "intentional restraint of another without lawful justification." Carter v. Bryant, 429 S.C. 298, 306, 838 S.E.2d 523, 527 (Ct. App. 2020). "[W]hether an arrest warrant was supported by probable cause is a different question than whether the warrant was facially valid." Carter, 429 S.C. 309, 838 S.E.2d 529.

(1) Plaintiff's Probable Cause Claim.

In an action for false arrest or malicious prosecution, the plaintiff has the burden of demonstrating lack of probable cause. Jackson v. City of Abbeville, 366 S.C. 662, 666, 623 S.E.2d 656, 658 (Ct. App. 2005). Probable cause does not turn on an individual's guilt or innocence, but rather "a good faith belief that a person is guilty of a crime when this belief rests upon such grounds as would induce an ordinary prudent and cautious person, under

the circumstances, to believe likewise.” Id. at 366 S.C. 666, 623 S.E.2d 658; Gist v. Berkeley Cty. Sheriff's Dep't, 336 S.C. 611, 615, 521 S.E.2d 163, 165 (Ct. App. 1999). “The determination of probable cause is not an academic exercise in hindsight,” and it can be “decided as a matter of law when the evidence yields but one conclusion.” Jackson, 366 S.C. 667, 670, 623 S.E.2d 659, 660. Furthermore, “the determination of ‘probable cause to arrest’ for the purpose of [a plaintiff’s] tort claims may properly include consideration of an uncharged offense” such that a finding of probable cause on the uncharged offense will defeat the plaintiff’s claims. Id. at 366 S.C. 666, 623 S.E.2d 658.

Defendant presented evidence that Detective Barlow based his probable cause analysis on the theory of constructive possession. A conviction for the offense of constructive possession of illegal drugs requires a showing, either by direct or circumstantial evidence, that an individual “had dominion and control, or the right to exercise dominion and control” over the drugs. State v. Muhammed, 338 S.C. 22, 26, 524 S.E.2d 637, 639 (Ct. App. 1999). Muhammed decided an appeal from a conviction for constructive possession which requires proof beyond a reasonable doubt and is therefore instructive only to the extent that it defines the criminal offense. In contrast, this case deals with the probable cause standard which only required Detective Barlow to show a good faith belief that Plaintiff constructively possessed the drugs under the circumstances he observed prior to her arrest.

The Court notes that the circumstances in this case include the undisputed fact that Plaintiff was present in a home with marijuana laying in plain view in close proximity as well as the smell of marijuana throughout the home. The Court finds that these circumstances alone would have supported probable cause to arrest Plaintiff for constructive possession of marijuana. However, Detective Barlow testified that he chose

not to charge the occupants of the home with possession of marijuana because “[t]here were other serious drugs there.” As to those “other serious drugs,” it is also undisputed¹ that the Plaintiff was positioned just feet from the location where significant amounts of cocaine, methamphetamine, and heroin were recovered when Detective Barlow entered the home. Moreover, none of the individuals present in the home claimed ownership of the drugs. Given the totality of the foregoing circumstances, the Court finds that Detective Barlow had probable cause to arrest the Plaintiff.

In addition to the above circumstances, Defendant’s evidence included Plaintiff’s admission during her deposition that she walked throughout the home, including the living room, prior to the arrival of law enforcement. Moreover, Plaintiff agreed that a judge signed the warrants and determined that there was probable cause for her arrest. See Carter, 429 S.C. 310, 838 S.E.2d 530 (adopting in a civil case the finding of State v. Dill, 423 S.C. 534, 544-545, 816 S.E.2d 557, 563 (2018) that the court may determine whether probable cause existed for the issuance of a criminal arrest warrant and must give great deference to the magistrate judge’s probable cause conclusion). In contrast, Plaintiff provided no admissible evidence to support her claim that she was arrested without probable cause despite the burden being on her to do so. Additionally, Plaintiff did not address through her Memorandum in Opposition or during oral arguments the applicable probable cause standard and instead cited to case law discussing the inapplicable beyond a reasonable doubt standard.

(2) Plaintiff’s Facially Invalid Warrant Claim.

South Carolina courts have held that “a warrant is ‘facially valid’ if (1) it is regular

¹ While Officer Barlow testified that he observed Plaintiff to be located ten (10) feet from the location where the drugs were recovered, Plaintiff testified that she was a “car length” from where the drugs were recovered.

in form, (2) it is issued by a court official having authority to issue the warrant for the conduct it describes and jurisdiction over the person charged, and (3) all proceedings required for the proper issuance of the warrant have duly taken place.” Carter, 429 S.C. 308, S.E.2d 529. In this case, Plaintiff has provided no admissible evidence to support her claim that the warrants were invalid. Plaintiff did not address or cite any evidence relating to these elements in her Memorandum in Opposition or during oral arguments. Nonetheless, the Court finds that the warrants in this case satisfy the requirements and are therefore facially valid under South Carolina law.

In sum, the Court finds that Detective Barlow arrested Plaintiff pursuant to probable cause developed while at the residence and the warrants for her arrest were facially valid. Therefore, the Court dismisses Plaintiff’s false arrest claim against the Town of Moncks Corner with prejudice.

(C) PLAINTIFF’S MALICIOUS PROSECUTION CAUSE OF ACTION.

“To maintain an action for malicious prosecution, a plaintiff must establish: (1) the institution or continuation of original judicial proceedings; (2) by or at the instance of the defendant; (3) termination of such proceedings in [the] plaintiff’s favor; (4) malice in instituting the proceedings; (5) lack of probable cause; and (6) resulting injury or damage.” Pallares v. Seinar, 407 S.C. 359, 366, 756 S.E.2d 128, 131 (2014) (internal citation omitted). Furthermore, “[a]n action for malicious prosecution fails if the plaintiff cannot prove each of the required elements by a preponderance of the evidence, including malice and lack of probable cause.” *Id.*

As discussed above, the Court finds that Plaintiff was arrested pursuant to probable cause. This finding precludes Plaintiff from prevailing on her malicious prosecution action as she cannot satisfy the fifth requirement of the test. However, Defendant argues, and the Court agrees, that Plaintiff also failed to provide evidence to satisfy the fourth and sixth requirements of the test.

As to the fourth requirement, “[m]alice is defined as ‘the deliberate[,] intentional doing of

an act without cause or excuse.” Pallares, 407 S.C. 366, 756 S.E.2d 131. In support of its argument that Plaintiff has failed to satisfy the malice requirement of the test, Defendant cites to Plaintiff’s deposition testimony wherein she acknowledged that law enforcement believed that they were arresting five drug traffickers. Defendant also cites to the contrast between the allegation in Plaintiff’s Complaint that she was arrested “to coerce her to give false testimony” and her testimony that she was asked to testify and declined but was never threatened. The Court finds that the Defendant has shown that Plaintiff’s testimony undermines her claim for malice.

As to the sixth requirement of damages, Defendant cites to Plaintiff’s testimony wherein she admitted to making telephone calls while incarcerated and instructing family members to not post her bond. Defendant provided evidence that, during these telephone calls, Plaintiff expressed her intention to remain incarcerated because she was informed by multiple individuals, including a “lawyer friend of the family,” that she would receive \$2,000 per day if she remained in the detention center. The Court finds that this evidence undermines Plaintiff’s claim for damages. Additionally, Plaintiff did not address or provide evidence of damages in her Memorandum of Opposition or at oral argument, and therefore no genuine issue of material fact exists as to this requirement.

Ultimately, the Court finds that Plaintiff cannot satisfy the test for malicious prosecution because she was arrested pursuant to probable cause. The Court further finds that Plaintiff failed to address and/or offer evidence sufficient to satisfy elements (4) and (6) of the malicious prosecution test. Therefore, the Court finds that no genuine issue of material fact exists as to this cause of action and it is dismissed with prejudice.

(D) PLAINTIFF’S STATE CONSTITUTIONAL VIOLATION CLAIM.

Plaintiff’s Complaint alleges that Defendants “deprived her of her liberty by arresting her without probable cause and keeping her in their custody on a warrant that on its face did not show

a violation of law in violation of her rights under the Constitution of the State of South Carolina and of the Constitution of the United States.” However, as stated above, this Court finds that Plaintiff was arrested pursuant to probable cause and her warrants were facially valid. Moreover, “the South Carolina Constitution does not provide for monetary damages for civil rights violations and the legislature has not enacted an enabling statute.” Palmer v. State, 427 S.C. 36, 46, 829 S.E.2d 255, 261 (Ct. App. 2019). Therefore, there is no constitutional right to damages for an individual who suffers a state constitutional tort. Id. For these reasons, Plaintiff’s claim fails as a matter of law and is dismissed with prejudice.

IV. CONCLUSION

For the reasons set forth herein, the Court finds that there exists no genuine issue of material fact in this case as to any of Plaintiff’s claims against the Town of Moncks Corner. Accordingly, it is hereby **ORDERED** that the Town of Moncks Corner’s Motion for Summary Judgment is granted as to all of Plaintiff’s claims against it, and this action is dismissed with prejudice as to the Town of Moncks Corner.

AND IT IS SO ORDERED.

The Honorable Edgar W. Dickson
Presiding Judge

April____, 2021
Berkeley, South Carolina



Berkeley Common Pleas

Case Caption: Stephanie Michelle Gardner VS Berkeley County Sheriff'S Office ,
defendant, et al
Case Number: 2020CP0800773
Type: Order/Summary Judgment

So Ordered

s/ Edgar W. Dickson #2153

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STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2020-CP-08-00773

STEPHANIE MICHELLE GARDNER,

Plaintiff,

ORDER

v.

BERKELEY COUNTY SHERIFF'S OFFICE
and TOWN OF MONCK'S CORNER,
Defendants.

This matter came before the court on Berkeley County Sheriff's Office's Motion for Summary Judgment. A hearing was held on April 5, 2021. The plaintiff was represented by Louis Nettles and the defendant Berkeley County Sheriff's Office (the "Sheriff's Office") was represented by Robin L. Jackson. Both parties submitted written briefs and counsel presented oral argument. For the reasons set forth herein, Defendant Berkeley County Sheriff's Office's Motion for Summary Judgment is Granted.

Plaintiff has brought the following claims against the Berkeley County Sheriff's Office: (1) False Arrest, (2) Malicious Prosecution, and (3) Defamation. However, during the course of discovery, Plaintiff asserted a theory that the Sheriff's Office should be responsible for the actions of the co-defendant Town of Moncks Corner's officer. The Court finds no merit in Plaintiff's alternate theory and will address this first.

The defendants have jointly provided a copy of the agreement between their law enforcement agencies that clearly sets out that the home agency is responsible for the actions of the officers employed by it. Specifically, the agreement sets out that each party (agency) "shall be solely responsible for the acts and omissions of their respective employees, officers and officials,

and for any claims, lawsuits and payment of damages that arise from activities of its officers.” (Ex. B #14). Therefore, it is the ruling of this court that the Sheriff’s Office is not liable for the acts or omissions of Barlow.

Returning to the three causes of action pled by Plaintiff in her Complaint, the Court makes the following findings of fact and law in granting BCSO’s Motion for Summary Judgment.¹

I. FALSE ARREST/FALSE IMPRISONMENT

Plaintiff alleges that the Sheriff’s Office falsely imprisoned Gardner by “keeping her in their custody on a warrant that on its face did not show a violation of law in violation of her rights...” (Compl. ¶20). The heart of Plaintiff’s claim is that the detention officers employed by the Sheriff’s Office should have known the warrant was invalid and released her. Essentially, Plaintiff is asking this Court to rule that detention officers should have the ability to override a facially valid warrant signed by a judge.

When a person is arrested on the strength of a facially valid warrant, there is no false arrest as a matter of law. False arrest and false imprisonment are one in the same with the same elements. *Jones v. City of Columbia*, 301 S.C. 62 64, 389 S.E.2d 662, 663 (1990); *Jones by Robinson v. Winn-Dixie Greenville, Inc.*, 318 S.C. 171, 175, 456 S.E.2d 429, 432 (Ct. App. 1995). “It has been definitely decided in this jurisdiction that where one is ‘properly arrested by lawful authority,’ ‘an action for false imprisonment cannot be maintained against the party causing the arrest.’” *Bushardt v. United Inv. Co.* 121 S.C. 324 330, 113 S.E.637, 639 (1922); *see also Porterfield v. Lott*, 156 F.3d 563, 568 (4th Cir. 1998)(accord). “The facially valid inquiry is not an invitation to look beyond the language of the warrant, which need only contain information given under oath that

¹ Even if the Court had determined that the Sheriff’s Office was responsible for the acts of Barlow, the same analysis of the facts and law supporting the grant of summary judgment herein would apply to Barlow.

“plainly and substantially” sets forth the offense charged.” S.C. Code Ann. §22-3-710; *Carter v. Bryant*, Op. 5710, S.C. Ct. App. 2020.

The Plaintiff, who has the burden of proof, has not set forth any genuine question of material fact as to the validity of the warrants at issue. The Court has reviewed the warrants for Plaintiff’s arrest and has found them to be facially valid, which is fatal to Plaintiff’s False Arrest/False Imprisonment cause of action. Further, even if the warrants were facially invalid, Plaintiff’s argument that the detention officers should have simply released her is without merit. Detention officers do not have the power or authority to release any inmate, under any circumstances, without a court order.

Therefore, the court finds that Plaintiff has not established and cannot establish a genuine question of material fact concerning her False Arrest/False Imprisonment claim, and Summary Judgment should be granted.

II. MALICIOUS PROSECUTION

Plaintiff’s Second Cause of Action for Malicious Prosecution should be dismissed as Plaintiff cannot prove that the Sheriff’s Office instituted the criminal proceedings or that there was a lack of probable cause for the institution of such proceedings. Further, the Sheriff’s Office is immune from a malicious prosecution claims pursuant to the South Carolina Tort Claims Act, S.C. Code § 15-78-10, *et seq.* (the “Tort Claims Act”).

In order to recover in an action for malicious prosecution, the plaintiff must show (1) the institution or continuation of original judicial proceedings, either civil or criminal; (2) by, or at the instance of, the defendant; (3) termination of such proceeding in the plaintiff’s favor; (4) malice in instituting such proceedings; (5) lack of probable cause; and (6) resulting injury or damage. *Ruff v. Eckerd’s Drugs, Inc.*, 265 S.C. 563, 566, 220 S.E.2d 649, 651 (1975). An action for malicious

prosecution fails if the plaintiff cannot prove each of the required elements by a preponderance of the evidence, including malice, termination in his favor and lack of probable cause. *Law v. S.C. Dep't of Corr.*, 368 S.C. 424, 435, 629 S.E.2d 642, 648 (2006).

Here, the arrest was made by Barlow, an employee of Moncks Corner Police Department. Therefore, Plaintiff cannot meet her burden of proving that the Berkeley County Sheriff's Office "instituted" judicial proceedings or "prosecuted" the plaintiff. Further, and as discussed above, Plaintiff cannot meet her burden of proving a lack of probable cause for her arrest. However, even if Plaintiff were able to prove the necessary elements of a malicious prosecution claims, the Sheriff's Office is entitled to absolute immunity under the Tort Claims Act. S.C. Code 15-78-60 (23) set forth more fully below.

III. DEFAMATION

Plaintiff's defamation claim is dismissed as the Sheriff's Office did not publish false statements and because the alleged defamatory statements are privileged and not subject to claims of defamation.

The elements of defamation are 1) defamatory language; 2) of or concerning the plaintiff; 3) publication by defendant to a third party; and 4) damage to the plaintiff's reputation. In this case, the plaintiff alleges that through a Facebook posting the Sheriff's Office "falsely accused Gardner of criminal acts" "without a reasonable basis for believing the charges to be true..." Compl. ¶24. The "accusation" was a statement that Ms. Gardner was arrested and charged with several drug related crimes. During her deposition, Ms. Gardner admitted that the statements in the Facebook posting were, in fact, true. Depo. Gardner, 87/13-89/15.

Q. Okay. And then on the second page it has, about halfway down, Gardner, comma, Stephanie, colon, Lester Road, comma, Dillon, comma, 32-year-old. Is that true, or was it true as of May 1 of 2018?

A. It was.

Q. And were you charged with trafficking and cocaine, 10 grams or more but less than 28 grams, 1st offense?

A. Yeah. My family saw this.

Q. And were you charged with trafficking in meth or cocaine base, 10 grams or more but less than 28 grams, 1st offense?

A. I was.

Q. And were you charged with possession of less than one gram of meth or cocaine base, 1st offense?

A. I was.

Q. And were you charged with MDP, narcotic drugs in Schedule I, LSD, and Schedule II, 1st offense?

A. I was.

Q. So those are all true statements?

A. Yes.

(Gardner 88/19 to 89/15, Ex. A)

(Facebook Post, Exhibit D)

The Plaintiff has failed to establish the proper elements of a defamation claim. Importantly, Plaintiff has failed to allege that the defendant made a defamatory statement. Rather, she says that having truthful information about her actual criminal charges listed on the Facebook page resulted in damage to her reputation. (Compl. ¶24).

In addition, if the publication of the information regarding this arrest was defamatory, it is privileged. "In a defamation action, the defendant may assert the affirmative defense of conditional or qualified privilege. Under this defense, one who publishes defamatory matter concerning another is not liable for the publication if (1) the matter is published upon an occasion that makes it conditionally privileged, and (2) the privilege is not abused." *Williams v. Wright*, No. 6:10-cv-2844-TMC-JDA, 2011 WL 6700373, at *8 n.12 (D.S.C. Nov. 2, 2011) (quoting *Swinton Creek*

Nursery v. Edisto Farm Credit, ACA, 334 S.C. 469, 484, 514 S.E.2d 126, 134 (1999)). To determine whether a communication was qualifiedly privileged,

regard must be had to the occasion and to the relationship of the parties. When one has an interest in the subject matter of a communication, and the person (or persons) to whom it is made has a corresponding interest, every communication honestly made, in order to protect such common interests, is privileged by reason of the occasion. The statement, however, must be such as the occasion warrants, and must be made in good faith to protect the interests of the one who makes it and the persons to whom it is addressed.

Bell v. Bank of Abbeville, 208 S.C. 490, 493-94, 38 S.E.2d 641, 643 (1946). South Carolina courts have recognized a qualified privilege for communications protecting or promoting law enforcement interests. 20 S.C. Jur. *Libel and Slander* § 55 (1993) (citing *Switzer v. Am. Ry. Express Co.*, 119 S.C. 237, 112 S.E. 110 (1922)). As a general rule, a defamatory statement is qualifiedly privileged if made by one who “reasonably believes that some important interest of his own or a third party is threatened.” *Abofreka v. Alston Tobacco Co.*, 288 S.C. 122, 125, 341 S.E.2d 622, 624 (1986). Further, a communication is privileged where it is published in the discharge of a legal, social, or moral duty. *Montgomery Ward & Co. v. Watson*, 55 F.2d 184, 187 (4th Cir. 1932); *Flowers v. Zayre Corp.*, 286 F. Supp. 119, 121 (D.S.C. 1968); *Conwell v. Spur Oil Co.*, 240 S.C. 170, 178-79, 125 S.E.2d 270, 274-75 (1962).

Here, the Sheriff’s Office has asserted such privilege and presented testimony that the information was communicated in the discharge of a legal duty to enforce the law. Information about arrests is a matter of public record. Any citizen can obtain this information as can the media. The Sheriff’s Office provided this information based on the interest it received from both its citizenry and the media. (Deposition Jeremy Baker, 7/8-12; 8/6-10; 15/23-16/8, Exhibit E). This qualifies the reports as privileged statements. *See Abofreka, supra*.

Plaintiff has not established the requisite elements to prove defamation. The Sheriff's Office has presented evidence that the statements made were (1) true and (2) privileged. Therefore, the motion for summary judgment with regard to the cause of action for defamation is granted.

IV. TORT CLAIMS ACT IMMUNITIES

In addition to the grounds for granting the Sheriff's Office's Motion for Summary Judgment discussed above, this Court finds that Summary Judgment is proper as the Sheriff's Office is entitled to several immunities included in the Tort Claims Act.

The Tort Claims Act, which provides the exclusive remedy in tort against the Sheriff's Office, is a limited waiver of governmental immunity, *Moore v. Florence Sch. Dist. No.1*, 314 S.C. 335, 444 S.E.2d 498 (1994). *See also* S.C. Code Ann. 15-78-20(b) (Supp. 1997) (while acting within the scope of official duty, the State, its political subdivisions and employees are immune from liability and suit for any tort except as waived by the Tort Claims Act); S.C. Code Ann. 15-78-40 (Supp. 1997) ("The State, an agency, a political subdivision, and a governmental entity are liable for their torts in the same manner and to the same extent as a private individual under like circumstances, subject to the limitations upon liability and damages, and exemptions from liability and damages, contained herein."). The Tort Claims Act also spells out that the exceptions to the waiver of immunity "must be **liberally construed in favor of limiting the liability of the state.**" S.C. Code Ann. § 15-78-20(f) (emphasis added). Defendant Berkeley County has asserted several immunities that are applicable. The court will address each immunity in turn.

A. Act or Omission by a Third Party

The Sheriff's Office is entitled to immunity as this case involves "an act or omission of a person other than an employee including but not limited to the criminal actions of third persons." §15-78-60(5). The record is replete with evidence of acts/omissions of persons other than

employees. Stephanie Gardner's act in being present in a location with drugs, where at least the marijuana was open and obvious, at the same time law enforcement was present to arrest Mr. Molyneaux is one act. The act of Moncks Corner Officer Brooks Barlow in arresting Ms. Gardner is a second act. One omission was from whomever actually owned the drugs that were found, whether it be Ms. Gardner, or someone else who refused to acknowledge ownership when asked by law enforcement. These are all acts and omissions which may have resulted in the alleged losses of the plaintiff for which the Sheriff's Office is not liable and has immunity.

B. Discretion

The Sheriff's Office is entitled to discretionary immunity pursuant to S.C. Code §15-78-60(5). To establish "discretionary immunity," the governmental entity must prove that the governmental employees, faced with alternatives, actually weighed competing considerations and made a conscious choice; furthermore, the governmental entity must show that in weighing the competing considerations and alternatives, it utilized accepted professional standards appropriate to resolve the issue before them. *Stephens v. CSX Transp., Inc.*, 415 S.C. 182, 781 S.E.2d 534 (2015); *Steinke v. S.C. Dep't of Labor, Licensing and Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999); *Clark v. S.C. Dep't of Public Safety*, 353 S.C. 291, 578 S.E.2d 16 (Ct. App. 2002), *aff'd*, 362 S.C. 377, 608 S.E.2d 573. A governmental entity is not liable for losses resulting from an exercise of discretion by its employees. *Faile v. South Carolina Dept. of Juvenile Justice*, 350 S.C. 315, 566 S.E.2d 536 (S.C. 2002).

It is clear that Brooks Barlow used discretion in making this arrest. The only evidence is that he gave each occupant the opportunity to claim possession of the drugs before making the arrest. While one person admitted ownership of a phone located near the drugs, and one person admitted ownership of an amount of marijuana no one admitted ownership of the drugs located in

the couch. Therefore under the law, based on the location of the drugs in the couch and the proximity of all persons to that couch, all persons had constructive possession of the drugs and were subject to arrest by Officer Barlow. Because of this, the Sheriff's Office, to the extent it could be considered responsible for the arrest, is entitled to discretionary immunity.

C. Institution or Prosecution of a Judicial Proceeding

The Sheriff's Office is immune from liability under the Act's immunity relating to "the institution or prosecution of a judicial proceeding." S.C. Code Ann. §15-78-60(23). The Court has found that Barlow instituted the criminal proceeding against Plaintiff and that the Sheriff's Office is not responsible for the acts of Barlow. For that reason, Plaintiff cannot establish the first element of her malicious prosecution or false arrest claim against the Sheriff's Office. *See McCoy v. City of Columbia*, No. CA 5:10-132-JFA-KDW, 2013 WL 936607, at *27 (D.S.C. Jan. 16, 2013), *report and recommendation adopted in part, rejected in part*, 929 F. Supp. 2d 541 (D.S.C. 2013). However, even if Barlow were considered an agent of the Sheriff's Office, then Plaintiff's claim that Barlow maliciously *instituted criminal prosecution* falls squarely within this immunity.

D. Method of Providing Police Protection

Finally, the Sheriff's Office is entitled to immunity in so far as Plaintiff's claims relate to the method of providing police protection. S.C. Code Ann. § 15-78-60(6)². The Act specifically exempts law enforcement from liability concerning the methods which they choose to utilize to provide police protection. Here, the officers participated in the joint task force and were serving arrest warrants for people who were wanted by law enforcement for criminal activity. The officers arrived at the Lodestone residence, met with the occupants and searched the home as part of their

² The Court of Appeals has previously held this statute contains a scrivener's error. The conjunctive "or" is missing. Therefore, the statute is properly read as the governmental entity is not liable for the failure to provide **or** the method of providing police or fire protection. *Wells v. City of Lynchburg*, 331 S.C. 296, 304, 501 S.E.2d 746, 750 (Ct.App.1998).

police protection duties and therefore the Sheriff's Office is entitled to immunity. Even were the court accepts all of Gardner's assertions as true, it does not remove the immunity which the legislature has bestowed on the Police in this situation. *Huggins v. Metts*, 371 S.C. 621, 624–25, 640 S.E.2d 465, 467 (Ct. App. 2006).

CONCLUSION

Therefore, it is hereby ordered that summary judgment is granted to the Sheriff's Office on all causes of action and this case as against the Sheriff's Office is hereby dismissed.

AND IT IS SO ORDERED!

Judge Edgar W. Dickson

_____, 2021



Berkeley Common Pleas

Case Caption: Stephanie Michelle Gardner VS Berkeley County Sheriff'S Office ,
defendant, et al
Case Number: 2020CP0800773
Type: Order/Other

So Ordered

s/ Edgar W. Dickson #2153

Electronically signed on 2021-04-27 15:06:41 page 11 of 11

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	CASE NO. 2020-CP-08-00773
	)	
Stephanie Michelle Gardner,	)	
	)	ORDER DENYING PLAINTIFF'S
Plaintiff,	)	MOTIONS TO RECONSIDER
	)	
v.	)	
	)	
Berkeley County Sheriff's Office, and	)	
Town of Moncks Corner,	)	
	)	
Defendants.	)	
	)	

This matter came before the Court by way of Plaintiff's Motions for Reconsideration, filed pursuant to S.C.R. Civ. P. 59(e) on May 6, 2021. Through the Motion, Plaintiff seeks reconsideration of this Court's April 27, 2021, Orders Granting Defendants' Motions for Summary Judgment. After careful consideration of this matter, the Court is DENYING Plaintiff's Motion to Reconsider Summary Judgment in Favor of Town of Moncks Corner and Plaintiff's Motion to Reconsider Summary Judgment in Favor of Berkeley County Sheriff's Office ("BCSO").

STANDARD OF REVIEW

While "Rule 59(e) does not itself provide a standard under which . . . court[s] may grant a motion to alter or amend a judgment," South Carolina District Courts and the Fourth Circuit have held that "there are three grounds for amending an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." *Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998); *see also Tetrev v. Pride Int'l, Inc.*, 243 F.R.D. 246, 248 (D.S.C. 2007). Due to the "interests in finality and conservation of judicial resources," the granting of a Rule 59(e) motion "is an extraordinary remedy which should be used sparingly." *Rouse v.*

Nielsen, 851 F. Supp. 717, 734 (D.S.C. 1994) (citing *Penn. Ins. Guar. Ass'n v. Trabosh*, 812 F. Supp. 277, 280 (E.D. Pa. 1992)); *Pac. Ins. Co.*, 148 F.3d. at 403 (quoting 11 Wright et al., *Federal Practice and Procedure* § 2810.1, at 124 (2d ed. 1995)). Thus, Rule 59(e) permits a court to correct its own errors, “sparing the parties and the appellate courts the burden of unnecessary appellate proceedings.” *Pac. Ins. Co.*, 148 F.3d. at 403 (quoting *Russell v. Delco Remy Div. of Gen. Motors Corp.*, 51 F.3d 746, 749 (7th Cir. 1995)). However, Rule 59(e) motions ““are not at the disposal of an unsuccessful party to “rehash” the same arguments and facts previously presented.”” *Rouse*, 851 F. Supp at 734 (quoting *Keyes v. Nat’l R.R. Passenger Corp.*, 766 F. Supp. 277, 280 (E.D. Pa. 1991)).

DISCUSSION

The Court has reviewed Plaintiff’s Memoranda in Support of her Motions and finds no valid basis for granting her Motions to Reconsider. Plaintiff reiterates arguments previously made and considered by the Court in its Orders Granting Summary Judgment in Favor of BCSO and the Town of Moncks Corner.

I. Plaintiff’s Motion to Reconsider Summary Judgment in Favor of Town of Moncks Corner

Plaintiff alleges that the Court misapprehended the law of constructive possession in its Order and provided the Court with a copy of the South Carolina Supreme Court’s decision in *State v. Stewart*, 433 S.C. 382, 858 S.E.2d 808 (2021). While the Court agrees with Plaintiff that *Stewart* is instructive on the law of constructive possession in South Carolina, *Stewart* is procedurally distinctive from Plaintiff’s case. Similar to *State v. Muhammad*, 338 S.C. 22, 524 S.E.2d 637 (Ct. App. 1999), cited by the Court in its April 27, 2021, Order, *Stewart* decided an appeal from a conviction for construction possession which requires *proof beyond a reasonable doubt* and is therefore instructive only to the extent that it defines the criminal offense. However, as stated in

the Court's Order, this case deals with the *probable cause standard* which only required Detective Barlow to show a good faith belief that Plaintiff constructively possessed the drugs under the circumstances he observed prior to her arrest. In its previous Order, the Court then set forth the circumstances giving Detective Barlow probable cause to believe Plaintiff constructively possessed the drugs.

II. Plaintiff's Motion to Reconsider Summary Judgment in Favor of BCSO

Claim 1: "That the Court's decision is based on a misapprehension of the law of constructive possession . . . ": See the Court's ruling above.

Claim 2: "The Court failed to view the facts and inference in favor of the non-moving party in ruling that [BCSO] is not responsible for the actions of Barlow": The Court considered and ruled upon this issue in its April 27, 2021, Order. Plaintiff has offered no change in controlling law, no new evidence previously unavailable, and no evidence of a clear error in law which would result in manifest injustice. Thus, the Court finds no basis upon which to grant the Motion for Reconsideration.

Claim 3: "The Court erred in granting summary judgment on the false arrest claim because Plaintiff was arrested without a warrant by Barlow acting on its behalf": Plaintiff provided no argument for this claim. Thus, the Court finds no basis upon which to grant the Motion for Reconsideration on this ground.

Claim 4: "An arrest and prosecution without probable cause is not the institution or a judicial proceeding under the tort claims act": As the Court has already ruled that Detective Barlow did have probable cause to believe that Plaintiff constructively possessed the drugs, Plaintiff's argument that her arrest and prosecution do not fall under the immunity provided by the

Tort Claims Act necessarily fails. Accordingly, this argument provides no basis for granting Plaintiff's Motion to Reconsider.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Reconsider Summary Judgment in Favor of Town of Moncks Corner is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion to Reconsider Summary Judgment in Favor of Berkeley County Sheriff's Office is DENIED.

IT IS SO ORDERED!

_____, 2021
Orangeburg, South Carolina

Edgar W. Dickson
Presiding Judge, First Judicial Circuit



Berkeley Common Pleas

Case Caption: Stephanie Michelle Gardner VS Berkeley County SheriffS Office ,
defendant, et al
Case Number: 2020CP0800773
Type: Order/Other

So Ordered

s/ Edgar W. Dickson #2153

Electronically signed on 2021-09-13 14:20:52 page 5 of 5

ELECTRONICALLY FILED - 2021 Sep 13 3:06 PM - BERKELEY - COMMON PLEAS - CASE#2020CP0800773

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF BERKELEY) CASE NO

Stephanie Michelle Gardner)
)
Plaintiff,)
)
vs.) SUMMONS
Berkeley County Sheriff's Office, and)
Town of Moncks Corner)
)
Defendants.)
)

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the said complaint on the subscriber at 564 S. Coit St, Post Office Box 65533, Florence, South Carolina 29502, within thirty (30) days after the service hereof, exclusive of the days of such service; and if you fail to answer the Complaint within the time aforesaid, Judgment by default will be rendered against you for the relief demanded in the Complaint

March 20, 2020

s\Louis D. Nettles

Louis D. Nettles
Nettles Law Firm.
P.O. Box 5533
654 S. Coit St.
Florence SC 20502
843-665-0100
louis@NettlesFirm

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	
Stephanie Michelle Gardner	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
Berkeley County Sheriff's Office, and	)	COMPLAINT
Town of Moncks Corner	)	
	)	
Defendants.	)	

Stephanie Michelle Gardner, Complaining of the Defendants would allege as follows:

FOR A FIRST CAUSE OF ACITON

1. The Plaintiff is a resident of South Carolina and the claim arises out of conduct in the County of Berkeley.
2. This action is brough under the South Carolina Tort Claims Act.
3. The Berkley County Sheriff's office is an Agency of the State of South Carolina.
4. The Town of Moncks Corner is a political subdivision of the State of South Carolina.
5. On April 27, 2018 Gardner, a citizen of South Carolina, then residing in Dillon County South Carolina, was visiting a friend at 112 Lodestone Court, Moncks Corner, South Carolina in the late evening.

6. Bruce M. Barlow, was an employee of the Town of Moncks Corner working for the Moncks Corner police department. and the Berkeley County Sheriff Office as part of its Drug Enforcement Community Action Team.

7. Shortly after Gardner arrived at the Lodestone Court address, Agents with the Berkley County Sheriff's Office Drug Enforcement Community Action Team, The Town of Moncks Corner and the Summerville Police Department came to the Lodestone Court address in an effort to enforce an outstanding Berkley County Family Court Bench warrant for Michael Molyneaux, Jr.

8. At the time the law enforcement officers arrived Plaintiff was outside near the back door. At no time did the officers observe Gardner in the Lodestone Court residence.

9. Molyneaux was observed entering the front door of the residence.

10. The law enforcement officers entered the residence after being advised that Molyneaux was in the bedroom used by Samantha Eason, while in the bedroom, Brooks observed a rolled cigarette filled with green leafy material. Molyneaux was arrested, removed from the residence and transported from the scene.

11. During a search of the residence Barlow located some green plant material, a plastic bag containing a white powdery substance and a plastic bag containing a white rock like substance in the bedroom used by Samantha Eason. Lt. K. Ham located items believed to be illegal drugs stuffed in between a couch cushion

and the arm of the couch. Lt. Ham also located a phone belonging to Cory Gethers resting on the couch cushion. Drugs and drug paraphernalia were discovered in the automobile in the possession of Cory Gethers. Gethers also offered to arrange a purchase of an ounce of cocaine from a drug dealer he knew if the officers would not arrest him.

12. No illegal drugs were found on Gardner's person or within her sight. The arresting law enforcement officer had nothing to indicate that Gardner knew of or had dominion or control of the drugs hidden in the couch or in Eason's bedroom.

13. Barlow's only information was that Gardner had arrived at the Lodestone Court address less than an hour before Barlow arrived, and that she was a resident of Dillon County.

14. After advising her that since no one claimed ownership of the drugs, Gardner and everyone else would be arrested, Barlow arrested Gardner.

15. Gardner was arrested along with Molyneaux, Eason, Gethers and Nathan Resek on the same charge of possessing with intent to distribute the drugs found hidden in the couch.

16. The warrant contained no facts from which it could be inferred that Gardner was in actual or constructive possession of any of the drugs found at the Lodestone Court address and contained the factual misrepresentation that Gardner was an occupant of the Lodestone residence.

17. Gardner was arrested and imprisoned in the Hill-Finklea Detention Center and a bond was set at a total of Two Hundred Ten Thousand (\$210,000.00) Dollars. Gardner was in the custody of the Berkley County Sheriff's Office for 45 days and was deprived of her liberty for a total of 180 days before the charges were dismissed on October 24, 2018.

18. The arrest of Gardner was without probable cause and the warrant was invalid on its face. Copies of the warrants are attached hereto as Exhibit 1.

19. Plaintiff was arrested in part to inflate the arrest count of the Berkeley County Sheriff's Office Drug Enforcement Community Action Team, which was subsequently published to the Berkeley County community on Facebook and to obtain favorable publicity and to coerce her to give false testimony and such was an improper motive for Plaintiff's arrest and detention.

20. The Berkeley County Sheriff's Office, and The Town of Moncks Corner acting through their agents Bruce M. Barlow and Randy Demory deprived Gardner of her liberty by arresting her without probable cause and keeping her in their custody on a warrant that on its face did not show a violation of law in violation of her rights under the Constitution of the State of South Carolina and of the Constitution of the United States.

FOR A SECOND CAUSE OF ACTION

21. The allegations of Paragraphs 1 through 19 are realleged and incorporated herein.

22. The Defendants the Town of Moncks Corner and The Office of the Berkeley Sherriff prosecuted and maintained a criminal charge against Gardner without probable cause to believe she possessed illegal drugs with intent to distribute them, by instituting a prosecution against her through their agent Bruce Barlow for their purposes of inflating the arrest totals on the Berkeley County Sheriff's Office Drug Enforcement Community Action Team and to coerce her to give false testimony That the charges were resolved in her favor, the prosecution was terminated in her favor, she was deprived of her liberty and suffered discomfort and mental anguish, and the prosecution was without probable cause.

FOR A THIRD CAUSE OF ACTION
(Against Berkeley County Sheriff's Office)

23. The allegations of Paragraphs 1 through 19 are realleged and incorporated herein.

24. The Berkeley County Sheriff's Office falsely accused Gardner of criminal acts including drug trafficking in an unprivileged Facebook post published to the Berkeley County Community, without a reasonable basis for believing the charges to be true, thereby damaging her reputation by painting her as a drug trafficker.

WHEREFORE the Plaintiff prays for an award of damages on the First cause of action in the amount Six Hundred Thousand Dollars actual damages against Town of Moncks Corner, and The Berkeley County Sheriff's Office and on the Second cause of action an award of Six Hundred Thousand Dollars actual damages against Town of Moncks Corner, and The Berkeley County Sheriff's Office. and a separate award of Six Hundred Thousand Dollars actual damages on the third Cause of action. Against The Berkeley County Sheriff's Office.

s/Louis D. Nettles
Louis D. Nettles
PO Box 5533
Florence SC 29502
843-942-1444
Louis@NettlesFirm.com
Bar No. 4216
Attorney for Plaintiff

The Plaintiff requests a Jury Trial.

s/Louis D. Nettles
Louis D. Nettles
Attorney for Plaintiff
Bar No. 4216

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	
	)	Civil Action No. 2020-CP-08-00773
Stephanie Michelle Gardner,	)	
	)	
Plaintiff,	)	
	)	ANSWER OF DEFENDANT
v.	)	TOWN OF MONCK'S CORNER TO
	)	PLAINTIFF'S COMPLAINT
Berkeley County Sheriff's Office and	)	
Town of Moncks Corner,	)	
	)	
Defendants.	)	
	)	

Defendant Town of Moncks Corner ("Moncks Corner") files this Answer to the Plaintiff's Complaint and would respectfully show unto the Court:

FOR A FIRST DEFENSE TO ALL CAUSES OF ACTION

1. Moncks Corner denies each and every allegation of the Plaintiff's Complaint which is not specifically admitted or explained.
2. Moncks Corner lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 1 of the Plaintiff's Complaint and, therefore, denies the same.
3. Moncks Corner admits the allegations contained in Paragraph 2 of the Plaintiff's Complaint while preserving the defenses articulated throughout this Answer.
4. Paragraph 3 of the Plaintiff's Complaint contains no allegations against Moncks Corner to which a response is required. To the extent a response is required, Moncks Corner denies the allegations in Paragraph 3 of the Plaintiff's Complaint and demands strict proof of each allegation therein. Further answering, to the extent any allegations in

Paragraph 3 of the Plaintiff's Complaint attempt to establish legal conclusions and/or liability on the part of Moncks Corner, those allegations are denied.

5. Moncks Corner admits the allegations in Paragraph 4 of the Plaintiff's Complaint.

6. Moncks Corner admits the allegations in Paragraphs 5 through 7. Further answering, to the extent any allegation in Paragraphs 5 through 7 of the Plaintiff's Complaint attempts to establish legal conclusions and/or liability on the part of Moncks Corner, those allegations are denied.

7. Moncks Corner denies the allegations in Paragraph 8.

8. Moncks Corner admits the allegations in Paragraphs 9 through 11.

9. Moncks Corner denies the allegations in Paragraphs 12 and 13 of the Plaintiff's Complaint.

10. Moncks Corner admits the allegations in Paragraph 14 and 15 upon information and belief.

11. Moncks Corner denies the allegations in Paragraph 16.

12. As to Paragraph 17, Moncks Corner admits that Plaintiff was arrested and imprisoned in accordance with South Carolina law. The remaining allegations in Paragraph 17 are denied based upon information available at the present time. Moncks Corner denies liability and damages arising out of the incident.

13. Moncks Corner denies the allegations in Paragraphs 18 through 24.

14. The remainder of the Plaintiff's Complaint contains Plaintiff's prayer for relief, to which no response is required. To the extent a response is deemed to be required, Moncks Corner denies the remainder of Plaintiff's Complaint in its entirety and demands strict proof of each allegation therein.

FOR A SECOND DEFENSE

15. Moncks Corner asserts that the Plaintiff's Complaint, in whole or in part, fails to state a claim upon which relief may be granted against Moncks Corner and should, therefore, be dismissed.

FOR A THIRD DEFENSE

16. Moncks Corner asserts that the Plaintiff's alleged injuries and damages were not caused by any departure or deviation by Moncks Corner from any applicable standards of care.

FOR A FOURTH DEFENSE

17. That no acts or omissions on the part of Moncks Corner were the proximate cause or cause in fact of the alleged injuries.

FOR A FIFTH DEFENSE

18. If it is determined that Moncks Corner was negligent as alleged in the Complaint, which is expressly denied, then the negligence of Moncks Corner should be compared to that of the Plaintiff and any other's negligence and the damages awarded to the Plaintiff, if any, should be apportioned by the amount of the Plaintiff and any other's negligence in accordance with the comparative negligence law of this State.

FOR A SIXTH DEFENSE

19. Moncks Corner asserts that the damages sustained by the Plaintiff, if any, were proximately caused by the intervening and superseding negligence, carelessness, gross negligence, willfulness, wantonness, recklessness and/or intentional conduct of others, which was the sole and proximate cause of the matters alleged in the Complaint and without which the same would not have occurred.

FOR A SEVENTH DEFENSE

20. Moncks Corner asserts that the Plaintiff's damages, if any, have been exacerbated by Plaintiff's failure to mitigate and that his damages, if any, should be reduced by the amount attributable to his failure to mitigate or waived completely.

FOR AN EIGHTH DEFENSE

21. Moncks Corner asserts that the damages sustained by the Plaintiff, if any, were proximately caused by the unforeseeable misuse and/or improper use by the Plaintiff or a person or persons other than Moncks Corner, over whom Moncks Corner had no control and for whose unforeseeable actions Moncks Corner is not liable.

FOR A NINTH DEFENSE

22. Plaintiff's purported claims brought against Moncks Corner are barred by the provisions of the South Carolina Tort Claims Act, S.C. Code Ann. §§ 15-78-10, *et seq.* (2004 Supp.), which is herewith pled in its entirety, including the doctrine of sovereign immunity as well as all immunities, limitations, and defenses granted or preserved thereunder, and also including but not limited to §§ 15-78-20; -40; -60 (and all the immunities applicable thereunder); -70; -100; -110; -120; and -200, as well as other pertinent immunities and provisions of the Tort Claims Act, which serves and is pled as an affirmative defense and bar to this action.

FOR A TENTH DEFENSE

23. Plaintiff's claims are barred by the doctrine of sovereign immunity, which along with the South Carolina Tort Claims Act as referenced above, are pled and asserted as an affirmative defense and bar to the within action.

FOR AN ELEVENTH DEFENSE

24. The South Carolina Tort Claims Act, as pled above, S.C. Code Ann. § 15–78–60, and all the immunities applicable in subsections thereunder, serve as and are pled as affirmative defenses and bars to the within action against Moncks Corner.

FOR A TWELFTH DEFENSE

25. The South Carolina Tort Claims Act, as pled above, and S.C. Code Ann. § 15–78–70(c) in particular, serve as and are pled as an affirmative defense and bar to the within action against Moncks Corner.

FOR A THIRTEENTH DEFENSE

26. Plaintiff's arrest was based upon properly executed arrest warrants signed by the Court in response to the evidence available at the time of arrest.

FOR A FOURTEENTH DEFENSE

27. In the event Plaintiff has already, or in the future, enters into settlement or compromise with, or executes any release of, any future Defendant, Third-Party Defendant or any non-party, for any of Plaintiff's alleged injuries and damages, Moncks Corner is entitled to a credit or set-off of: (a) the amount of consideration to be received by Plaintiff in such settlement or for such release; and (b) the proportionate or pro rata share of liability of the settling or released party or non-party.

FOR A FIFTEENTH DEFENSE

28. To the extent the Plaintiff claims she is entitled to punitive damages against Moncks Corner, such an action is barred as a matter of law for a number of reasons, including: the applicable provisions of the Tort Claims Act as pled above; the Due Process Clause of the Fifth Amendment to the United State Constitution, as applied to the

States through the Fourteenth Amendment to the United States Constitution; an arguable extension of the prohibition of the excessive fines clause of the Eighth Amendment of the United States Constitution, as applied to the States through the Fourteenth Amendment to the United States Constitution; and, relevant provisions of the South Carolina Constitution, including but not limited to, Article I, Section 3; all of which are asserted as bars to recovery against Moncks Corner.

FOR A SIXTEENTH DEFENSE

29. The South Carolina Tort Claims Act provides that a governmental entity is not liable for loss resulting from the exercise of discretion or judgment or the performance or failure to perform any act which requires discretion or judgment, by reason of which this action may not be maintained against Moncks Corner.

FOR A SEVENTEENTH DEFENSE

30. Punitive damages are inappropriate in this case since Moncks Corner did not engage in any malicious, reckless, wrongful or intentional conduct upon which an award of punitive damages could be based.

FOR AN EIGHTEENTH DEFENSE

31. Moncks Corner asserts that an award of damages, if any, is subject to and limited by the applicable provisions of S.C. Code Ann. § 15-38-10, *et seq.*

FOR A NINETEENTH DEFENSE

32. Moncks Corner reserves the right to allege other affirmative defenses which may arise during the course of discovery.

FOR A TWENTIETH DEFENSE

33. Defendant would show that any award of punitive damages is subject to the limitations set forth in South Carolina Code §15-32-520 and §15-32-530, as amended.

WHEREFORE, having fully answered the Plaintiff's Complaint, Defendant Town of Moncks Corner demands that the same be dismissed and that it recover its costs incurred. This Defendant prays for such other and further relief, both general and special, legal and equitable, to which it may be justly entitled.

RICHARDSON PLOWDEN & ROBINSON, P.A.

By: s/Drew Hamilton Butler
Drew Hamilton Butler (SC Bar No. 70363)
James E. Haarsgaard (SC Bar No 102260)
235 Magrath Darby Boulevard, Ste. 100
Mount Pleasant, SC 209464
(843) 806-6550
**ATTORNEYS FOR DEFENDANT TOWN OF
MONCK'S CORNER**

Mar 24, 20, 10:53 AM

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STEPHANIE MICHELLE GARDNER,

Plaintiff,

v.

BERKELEY COUNTY SHERIFF'S OFFICE
and TOWN OF MONCK'S CORNER,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2020-CP-08-00773

**ANSWER OF BERKELEY COUNTY
SHERIFF'S OFFICE
(Jury Trial Requested)**

NOW COMES Defendant, Berkeley County Sheriff's Office (hereinafter "Sheriff's Office"), and answers the plaintiff's complaint as follows:

FOR A FIRST DEFENSE

(Qualified General Denial)

All specifically not admitted herein should be deemed denied.

FIRST CAUSE OF ACTION

1. Defendant lacks sufficient knowledge and information to know where plaintiff currently resides. Admit that the conduct arose in Berkeley County.
2. Admit that the Tort Claims Act is the proper procedure to bring this suit.
3. Admit.
4. Admit.
5. Sheriff's Office lacks sufficient knowledge and information to admit or deny and therefore deny demanding strict proof thereof.
6. Admit that Barlow is an employee of the Town of Moncks Corner. Deny that Barlow was an employee of the Berkeley County Sheriff's Office. Admit that he was on the multijurisdictional Drug Enforcement Community Action Team ("DECAT"), as an employee of the Town of Moncks Corner.

7. Lack sufficient knowledge and information to admit or deny when Gardner arrived, but admit that upon information and belief, the DECAT officers arrived at the address to serve an arrest warrant.
8. Deny and demand strict proof thereof.
9. Admit.
10. Admit only that officers went to the bedroom after Samantha Eason advised that Michael Molyneaux Jr. was there. Admit per the incident report that Barlow reported that he observed a "hand rolled cigarette containing green plant material" in the room. Admit Molyneaux was arrested.
11. Admit that drugs located during a consent search by Barlow. Admit that Lt. Ham located drugs, money and paraphernalia in the couch and a cell phone on the couch. Admit that a white rocklike substance was found in a purse on the passenger side, and a CD case was located with white rocklike substance on it. Admit that Gethers offered to perform a controlled buy if officers would not arrest him.
12. Admit that no illegal drugs were found on Gardner's person, but assert that they were located in a common area with access. Deny remaining allegations and demand strict proof thereof.
13. Lack sufficient information to admit or deny and therefore deny demanding strict proof thereof. Further state that this allegation is not directed at the Sheriff's Office as Barlow is an employee of Moncks Corner and therefore no response is required.
14. Admit that based on the report, everyone present was arrested.
15. Upon information and belief, deny and demand strict proof thereof.
16. Upon information and belief, deny and demand strict proof thereof.
17. Admit that Gardner was arrested and held at the detention center until she could pay her bond. Lack sufficient information to admit or deny when the case ended and therefore deny demanding strict proof thereof.
18. Deny and demand strict proof thereof.
19. Deny and demand strict proof thereof.
20. Deny and demand strict proof thereof.

SECOND CAUSE OF ACTION

21. No response required.

22. Deny and demand strict proof thereof.

THIRD CAUSE OF ACTION
Against Berkeley County Sheriff's Office Only

23. No response required.

24. Deny and demand strict proof thereof.

AS TO ALLEGATION OF DAMAGES

25. Defendant Berkeley County asserts that the Tort Claims Act limitations apply to the damages in this action. Therefore, there can be no punitive damages and the caps apply for a single occurrence as alleged in this Complaint.

FOR A SECOND DEFENSE
(Rules 8 and 12)

26. Plaintiff has failed to state a cause of action for which relief can be granted. Further, this Complaint should be dismissed for all applicable reasons in accordance with Rule 12 and Rule 8 of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE
(Waiver, Estoppel, Laches, Acquiescence, Stale Demand, Statute of Limitations, Service of Process, No Proximate Cause)

27. Plaintiff's claims are barred, in whole or in part, by the doctrines of *estoppel*, laches, waiver, acquiescence, stale demand, service of process, statute of limitations, and the acts of the defendant were not the proximate cause of the injuries.

FOR A FOURTH DEFENSE
(Sole Negligence/Comparative Negligence)

28. Defendant asserts that Plaintiff is solely negligent for his suffering and injuries or in the alternative is comparatively negligent.

FOR A FIFTH DEFENSE
(Sovereign Immunity - Tort Claims Act)

29. As to any violation of common law or state law, Defendant asserts the provisions of the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-10, *et seq.*, as a defense and asserts that it does not waive any of the rights, privileges or immunities therein, including but not limited to Eleventh Amendment immunity.

FOR A SIXTH DEFENSE
(Intervening and Superseding Negligence)

30. That if Defendant was negligent, which is specifically denied, the injuries and damages sustained by Plaintiff, if any, were due to and caused by and were the direct and proximate result of the intervening and superseding acts or omissions of others for which this defendant is not liable.

FOR A SEVENTH DEFENSE
(Emotional Distress)

31. Any claims by Plaintiff for the intentional infliction of emotional distress are not actionable and are barred by the plain language of the South Carolina Tort Claims Act.

FOR AN EIGHTH DEFENSE
(Failure to Mitigate)

32. Plaintiff's claims are barred or must be reduced by his failure to mitigate damages should there be any damages.

FOR A NINTH DEFENSE
(Third Party Liability)

33. Defendant asserts that if anyone is liable to Plaintiff, all of which is specifically denied, it is a third party.

FOR A TENTH DEFENSE
(Absence of Bad Faith, Malice or Corrupt Motive)

34. Defendant during the performance/non-performance of the alleged actions did not perform any act/inaction in bad faith, with corrupt motives, or in a malicious manner, and Defendant is therefore immune from suit.

FOR A ELEVENTH DEFENSE
(Punitive Damages Unconstitutional)

35. Punitive damages are not recoverable against Defendant not only due to the unconstitutionality, but also in accordance with S.C. Code Ann. § 15-78-120(b).

FOR A TWELFTH DEFENSE
(Qualified Immunity/State Law)

36. The actions/inactions and conduct of Defendant, to the extent they actually occurred, were objectively reasonable under the circumstances of which it was aware. Its actions did not violate any clearly established constitutional right of which a reasonable law enforcement official should have known, and it is entitled to qualified immunity even in this suit which alleges only state law claims.

Wherefore, having fully answered the Complaint, Defendant Berkeley County Sheriff's Office hereby prays that the Complaint be dismissed with prejudice; that Plaintiff be responsible for all costs and fees associated with defending this action; and for all such further relief as this court deems just and proper. In addition, this Defendant reserves the right to amend to allege additional affirmative defenses or other defenses as they become known throughout the course of discovery.

{Signature Page Follows}

Respectfully submitted,

S/ Robin L. Jackson
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March 25, 2020

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STEPHANIE MICHELLE GARDNER,

Plaintiff,

v.

BERKELEY COUNTY SHERIFF'S OFFICE
and TOWN OF MONCK'S CORNER,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2020-CP-08-00773

**AMENDED ANSWER OF BERKELEY
COUNTY SHERIFF'S OFFICE
(Jury Trial Requested)**

NOW COMES Defendant, Berkeley County Sheriff's Office (hereinafter "Sheriff's Office"), with the written consent of counsel for the plaintiff and counsel for the co-defendant and submits this Amended Answer to the plaintiff's Complaint as follows:

FOR A FIRST DEFENSE

(Qualified General Denial)

All specifically not admitted herein should be deemed denied.

FIRST CAUSE OF ACTION

1. Defendant lacks sufficient knowledge and information to know where plaintiff currently resides. Admit that the conduct arose in Berkeley County.
2. Admit that the Tort Claims Act is the proper procedure to bring this suit.
3. Admit.
4. Admit.
5. Sheriff's Office lacks sufficient knowledge and information to admit or deny and therefore deny demanding strict proof thereof.
6. Admit that Barlow is an employee of the Town of Moncks Corner. Deny that Barlow was an employee of the Berkeley County Sheriff's Office. Admit that he was on the multijurisdictional Drug Enforcement Community Action Team ("DECAT"), as an employee of the Town of Moncks Corner.

7. Lack sufficient knowledge and information to admit or deny when Gardner arrived, but admit that upon information and belief, the DECAT officers arrived at the address to serve an arrest warrant.
8. Deny and demand strict proof thereof.
9. Admit.
10. Admit only that officers went to the bedroom after Samantha Eason advised that Michael Molyneaux Jr. was there. Admit per the incident report that Barlow reported that he observed a "hand rolled cigarette containing green plant material" in the room. Admit Molyneaux was arrested.
11. Admit that drugs located during a consent search by Barlow. Admit that Lt. Ham located drugs, money and paraphernalia in the couch and a cell phone on the couch. Admit that a white rocklike substance was found in a purse on the passenger side, and a CD case was located with white rocklike substance on it. Admit that Gethers offered to perform a controlled buy if officers would not arrest him.
12. Admit that no illegal drugs were found on Gardner's person, but assert that they were located in a common area with access. Deny remaining allegations and demand strict proof thereof.
13. Lack sufficient information to admit or deny and therefore deny demanding strict proof thereof. Further state that this allegation is not directed at the Sheriff's Office as Barlow is an employee of Moncks Corner and therefore no response is required.
14. Admit that based on the report, everyone present was arrested.
15. Upon information and belief, deny and demand strict proof thereof.
16. Upon information and belief, deny and demand strict proof thereof.
17. Admit that Gardner was arrested and held at the detention center until she could pay her bond. Lack sufficient information to admit or deny when the case ended and therefore deny demanding strict proof thereof.
18. Deny and demand strict proof thereof.
19. Deny and demand strict proof thereof.
20. Deny and demand strict proof thereof.

SECOND CAUSE OF ACTION

21. No response required.

22. Deny and demand strict proof thereof.

THIRD CAUSE OF ACTION
Against Berkeley County Sheriff's Office Only

23. No response required.

24. Deny and demand strict proof thereof.

AS TO ALLEGATION OF DAMAGES

25. Defendant Berkeley County asserts that the Tort Claims Act limitations apply to the damages in this action. Therefore, there can be no punitive damages and the caps apply for a single occurrence as alleged in this Complaint.

FOR A SECOND DEFENSE
(Rules 8 and 12)

26. Plaintiff has failed to state a cause of action for which relief can be granted. Further, this Complaint should be dismissed for all applicable reasons in accordance with Rule 12 and Rule 8 of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE
(Waiver, Estoppel, Laches, Acquiescence, Stale Demand, Statute of Limitations, Service of Process, No Proximate Cause)

27. Plaintiff's claims are barred, in whole or in part, by the doctrines of *estoppel*, laches, waiver, acquiescence, stale demand, service of process, statute of limitations, and the acts of the defendant were not the proximate cause of the injuries.

FOR A FOURTH DEFENSE
(Sole Negligence/Comparative Negligence)

28. Defendant asserts that Plaintiff is solely negligent for his suffering and injuries or in the alternative is comparatively negligent.

FOR A FIFTH DEFENSE
(Sovereign Immunity - Tort Claims Act)

29. As to any violation of common law or state law, Defendant asserts the provisions of the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-10, *et seq.*, as a defense and asserts that it does not waive any of the rights, privileges or immunities therein, including but not limited to Eleventh Amendment immunity.

FOR A SIXTH DEFENSE
(Intervening and Superseding Negligence)

30. That if Defendant was negligent, which is specifically denied, the injuries and damages sustained by Plaintiff, if any, were due to and caused by and were the direct and proximate result of the intervening and superseding acts or omissions of others for which this defendant is not liable.

FOR A SEVENTH DEFENSE
(Emotional Distress)

31. Any claims by Plaintiff for the intentional infliction of emotional distress are not actionable and are barred by the plain language of the South Carolina Tort Claims Act.

FOR AN EIGHTH DEFENSE
(Failure to Mitigate)

32. Plaintiff's claims are barred or must be reduced by his failure to mitigate damages should there be any damages.

FOR A NINTH DEFENSE
(Third Party Liability)

33. Defendant asserts that if anyone is liable to Plaintiff, all of which is specifically denied, it is a third party.

FOR A TENTH DEFENSE
(Absence of Bad Faith, Malice or Corrupt Motive)

34. Defendant during the performance/non-performance of the alleged actions did not perform any act/inaction in bad faith, with corrupt motives, or in a malicious manner, and Defendant is therefore immune from suit.

FOR A ELEVENTH DEFENSE
(Punitive Damages Unconstitutional)

35. Punitive damages are not recoverable against Defendant not only due to the unconstitutionality, but also in accordance with S.C. Code Ann. § 15-78-120(b).

FOR A TWELFTH DEFENSE
(Qualified Immunity/State Law)

36. The actions/inactions and conduct of Defendant, to the extent they actually occurred, were objectively reasonable under the circumstances of which it was aware. Its actions did not violate any clearly established constitutional right of which a reasonable law enforcement official should have known, and it is entitled to qualified immunity even in this suit which alleges only state law claims.

FOR A THIRTEENTH DEFENSE
(Truth as a Complete Defense to Defamation)

37. Defendant asserts that all statements made regarding the plaintiff's arrest and criminal charges were true and that the truth of the matter is a complete defense to an action based on defamation.

FOR A FOURTEENTH DEFENSE
(Qualified Privilege)

38. Defendant asserts that all statements made regarding plaintiff's arrest and criminal charges are qualifiedly privileged as all statements were made in good faith, in the usual course of business and made to a person with a corresponding interest or duty.

Wherefore, having fully answered the Complaint, Defendant Berkeley County Sheriff's Office hereby prays that the Complaint be dismissed with prejudice; that Plaintiff be responsible for all costs and fees associated with defending this action; and for all such further relief as this court deems just and proper. In addition, this Defendant reserves the right to amend to allege additional affirmative defenses or other defenses as they become known throughout the course of discovery.

Respectfully submitted,

S/ Robin L. Jackson
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November 19, 2020

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL
CIRCUIT
Case no. 2020CP0800773

STEPHANIE MICHELLE GARDNER,

Plaintiff,

-against-

BERKELEY COUNTY SHERIFF'S OFFICE,
TOWN OF MONCKS CORNER, et al,

Defendants.

MOTION SUMMARY

JUDGMENT

DATE: April 5, 2021

TIME: 11:06 a.m.

Natalie A. Williams
Court Reporter II-Circuit Court
South Carolina Judicial Branch
(914)610-8863
nwilliams@sccourts.org

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

2

3 LOUIS D. NETTLES, ESQ.

4 Attorney for the Plaintiff

5 654 S. Coit Street

6 P.O. Box 5533

7 Florence, SC 29502

8

9 ROBIN LILLEY JACKSON, ESQ.

10 Attorney for the Defendants, Berkeley County

11 Sheriff's Office

12 3 Wesley Drive

13 P.O. Box 12279

14 Charleston, SC 29407

15

16 RICHARDSON PLOWDEN ATTORNEYS AT LAW

17 BY: JAMES HAARSGAARD, ESQ.

18 Attorneys for the Defendant, Moncks Corner

19 235 Magrath Darby Boulevard, Suite 100

20 Mt. Pleasant, SC 29413

21

22

23

24

25

1 THE COURT: This is case
2 2020CP0800773. Stephanie Michelle Gardner,
3 plaintiff, versus Berkeley County Sheriff's
4 Office and the Town of Moncks Corner,
5 defendants. And this is Berkeley County
6 Sheriff's Office's motion for summary
7 judgment, and it looks like the Town of
8 Moncks Corner -- did they file a separate--

9 MR. HAARSGAARD: Yes, Your Honor.
10 My name is James Haarsgaard, I represent
11 the Town of Moncks Corner. This is Robin
12 Jackson, she represents Berkeley County
13 Sheriff's Office and we both have pending
14 motions for summary judgment.

15 THE COURT: And Mr. Nettles, since
16 the Sheriff's Department is protecting me,
17 do you have any problems with that?

18 MR. NETTLES: No, Your Honor.

19 THE COURT: All right, thank you,
20 sir. So, you represent the Town?

21 MR. HAARSGAARD: Yes, sir.

22 THE COURT: Okay. I've got your
23 memoranda right here. And how do I
24 pronounce your last name?

25 MR. HAARSGAARD: Haarsgaard, as if

1 there's only two a's instead of four.

2 THE COURT: All right. Mr.
3 Haarsgaard, let me hear from you please,
4 sir.

5 MR. HAARSGAARD: Thank you, Your
6 Honor. This case arises out of plaintiff's
7 arrest on April 27, 2018, at 112 Lodestone
8 Court, Moncks Corner. On that date
9 Detective Barlow of Moncks Corner Police
10 Department was operating on a joint task
11 force with Berkeley County Sheriff's Office
12 and they were at that residence to arrest
13 an individual on an outstanding warrant.

14 When they arrived at the residence
15 they observed the individual, who they
16 believed they were seeking, run through the
17 front door. Detective Barlow went around
18 to the back door of the residence and
19 encountered an individual living there. He
20 asked her if the individual they were
21 seeking was inside the home, she
22 acknowledged that he was in the home. He
23 entered the home and found the individual.
24 While he was arresting her he observed both
25 the pungent smell of marijuana in the air

1 throughout the house, as well as marijuana
2 in an open and obvious position in their
3 house. The resident that lived there
4 acknowledged that the marijuana found in
5 the bedroom was hers, however there was an
6 abundant paraphernalia and other bits of
7 marijuana throughout the home.

8 Upon seeing the marijuana in the
9 home Detective Barlow obtained both verbal
10 and written consent from the resident to
11 search the home.

12 Upon searching the home law
13 enforcement found heroin, cocaine and
14 methamphetamine in a couch cushion --
15 between a couch cushion and an armrest,
16 which was about 10 feet away from the
17 plaintiff. Plaintiff even testified
18 that -- as a side, plaintiff testified that
19 when she observed law enforcement enter the
20 residence one of the residents was observed
21 by law enforcement to be smoking marijuana
22 right in their presence. No one claimed
23 ownership of any of the drugs found in the
24 couch or the marijuana open and obvious in
25 the house. So, Detective Barlow arrested

1 all five occupants of the house and they
2 were charged with trafficking cocaine,
3 trafficking methamphetamine, possession of
4 heroin and possession of cocaine based.

5 As you can see there was quite a
6 quantity of drugs found in the house. A
7 judge the next day signed all of the
8 warrants at issue in this case, which are
9 the four charges against the plaintiff.
10 Plaintiff's charges subsequently were
11 dismissed by the Solicitor's Office who
12 determined that there was not enough
13 evidence to convict the plaintiff on theses
14 charges beyond a reasonable doubt, and
15 that's noted on the dismissal paperwork
16 that the Town has submitted -- and the
17 defendant has submitted.

18 The Town's arguments, many of which
19 are similar to Berkeley County Sheriff's
20 Office arguments, well first of all,
21 plaintiff has brought a complaint alleging
22 malicious prosecution and false arrest.
23 The Town would argue that the South
24 Carolina Court Tort Claims Act precludes
25 the Town's liability under those claims.

1 First of all the discretionary liability.
 2 Detective Barlow testified that he could
 3 have arrested anyone or all five of the
 4 occupants of the home with the drugs which
 5 were discovered in the home, yet he
 6 arrested all five occupants since nobody
 7 claimed the drugs.

8 Additionally, the South Carolina
 9 Tort Claims Act exemption for the
 10 enforcement of any law, which obviously
 11 South Carolina code Section 44-53-370 and
 12 375, makes it illegal to posses the drugs
 13 for which plaintiff was arrested for.

14 As to plaintiff's false arrest
 15 claim, she alleges in her complaint that
 16 there was no probable cause for her arrest.
 17 But I think it's important to note that
 18 we're here for a probable cause standard,
 19 not beyond a reasonable doubt standard.
 20 The probable cause standard is a standard
 21 judged by an ordinary person under the
 22 circumstances. The circumstances here were
 23 that plaintiff was located in the home 10
 24 feet or more to the drugs for which she was
 25 arrested. She even acknowledged in her

1 deposition that she was -- when questioned
2 how close she was to those drugs she stated
3 that she was a car lengths away from those
4 drugs.

5 Another circumstance to consider is
6 that the home had no power or running
7 water. It smelled of marijuana and
8 marijuana was open and obvious in the home.
9 Plaintiff even testified that occupants
10 smoked marijuana right in front of the
11 officers. Plaintiff admitted that she had
12 walked throughout the house before officers
13 arrived, she obviously had free rein within
14 the house, she was not confined in any way
15 to one room where she was discovered.

16 Another circumstance to consider
17 was that no one claimed the drugs. And so
18 I believe an ordinary person under the
19 circumstances would certainly believe that
20 plaintiff was guilty of constructively
21 possessing both the marijuana and the drugs
22 in the couch, however, Detective Barlow did
23 not charge plaintiff with the marijuana
24 because he testified that the other -- the
25 presence of the other more serious drugs

1 took precedent over, although he believed
2 he had probable cause to arrest plaintiff
3 for the marijuana. And that's significant,
4 because South Carolina Supreme Court ruled
5 in Jackson versus Abbeville, that in a case
6 such as this where a plaintiff brings tort
7 claims alleging there are no probable
8 cause, the Court may properly consider
9 probable cause for charges that were not
10 charged to the plaintiff, in this case that
11 would be possession of marijuana.

12 As to plaintiff's allegations of
13 malicious prosecution, it's the Town's
14 position that plaintiff cannot prove
15 elements four, five and six, that's
16 malaise, probable cause and damages. As
17 just discussed, Barlow had probable cause
18 for plaintiff's arrest.

19 As to malaise, plaintiff testified
20 that she was not coerced to give any
21 testimony, as she alleged in her claimant
22 that was the proper motive for her arrest,
23 that she alleged in her complaint. She
24 also testified that she believed officers
25 thought that they had just caught five drug

1 traffickers, that was her impression of the
2 situation that day. And that sort of goes
3 to her inability to satisfy the malaise,
4 malicious prosecution. Obviously she
5 believes that the officers believed that
6 they were properly arresting all five
7 individuals.

8 As to damages and malicious
9 prosecution, plaintiff cannot prove she was
10 damaged because she was caught on jail
11 calls telling her family that she did not
12 want them to bond her out, she wanted to
13 stay in longer because she heard that
14 people who are in jail, stay in jail, get
15 paid to stay in jail, \$2,000 per day. She
16 mentioned that on multiple jail calls that
17 we listened to.

18 So, Your Honor, all these facts and
19 circumstances we believe give rise to a
20 valid motion for summary judgment on the
21 part of the Town of Moncks Corner.

22 THE COURT: All right,
23 Mr. Haarsgaard, there are actually people
24 talking in the jail that they can get
25 \$2,000 per day for staying in jail?

1 MR. HAARSGAARD: Yes, Your Honor.
 2 That's multiple family members of hers, and
 3 when questioned and reminded that she was
 4 being recorded, she didn't seem to care.
 5 She even mentioned at one point that they
 6 were going to pay her loss wages and that
 7 she talked to a lawyer family friend that
 8 told her that she can get paid for staying
 9 in jail.

10 THE COURT: Anything else you want
 11 to tell me?

12 MR. HAARSGAARD: No, Your Honor.

13 THE COURT: All right, thank you.
 14 Now, Ms. Jackson, are you mirroring --
 15 Ms. Jackson, yes, ma'am. Let he hear from
 16 you, please.

17 MS. JACKSON: Good morning, Your
 18 Honor. I'm robin Jackson and I represent
 19 the Berkeley County Sheriff's Office in
 20 this case. As to my client there are
 21 actually two alternate theories of
 22 liability. The first one is that because
 23 Officer Barlow of the Town of Moncks Corner
 24 was on a joint task force that was run by
 25 the Sheriff's Office, that the Sheriff's

1 Office is then labile for the arrest made
2 by Officer Barlow. And it's our position
3 that pursuant to Exhibit B that we
4 submitted, which is an agreement between
5 the Town of Moncks Corner and the Sheriff's
6 Office at -- the paragraphs are numbered,
7 and at number 14, specifically sets out
8 between the two agencies, that each agency
9 will be labile for the acts and omissions
10 of its own officers, and for any liability
11 for those acts and omissions and that there
12 shall be no indemnification.

13 THE COURT: Well, I don't need it I
14 can look it up online, but you said Exhibit
15 D?

16 MS. JACKSON: B, boy.

17 THE COURT: Okay, thank you, ma'am.

18 MS. JACKSON: Paragraph 14. Some
19 of the earlier paragraphs address some of
20 the smaller things about officers acting on
21 behalf of their own agency. In this case
22 because he was assigned to a joint task
23 force that was posted by the Sheriff's
24 Office, the documentation that was done in
25 this case was done on Sheriff's Office

1 documentation. And the Sheriff's Office
2 supervisors are the ones who approve the
3 reports. However, approving a report is
4 simply a technical matter, it's not looking
5 for the substance of the document, it's
6 looking to make sure that the proper boxes
7 are checked and that the information is
8 complete. So, it's more of an editorial
9 review than a content.

10 THE COURT: Okay.

11 MS. JACKSON: Additionally, and
12 another layer to this case, the warrant
13 sweep that was going on where the officers
14 were out looking for Michael Wallen, the
15 task force officers were one group who
16 participated in this warrant sweep. So,
17 there's kind of three layers of officers
18 involved in a warrant sweep that was done
19 and the officers who arrived at Lodestone
20 Court to make the arrest of Michael Wallen.
21 But it is the Sheriff's Office position
22 that Barlow was employed by the Town of
23 Moncks Corner and that the Town of Moncks
24 Corner had an agreement with the Sheriff's
25 Office, that it would be responsible for

1 the acts and omissions of employees that it
2 employed, even though those officers may be
3 assigned to a task force. Therefore, it's
4 our position that we would have no
5 liability for the false arrest, false
6 imprisonment or malicious prosecution.

7 If the Court finds that the
8 Sheriff's Office did have some type of
9 control over Officer Barlow, then the
10 Sheriff's Office would assert that several
11 of the same arguments, we would join in the
12 arguments of Moncks Corner, that there was
13 probable cause for the arrest. That
14 warrants were facially valid and that the
15 Sheriff's Office is entitled to summary
16 judgment and the immunities contained in
17 the Tort Claims Act, specifically
18 discretionary immunity, which Mr.
19 Haarsgaard discussed. As well as
20 subparagraph 23, which is the Institution
21 of Prosecution and Judicial Proceedings.
22 Subparagraph number 6, the method of
23 providing police protection, and
24 subparagraph 5, the acts or omissions of a
25 person other than police.

1 I provided a lengthy statement of
 2 facts in my brief addressing how
 3 Ms. Gardner got to this residence and what
 4 her testimony was regarding her actions
 5 that evening, while she was present at the
 6 residence. And it would be our position
 7 that each one of those four immunities
 8 would apply to any claims for false arrest
 9 or false imprisonment. Also, specifically
 10 subparagraph 23, Institution of Prosecution
 11 of judicial proceedings specifically apply
 12 to any claim for malicious prosecution,
 13 because the plaintiff cannot prove
 14 malicious prosecution without proving that
 15 the sheriff's office instituted or
 16 prosecuted judicial proceedings against
 17 her.

18 THE COURT: Okay.

19 MS. JACKSON: Your Honor, the other
 20 prong to the claim against the sheriff's
 21 office, is that the detention center
 22 improperly held Ms. Gardner on these
 23 warrants. The allegation was that the
 24 sheriff's office and detention center had
 25 some duty or responsibility to review the

1 warrants and make their own determination
 2 that they did not contain probable cause
 3 and then move forward with releasing them.
 4 And it is the sheriff's office position
 5 that not only is there no duty, but there
 6 is no power by the sheriff's office to
 7 overrule a properly executed warrant signed
 8 by a judge by making their own
 9 determination of probable cause based
 10 solely on the language contained in the
 11 warrant. Any evaluation of probable cause
 12 contained in the body of a warrant also
 13 requires additional information. It often
 14 requires an analysis of what occurred on
 15 the scene, things that are performed by the
 16 officer when they have a warrant.

17 And in this case, the plaintiff is
 18 not even alleged that the detention center
 19 ever even saw the warrant or set fourth any
 20 requirement under the law that a detention
 21 officer must seek and review the warrant
 22 before accepting an inmate.

23 Therefore, it's our position that
 24 there is no valid claim against the
 25 sheriff's office for holding Ms. Gardner on

1 the valid warrants, between the time that
2 she was arrested and the time that she
3 bonded out.

4 The final cause of action against
5 the sheriff's office is for defamation, and
6 this relates specifically to a Facebook
7 posting that was made by the sheriff's
8 office on May 1st after the warrants were
9 issued. And it related to the warrant
10 sweep, and as part of that posting it
11 listed every person who was picked up on a
12 warrant or arrested as a part of that
13 warrant sweep and the charges that they
14 were charged with. This was posted on the
15 Facebook page of the Official Berkeley
16 County Sheriff's Office page, and it was
17 posted under their home page, which
18 specifically states all suspects posted on
19 our Facebook page are innocent until proven
20 guilty in a court of law.

21 During her deposition I went
22 through the details of the posting with
23 her. I asked her if each one of the
24 statements contained in the Facebook post
25 were true and she agreed that each one of

1 those statements were true, and the charges
2 listed were in fact the charges that she
3 was charged with; trafficking meth,
4 trafficking cocaine, possession with intent
5 to distribute heroin, another trafficking
6 offense, possession of drugs and possession
7 of narcotics. These were all listed on the
8 Facebook page. There was no photo of Ms.
9 Gardner, only a listing of the charges.
10 And that is the basis for the claim of
11 defamation.

12 The plaintiff's allegation is that
13 the sheriff's office falsely accused her of
14 criminal acts without the basis for
15 believing the charges to be true. However,
16 it's the sheriff's office position that
17 because they had a facially valid warrant,
18 signed by a judge, properly executed that
19 in identifying those persons who were
20 arrested and charged and not stating that
21 they were convicted, that those statements
22 are true and that truth is complete defense
23 to defamation.

24 Additionally, the sheriff's office
25 ascertains that it has a privilege,

specifically the Law Enforcement Privilege, which includes the fact that statements made in the interest of protecting or promoting law enforcement interests, provide a qualified privilege if made by one with reasonably believes that some important interest of his own where a third party is threatened.

In this case the two representatives from the sheriff's office were deposed and chief Deputy Jeremy Baker was deposed specifically with regard to the Facebook posting, and he testified that the information provided about the arrest is already public, it would be available on the Clerk of Court website and available from other sources. And that they provide this information in order to prevent the need for all of the media requests to them for the information. Both the media and the public have given them feedback that they appreciate the information that's being provided to them in such a manner so that they can know what's going on in the community.

1 So, on the basis of truth and on
2 the basis of the Law Enforcement Privilege
3 we would assert that they're entitled to
4 summary judgment for the defamation as
5 well.

6 THE COURT: All right.
7 Ms. Jackson, because I'm new to Facebook
8 and I don't allow anybody in my family to
9 use it and I don't use it, is that really
10 something that the sheriff's department is
11 involved with? They really post stuff on
12 Facebook?

13 MS. JACKSON: Your Honor, I
14 represent 25 law enforcement agencies and
15 every single one of them now uses Facebook,
16 Instagram and Snapchat in order to provide
17 information to their citizens.

18 THE COURT: Wow.

19 MS. JACKSON: Social media is the
20 waive of the future, it's taken over for
21 newspapers.

22 THE COURT: Oh, it has, but it also
23 don't you think causes a lot of problems?

24 MS. JACKSON: Well, depending on
25 what information you're putting out there

1 it could certainly cause problems.

2 THE COURT: Okay. Thank you,
3 ma'am. Appreciate it. Mr. Nettles? And
4 Mr. Nettles, did you file a memo?

5 MR. NETTLES: I did, Your Honor.

6 THE COURT: You did. I just hadn't
7 printed that out but that's okay I'll read
8 it before I do anything. Okay?

9 MR. NETTLES: Yes, please. First
10 in a matter of housekeeping I'd like to
11 point out the Town of Moncks Corner said
12 that nobody claimed any of the drugs.
13 That's not true, since he talked about
14 marijuana. Because a resident of the house
15 brought the drugs to the police officer and
16 said they were hers. So, that was her
17 marijuana.

18 Now, my client, Ms. Gardner,
19 testified in her deposition that she was
20 not aware there was marijuana, not aware of
21 the drugs and there is nothing in the
22 record suggesting that she did know.
23 Nonetheless, she was charged with
24 possession of these drugs that were found
25 hidden in the residence that she was

1 visiting. There is nothing in the record
2 to show that she had dominion, control or
3 even knowledge of the drugs.

4 Plaintiff's counsel hadn't talked
5 about what it takes to for certain factual
6 case for possession. What we do know is
7 that being close to the drugs is not
8 evidence enough for constructive
9 possession. That comes from State versus
10 Brown, State versus Valentine, that I had
11 cited in the brief. In fact, in State
12 versus Brown, Brown just said, you know,
13 when the police chase somebody and arrest
14 them and there were drugs found nearby and
15 the police officers never saw him with the
16 drugs, it's not evidence that the drugs are
17 in his possession. That's the decision
18 Your Honor is going to have to make,
19 whether the fact that she was found in the
20 location where there were drugs, when she
21 had no knowledge, no control over the
22 premises, any basis for arresting somebody
23 for trafficking drugs.

24 THE COURT: Do you mind if I ask
25 you a question?

1 MR. NETTLES: Sure.

2 THE COURT: Okay. Mr. Haarsgaard
3 mentioned that the house had no electricity
4 and no running water.

5 MR. NETTLES: Yes.

6 THE COURT: That's true?

7 MR. NETTLES: Yes.

8 THE COURT: All right. He also
9 mentioned that when then detective went
10 there, and this is one of my favorite
11 phrases of law enforcements, is that they
12 smelled marijuana.

13 MR. NETTLES: Yes.

14 THE COURT: Okay. As far as you
15 know that's also a true statement? Or you
16 don't know?

17 MR. NETTLES: You know, that is not
18 in the incident report.

19 THE COURT: Not in this report?
20 Okay.

21 MR. NETTLES: Something he
22 testified later on, but we have some doubts
23 about that because it's not in the incident
24 report. Although I have to admit that does
25 remind me of the dorm I used to stay in

1 back at the University of South Carolina in
2 1974 and 1975.

3 THE COURT: I was there earlier at
4 that time.

5 MR. NETTLES: But the situation has
6 changed, because I was trying to get into
7 law school and concerned about that. But I
8 don't think I constructively possessed
9 marijuana and--

10 THE COURT: I'm not going to get
11 into that.

12 MR. NETTLES: Other than the 30
13 minutes that my client was present there,
14 she said she arrived before dark and left
15 and came back. She was there trying to
16 charge her phone, it had low battery.

17 THE COURT: She was trying to
18 charge her phone at that house?

19 MR. NETTLES: Yes. But my client
20 ended up going to jail, I think, 41 days.

21 THE COURT: 41 days at \$2,000. I'm
22 just trying to figure out how much money
23 that is. \$82,000.

24 MR. NETTLES: Your Honor, please.
25 I'm a little annoyed that they're even

1 talking about that. The damages -- the
2 amount of damages were claiming is not
3 purported to your motion.

4 THE COURT: No, no, I agree.

5 MR. NETTLES: It's, in fact, a
6 distraction. The fact that she was
7 deprived liberty is all you need to know to
8 say whether or not you think there's
9 damages.

10 THE COURT: I agree, I would agree
11 with you. I'm sorry, I was just
12 counting -- I never heard that, I've heard
13 so many other things.

14 MR. NETTLES: That's what she
15 heard.

16 THE COURT: That's true. Now, do
17 you do any defense work, criminal defense
18 work?

19 MR. NETTLES: No.

20 THE COURT: All right. If you
21 don't mind, just a little louder, Mr.
22 Nettles.

23 MR. NETTLES: I'm told not to
24 shout, but I don't mind being interrupted
25 if I'm too quiet.

1 THE COURT: Okay. Please continue.

2 MR. NETTLES: Anyway, my point
3 being is that there is no proximity to --
4 hidden drugs is not evidence to construct
5 possession. Mr. Barlow -- Officer Barlow
6 would like to talk about State versus
7 what-have-you. When he was talking about
8 the case -- nobody mentioned State versus
9 Brown, but in State versus Brown, police
10 were investigating him for drug
11 trafficking. They stopped -- a street stop
12 and found out that he was carrying a set of
13 keys to a house where he kept a lot in the
14 house, and the law says, you know, if drugs
15 should be found in properly someone has
16 control of, that's an inference they also
17 control the drugs therein.

18 Ms. Gardner visited this house,
19 they got to the house and they wanted to
20 ask permission to search the house. They
21 asked the person in possession and control
22 of the house permission to do that. That
23 was Ms. Eason, not Ms. Gardner.
24 Ms. Gardner testified she had no knowledge
25 of having any drugs in that house in that

1 very short period of time. She had no
2 custody, dominion or control over those
3 such drugs. And that's not an argument.
4 They haven't talked about how there was
5 reason to believe that Ms. Gardner had
6 dominion or control over these narcotics,
7 when she did not have any knowledge of
8 them. Or hadn't used them.

9 I talk about State versus Mohammed
10 because that cites the United States
11 Federal Court case. United States versus
12 Dunlap. And trying to distinguish the two
13 and Dunlap was convicted of drug dealing
14 and the codefendant -- whose name I can't
15 remember right this minute -- he was just
16 there. I mean, he arrived shortly after
17 the police came in, from the time they went
18 out for a warrant and the time they
19 executed the warrant. The Court there
20 said, you're going to let the codefendant
21 go, because there is no proof that he had
22 dominion or control of the premises or the
23 drugs themselves.

24 So, in lots of cases, suggesting
25 that mere proximity to drugs is not

1 evidence of possession or control. In this
2 case the drugs are found in the sofa
3 underneath, Cory, a codefendant they
4 eventually tried for this. And nothing to
5 suggest that Ms. Gardner had that control.

6 I've cited two cases involving
7 malicious false resolution prosecution
8 cases, Tort Claims Act. One of which was
9 Wortman versus Spartanburg Police
10 Department, where the officer arrested
11 somebody for possession of lottery
12 tickets -- this is an older case, the Court
13 said, well, there's no crime possessing
14 lottery tickets. So, the Tort Claims
15 doesn't apply.

16 In this case, you know, there's no
17 crime. Being close to drugs or not being
18 aware of them is not a crime either, Your
19 Honor. And the fact that you have to
20 have -- there has to be an absence of
21 probable cause.

22 I think the most striking thing is
23 them saying, since you won't, nobody will
24 admit that they own these drugs, then
25 they're going to arrest everybody. And if

1 you want to design that to entrap innocent
2 people, that's pretty much how you would go
3 about doing that.

4 But then I want to talk for a
5 minute about the defamation. And the
6 defendant, Berkeley County Sheriff's Office
7 cites -- yet, in that case -- it was a case
8 where an employer was unhappy with medical
9 services provided by Abrica and said he was
10 overcharged and had to undergo unnecessary
11 treatment. He felt that he didn't want its
12 employees going there. The company
13 released a statement with these defamatory
14 statements about Abrica, and the public
15 could see where it.

16 The Court said, you know, you have
17 a privilege for things that concern you and
18 your employees but a publication to the
19 public destroys -- and the way he talked
20 about -- we also cited a judicial case
21 there. The privilege is Kutz vs. Lore
22 (sic) citing that, whether it's a dispute
23 because the defendant contacted people who
24 were not directly involved in the dispute
25 the plaintiff was involved in. Again,

1 destroyed the privilege.
 2 There is, in fact, nothing really
 3 available in the world right now that is
 4 more unfocused or more broader in
 5 publication than to put something on
 6 Facebook. And they argue that well, "it's
 7 true, that you were arrested on it, so it's
 8 true." Well, that's not how defamation law
 9 works. It says someone has been arrested
 10 for trafficking four different kinds of
 11 narcotics in this case, \$210,000 bonds, is
 12 an inference that person is in fact dealing
 13 drugs. But the sheriff's office was the
 14 one that brought the charges. It would be
 15 as if one of your neighbors went out --
 16 they have a warrant against one of your
 17 neighbors for some heinous crime, then
 18 after that was executed they went out and
 19 told the rest of the neighborhood that that
 20 person has been arrested for this crime.
 21 Well, that was certainly implied that they
 22 had committed it, but -- and that would not
 23 save the person who took out the warrant
 24 from responsibility for that publication of
 25 that defamatory statement.

1 Again, way beyond the privilege.
2 And there is no law enforcement privilege
3 for this statement on the Sheriff
4 Department's Task Force, to say that, well,
5 we have arrested fifty plus people in this
6 sweep over the weekend. You know, all six
7 of the people arrested, you know, at this
8 site and are charged with this -- or in the
9 one case, one was actually tried.

10 It's one thing to respond to the
11 public questionnaires or make it available
12 to ask, but to publish to essentially the
13 world, is not a privilege situation. And
14 when the sheriff's department says that
15 directly to people outside of law
16 enforcement venue, it implies that they
17 know something about the case that makes it
18 truthful, that this woman is a drug
19 trafficker. That's classic information.

20 THE COURT: And Mr. Nettles, the
21 cases that you've talked to me about
22 Abrica?

23 MR. NETTLES: Yes.

24 THE COURT: What was the next one?

25 MR. NETTLES: It was Kutz versus --

1 sorry, Judge.

2 THE COURT: I know it's in your
3 brief.

4 MR. NETTLES: Yes.

5 THE COURT: But my question is,
6 those were against individual companies?
7 They were not against a state agency like a
8 sheriff's department or anything like that?

9 MR. NETTLES: That's correct.

10 THE COURT: Has there been any case
11 law that you're aware of in South Carolina,
12 where the Sheriff's Department wouldn't
13 have been protected by the Tort Claims Act.

14 MR. NETTLES: Well, Your Honor, the
15 sheriff wouldn't have -- wouldn't be
16 privileged to say this, by going to his
17 buddies in his lobby by telling them all
18 that Stephanie Gardner is drug trafficking.

19 THE COURT: Okay.

20 MR. NETTLES: Privilege is not
21 applied to them. And there's not law
22 enforcement privilege -- I mean, sheriff
23 department employees and other law
24 enforcements can -- when they cooperate and
25 talk about this kind of stuff. They can

1 talk about witnesses, they can talk
2 about -- going to the general public, it's
3 way beyond any description and privilege.
4 When a newspaper reports say, arrest, it
5 doesn't indicate that the newspaper has any
6 special knowledge to make this true, but
7 when the person making the charge
8 republishes it to the public, that implies
9 that they have some knowledge -- special
10 knowledge of. And in this case they had no
11 basis for arresting.

12 THE COURT: Ms. Jackson had
13 mentioned, essentially, what all the
14 sheriffs departments?

15 MR. NETTLES: I don't know about
16 that. You know, when Your Honor speaks on
17 the bench, you've got an absolute
18 privilege.

19 THE COURT: Oh.

20 MR. NETTLES: But if you go to the
21 Lion's Club and repeat that, it's not
22 privilege. And that's how privileges work.

23 THE COURT: Right. May I go back
24 and ask you another question?

25 MR. NETTLES: Sure.

1 THE COURT: If I believe that the
2 officer had probable cause to arrest her--

3 MR. NETTLES: Yes.

4 THE COURT: -- if. Then her claim
5 fails, correct?

6 MR. NETTLES: The defamation--

7 THE COURT: The other charges.

8 MR. NETTLES: Still false.

9 THE COURT: I understand what
10 you're saying. I'm not talking about
11 probable cause and defamation claims. Were
12 you through talking about that? Or do you
13 need to tell me more?

14 MR. NETTLES: I'm done.

15 THE COURT: Okay. No, I was
16 talking about the other charges with the
17 actual charges themselves that she was
18 charged with. If I believe that there was
19 probable cause to her claims against those
20 would fail, of course your statement is
21 that the officer knew very well that the
22 owner of the house was claiming all the
23 drugs.

24 MR. NETTLES: Yes.

25 THE COURT: Just the marijuana?

1 MR. NETTLES: The marijuana.
2 Nobody claimed the drugs in the sofa.

3 THE COURT: Okay. And that
4 Ms. Eason, or whatever, that was the owner
5 of the house -- well, the renter of the
6 house was living in a house that had no
7 electricity?

8 MR. NETTLES: She was moving out.

9 THE COURT: Okay, all right. Go
10 ahead, I didn't mean to interrupt you.

11 MR. NETTLES: They talk about whose
12 responsible. The Sheriff's Office wants to
13 say, well this was the officer who found
14 Ms. Gardner, we're not responsible for it,
15 we had that agreement.

16 Actually, I don't think Your Honor
17 should be particularly concerned about the
18 agreement, but what they did, what were the
19 actions. There's plenty of testimony from
20 the Moncks Corner officer, that he was
21 participating in the task force sweep and
22 he was under supervision of the Sheriff's
23 Office. I shared the incident report, and
24 the incident report says what agency is
25 putting this report out it's 0008 or

1 whatever, but that's Berkeley County. It
2 is the incident report is approved by a
3 supervisor from the Sheriff's Department.
4 And they were doing warrants and serving
5 a -- which Your Honor knows is the job of
6 the Sheriff's Department, to serve family
7 court warrants, and they were doing that.
8 So, they can get, you know -- I would be
9 limited under the Torts Claim Act as to how
10 much Ms. Gardner can recover and there's a
11 document that they presented to me last
12 Monday. Between the two of them, there's
13 something might be a decision about who
14 pays, but it doesn't effect their actual
15 responsibility based on their actions, that
16 they were in this together. And there is
17 no immunity for the Sheriff's Department
18 and the people working under their
19 supervision and doing the jobs that they're
20 expected to do.

21 Once again, I ask Your Honor to
22 look at the cases we've cited in our briefs
23 about what it means to be in constructive
24 possession of something, and significance
25 of being in an approximate location and

1 what it takes to establish some proof of
2 dominion and control of the drugs in order
3 to charge them. Of course that's why the
4 cases were eventually dismissed, you know,
5 after 180 days and she was under court
6 supervision.

7 THE COURT: All right. Thank you,
8 Mr. Nettles.

9 Mr. Haarsgaard or Ms. Jackson,
10 y'all want to say anything in response?

11 MR. HAARSGAARD: Your Honor, I know
12 there's been a lot of talk and description
13 of this house and the drugs that were
14 recovered, but I actually have pictures of
15 the house and the drugs if Your Honor would
16 like to take a look at them.

17 THE COURT: I'm fine.

18 MR. HAARSGAARD: All right. Your
19 Honor, I just wanted to address plaintiff's
20 counsel--

21 THE COURT: Well, let me think
22 about that. Those are pictures that were
23 taken at the time?

24 MR. HAARSGAARD: The drugs were at
25 the time, the house was a couple of months

1 ago. But the inside has changed a bit,
2 there's a bunch of storage, but the outside
3 is the same from what I understand.

4 THE COURT: Well, I'm not
5 interested in seeing the house as it is
6 now. But let me -- I think what I'd like
7 to do is I'd like to see the picture of
8 where the drugs were.

9 MR. HAARSGAARD: Yes, sir.

10 THE COURT: If you can submit that
11 to me. You had mentioned an article, what
12 I would like for you to do is send me that
13 article. I might not apply it but I
14 enjoying reading them. Okay? Okay.

15 MR. HAARSGAARD: And, Your Honor,
16 the pictures that we would be submitting
17 would be sort of more for proximity
18 purposes only, because the furniture, such
19 as the couch, is no longer found in the
20 home when we went and took pictures of it.

21 THE COURT: Well, then let me ask
22 you a question, Mr. Haarsgaard. None of
23 the pictures you have are pictures at the
24 time that the arrest was made?

25 MR. HAARSGAARD: That's correct.

1 THE COURT: Then nevermind, I don't
2 need to see those. I was thinking you had
3 pictures that the Sheriff's Department or
4 somebody had taken, you know, at the time
5 of the event.

6 MR. HAARSGAARD: No, Your Honor.
7 These are pictures that were taken on a
8 site inspection, I think two months ago,
9 and they were used in the depositions of
10 Detective Barlow and plaintiff. So,
11 there's context given to where everything
12 took place.

13 THE COURT: If it becomes necessary
14 I might need to get the deposition, but
15 right now I don't want to get those
16 pictures out of context.

17 MR. HAARSGAARD: Your Honor, I
18 would just like to address plaintiff's
19 counsel's claim, that Mr. Eason didn't have
20 drugs in the house. I mean, that's what he
21 stated.

22 THE COURT: Well, I believe he said
23 Ms. Gardner. Ms. Eason is the one that
24 admitted marijuana.

25 MR. HAARSGAARD: Yes, Your Honor.

1 THE COURT: And then he said nobody
2 admitted the drugs. Right?

3 MR. HAARSGAARD: Yes, Your Honor.
4 I'd like to clear up that nobody admitted
5 the marijuana.

6 THE COURT: Okay.

7 MR. HAARSGAARD: My statement,
8 nobody admitted the marijuana, was the
9 marijuana that was found outside of the
10 bedroom of Ms. Eason's. Eason admitted to
11 possession of the marijuana that was found
12 inside of her own bedroom. However, there
13 was other marijuana observed outside of
14 that bedroom, and plaintiff's claim that
15 she did not know that there was presence of
16 marijuana in the home is contradicted by
17 her own testimony that she observed
18 Ms. Eason smoke marijuana directly in front
19 of law enforcement.

20 Additionally, plaintiff's counsel
21 cites the cases which debate the beyond a
22 reasonable doubt standard, rather than
23 probable cause standard. Every single case
24 he cited was not about -- was a case
25 debated whether a conviction was proper for

1 constructive possession, rather than
2 whether or not an officer had probable
3 cause to arrest for constructive
4 possession. Obviously those two standards
5 are very different. As a former prosecutor
6 I can tell you, you got to get rid of cases
7 where you cannot prove beyond a reasonable
8 doubt that you can convict somebody for
9 drug possession. Constructive possession
10 convictions are especially pertinent. But
11 as far as probable cause goes, this is a
12 standard of an ordinary person under the
13 circumstances. And, Your Honor, I don't
14 want to delay the circumstances of this
15 case but I think that the defense has named
16 quite a few circumstances which would go to
17 finding a probable cause for the arrest of
18 plaintiff.

19 Just to reiterate, this case is a
20 probable cause case, ordinary person case.
21 This is not a beyond a reasonable doubt
22 case for a conviction. So, for these
23 reasons the Town would ask the Court to
24 grant its motion for summary judgment.
25 Thank you.

1 THE COURT: And Mr. Haarsgaard,
2 before you step down, where were you
3 working in the Solicitor's Office?

4 MR. HAARSGAARD: I was actually in
5 the Attorney General's Office in Columbia.

6 THE COURT: Okay. What did you do
7 for the AG?

8 MR. HAARSGAARD: Well, first I
9 started Medicaid fraud, then I moved to
10 general prosecutions. So, I did a lot of
11 drug work and I tried a case for
12 constructive possession, and I got it as
13 for the drugs but not the stolen vehicle.

14 THE COURT: How long ago were you
15 working at the AG's Office?

16 MR. HAARSGAARD: I worked there
17 three years. I started the job I'm doing
18 now last January.

19 THE COURT: Thank you, sir.

20 MR. HAARSGAARD: Thank you.

21 THE COURT: And Ms. Jackson,
22 anything?

23 MS. JACKSON: Briefly. I would
24 join in Mr. Haarsgaard's rebuttal on the
25 false arrest and malicious prosecution

1 claims. And those are the notes that I had
2 written, this is a probable cause standard
3 not a proof beyond a reasonable doubt
4 standard. And I also reviewed all of the
5 cases cited by Mr. Nettles. They all deal
6 with criminal cases where they were asking
7 to have a conviction overturned based on
8 constructive possession, and certainly at
9 that high standard of proof the rules are
10 totally--

11 THE COURT: Yes.

12 MS. JACKSON: So, I want to address
13 the defamation cause of action. I heard
14 several things that cause me some concern.
15 The first, comparison to the neighbors
16 warrant. Those are individuals, private
17 individuals. This is a government entity,
18 they do have a law enforcement privilege.
19 You can search online for many of the
20 detention centers in this state and they
21 will post not only the booking information,
22 the charges, but the bond amount, and often
23 times a photograph of the inmate. And
24 those are all posted on the official
25 websites of those law enforcement agencies.

1 It's the same information, less information
2 that was actually provided on the Facebook
3 post. And since Your Honor said earlier
4 that you were not as familiar with
5 Facebook, I wanted to make sure it's clear
6 that in order to view the information on
7 the Sheriff's Office Facebook post, you
8 first must follow the Sheriff's Office.
9 It's not just going to show up on every
10 single person's--

11 THE COURT: Hold on. Do you have
12 to friend them too? Or just follow?

13 MS. JACKSON: Friend, follow, I
14 think on a governmental entity page it's
15 called a follow not a friend, because they
16 don't automatically follow you back.

17 THE COURT: Okay.

18 MS. JACKSON: Only if you follow
19 the Sheriff's Office's page do you then
20 have access to view their postings. It
21 would also require you to go through and
22 read a posting. After a posting reaches a
23 certain number of character it gets cut off
24 and it says, see more. And you would
25 actually have to take an extra step of

1 clicking on that to read the remainder of
2 the post.

3 So, we would take the position that
4 this is similar in nature to a newspaper
5 posting or to the internet postings from
6 the detention center that post public
7 information. Information about arrests are
8 public. And public can come in and make a
9 request for an arrest report, they can come
10 in and make a request for an incident
11 report. The media comes in all the time
12 and makes requests for these reports. The
13 Sheriff is an elected official. And in
14 communicating with the people who voted for
15 him, they wanted to receive this
16 information. And through various means of
17 looking into how easiest to provide the
18 information to people who wanted it, this
19 came up as a viable method for providing
20 information. Do they list everything
21 single arrest? No. But when they perform
22 something like a sweep where they are going
23 out and serving a massive number of
24 warrants and trying to get those people off
25 the street, those are the types of

1 information that get posted on the
2 Sheriff's page.

3 THE COURT: Let me ask you a
4 question, you said that they don't post all
5 arrests?

6 MS. JACKSON: They don't post every
7 single arrest. They only post when they
8 have an operation. They have operations
9 for arrest warrants, they have drug
10 operations--

11 THE COURT: No, I understand. I
12 guess, is there like some determination
13 that a sheriff has made as to what arrests
14 get put on Facebook and which ones don't?

15 MS. JACKSON: When it's an
16 organized event.

17 THE COURT: Okay. So, if I got
18 arrested for DUI here, that would not show
19 up?

20 MS. JACKSON: The Sheriff's Office
21 would not post that on their Facebook page,
22 though I can't promise you that other
23 people might not post it. The media
24 outlets post it on their Facebook pages.
25 And people can share those to other

1 Facebook pages and then they're all over
2 the Facebook world and Instagram world.

3 THE COURT: Okay.

4 MS. JACKSON: But it's out there.

5 THE COURT: Okay.

6 MS. JACKSON: There was a
7 discussion of him having -- the Sheriff's
8 Office having an implication of special
9 knowledge. The Sheriff's Office has taken
10 great care to include on its Facebook page
11 in multiple locations, that all people
12 arrested are innocent until proven guilty.
13 They do not put any personal judgment of
14 the officer's, they don't put any details
15 from the incident reports. They simply
16 list the South Carolina statute for the
17 charge and the name of the charge, with the
18 person's information. And we would assert
19 that it's clear that this is a matter of
20 public interest to the citizens of Berkeley
21 County. And that there is specifically a
22 privilege for the discharge of illegal
23 social, or providing that information to
24 the public.

25 And, Your Honor, finally I would

1 like to refer back again to the agreement
2 between Moncks Corner and the Sheriff's
3 Office. It specifically includes both Law
4 Enforcement Assistance and Support, and
5 Multi-Jurisdictional Task Force Metro
6 Narcotics Enforcement team. That is the
7 team that Mr. Barlow was assigned to from
8 Moncks Corner. He's not the only officer
9 outside of Berkeley County Sheriff's Office
10 that was assigned to this task force.

11 Section 7 discusses compensation of
12 officers, and it specifically says that
13 they will be compensated by their home
14 agency. Number 8, says that the home
15 agency will maintain insurance coverage for
16 those officers. Paragraph 9, says that
17 nothing in this agreement will change the
18 employment status of those officers, if
19 they will still be employed and compensated
20 by their home agency. And then again as I
21 referred to previously, paragraph 14
22 specifically says, parties shall be solely
23 responsible for the acts and omissions of
24 their respective employees, officers and
25 officials for any claims, lawsuits and

1 payments of damages that arise from the
2 activity of the officers.

3 We would assert that that sets out
4 the agreement between the agencies, and
5 therefor should be upheld by this Court for
6 the responsibilities with regard to the
7 arrest.

8 I noticed that Mr. Nettles didn't
9 really say anything about the holding of
10 the plaintiff in the detention center, so I
11 just want to make sure the Court didn't
12 have any other questions.

13 THE COURT: No, I think I'm good.
14 I appreciate it. All right, since I
15 haven't had an opportunity to read Mr.
16 Nettle's memo I'm going to read that.
17 You're going to send me a copy of that
18 article and cc them, and then if y'all want
19 to respond or do anything like that just
20 send me an e-mail. Let me know if y'all
21 want to respond. I appreciate it, thank
22 y'all.

23 MR. HAARSGAARD: Thank you, Your
24 Honor.

25

Proceedings

* * * * *

I, NATALIE A. WILLIAMS, a
Court Reporter, do hereby certify
that the foregoing virtual proceedings taken in
the matter of

STEPHANIE MICHELLE GARDNER
against
BERKELEY COUNTY SHERIFF'S OFFICE,
TOWN OF MONCK'S CORNER, et al.,

which was taken on the 5th day of April 2021
is a true and accurate transcript.

Natalie A. Williams

Natalie A. Williams

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	
	)	Civil Action No. 2020-CP-08-00773
Stephanie Michelle Gardner,	)	
	)	
Plaintiff,	)	
	)	DEFENDANT
v.	)	TOWN OF MONCK'S CORNER'S MOTION
	)	FOR SUMMARY JUDGMENT
Berkeley County Sheriff's Office and	)	
Town of Moncks Corner,	)	
	)	
Defendants.	)	
	)	

YOU WILL PLEASE TAKE NOTICE that Defendant Town of Moncks Corner (hereinafter "the Town"), by and through its undersigned attorneys, ten (10) days hence, or as soon thereafter as counsel may be heard, will move before the Presiding Circuit Court Judge of the Ninth Judicial Circuit for an Order granting Summary Judgment as to Plaintiff's claims against it in the above captioned case pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. The grounds for this Motion are as follows:

- (1) The Town is entitled to the protection of the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.* under which it is not liable for a loss resulting from:
 - a. The execution of a court order or lawful implementation of any process pursuant to S.C. Code Ann. § 15-78-60(3);
 - b. The enforcement of any law pursuant to S.C. Code Ann. § 15-78-60(4);
 - c. The performance of any act or service which is in the discretion or judgment of a governmental employee pursuant to S.C. Code Ann. § 15-78-60(5);
 - d. The exercise of "slight care" pursuant to S.C. Code Ann. § 15-78-60(25).

(2) There is no evidence supporting Plaintiff's claim of negligence, gross negligence or recklessness on the part of the Town;

(3) There is no evidence of malicious prosecution on the part of the Town.

This Motion is based upon the pleadings, any affidavits which may be filed and served prior to the hearing on this Motion, and the legal and factual arguments which counsel will present to this Honorable Court. Defendant, Town of Moncks Corner, prays for such other relief, both general and special, legal and equitable to which he may be justly entitled.

Respectfully submitted this the 1st day of March, 2021.

RICHARDSON, PLOWDEN & ROBINSON

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***ATTORNEYS FOR DEFENDANT TOWN OF
MONCK'S CORNER***

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

STEPHANIE MICHELLE GARDNER,

Plaintiff,

v.

BERKELEY COUNTY SHERIFF'S OFFICE
and TOWN OF MONCK'S CORNER,
Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2020-CP-08-00773

**BERKELEY COUNTY SHERIFF'S
OFFICE'S MOTION FOR SUMMARY
JUDGMENT**

NOW COMES the Berkeley County Sheriff's Office, by and through its undersigned counsel, will move before this honorable court at a time and place scheduled by this court for an Order granting Summary Judgment in favor of this Defendant on each and every claim. The Sheriff's Office brings this Motion pursuant to South Carolina Rules of Civil Procedure Rules 12 and 56, and applicable case law. The basis for this motion is:

1. There is no evidence of negligence, gross negligence or recklessness on the part of the defendant;
2. There was no false arrest or false imprisonment;
3. There was no malicious prosecution;
4. There was no defamation; and
5. The Sheriff's Office is entitled to the protections of the South Carolina Tort Claims Act.

The Sheriff's Office is requesting an order of summary judgment on all causes of action and will make all necessary arguments regarding the causes of action and applicable defenses and

immunities. This motion will be more fully supported by the record, affidavits and depositions transcripts which may be submitted as well as a memorandum of law which will be submitted.

Respectfully submitted,

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Attorney for Defendant Berkeley County
Sheriff's Office

February 19, 2021
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	
	)	Civil Action No. 2020-CP-08-00773
Stephanie Michelle Gardner,	)	
	)	
Plaintiff,	)	
	)	
v.	)	DEFENDANT
	)	TOWN OF MONCKS CORNER'S
Berkeley County Sheriff's Office and	)	MEMORANDUM IN SUPPORT OF
Town of Moncks Corner,	)	SUMMARY JUDGMENT
	)	
Defendants.	)	
	)	

Defendant Town of Moncks Corner (hereinafter the "Town") submits this memorandum in support of its Motion for Summary Judgment, filed pursuant to Rule 56(c) of the South Carolina Rules of Civil Procedure, and would respectfully show unto the Court as follows:

STATEMENT OF FACTS

On the night of April 27, 2018, members of the Berkeley County Sheriff's Office (hereinafter "BCSO") Drug Enforcement Unit and narcotics Detective Brooks Barlow of the Moncks Corner Police Department arrived at 112 Lodestone Court in Moncks Corner to locate an individual with an outstanding arrest warrant. Barlow Dep. 9:3-9; 11:3-9. Upon their arrival, law enforcement observed the suspect run into the front door of the residence, which was observed to without power or running water. *Id.* at 13:7-13; Gardner Dep. 111:6-8. Detective Barlow then traveled to the back door of the residence where he encountered an occupant of whom he asked if the suspect was present in the home. Barlow Dep. 18:1-4; 19:6-8; 19:19-20:2. When the occupant confirmed the presence of the suspect in the home, Detective Barlow entered through the back door and encountered several other individuals, including the Plaintiff, who was sitting on a couch. *Id.* 14:14-15:3; 18:1-4; 19:4-8. During the course of arresting the suspect, Detective Barlow

observed what was later confirmed to be marijuana in plain view as well as the strong odor of marijuana in the home. *Id.* 20:25-21:7; 33:3-8; 44:11-14. Additionally, Plaintiff testified in her deposition that law enforcement observed “a bowl in [one of the occupant’s] hand[s] of marijuana, and they asked her what is that, and she looked at him and said it’s a bowl, and she hit it, and he took it from her....” Gardner Dep. 56:19-22. The Plaintiff further testified that law enforcement observed “bowls [and] marijuana pipes. [The occupant] had a personal collection for viewing.” *Id.* at 57:2-4.

After observing the marijuana in plain view, Detective Barlow further received both verbal and written consent from the resident of the home to search the remainder of the residence. Barlow Dep. 21:12-23. Detective Barlow subsequently conducted a search of the residence and found a large quantity of illegal drugs under a living room couch cushion roughly ten (10) feet away from the location where he observed Plaintiff at the time he made entry to the residence. *Id.* 22:2-5; 23:17-20; 27:6-8. He then questioned the occupants of the residence as to whom the drugs belong, and none of them claimed ownership. *Id.* 45:19-46:3.

Detective Barlow then made the determination that all of the occupants, including Plaintiff, were in constructive possession of the recovered drugs due to their close proximity to them as well as the obvious and prominent presence and odor of marijuana in the home. *Id.* 27:1-15; 33:3-8, 16-22. Specifically, Detective Barlow observed that Plaintiff was in a position where she could have exercised dominion and control over the drugs. *Id.* at 45:2-4. Based on these facts, Detective Barlow determined that he had probable cause to place all individuals inside the home, including Plaintiff, under arrest for constructive possession of the drugs. *Id.* 28:24-29:2. Detective Barlow later appeared in front of a local magistrate judge and swore that all of the information in his arrest warrant affidavits, including the fact that the individuals were located inside a home where drugs

were found under a living room couch cushion in violation of South Carolina's laws prohibiting illegal drug possession, was correct. *Id.* 29:21-25; 30:23-24. A copy of Plaintiff's warrants evidencing the judge's signature are provided herewith as **Exhibit 1**. All occupants of the home, including Plaintiff, were charged with Trafficking Cocaine and Trafficking Methamphetamine as well as Possession of Heroin and Cocaine Base. *Id.* at 34:24-35:1, 14-19. Following her arrest, Plaintiff did not post her bond for forty-five (45) days. Compl. ¶ 17.

Plaintiff's charges were ultimately dismissed on October 24, 2018 following the Assistant Solicitor's determination that, "[b]ased on the evidence available," he was "unable to prove [the charges] beyond a reasonable doubt." A copy of the dismissal paperwork is provided herewith as **Exhibit 2**. Plaintiff filed her Complaint on March 20, 2020 which appears to allege false arrest, malicious prosecution and a violation of the South Carolina Constitution against both the Town and BCSO as well as defamation against BCSO only. For the reasons set forth below, the Town respectfully requests that the Court grant its Motion for Summary Judgment and dismiss Plaintiff's claims against it.

ARGUMENT

I. THE TOWN IS ENTITLED TO THE PROTECTIONS AFFORDED BY THE SOUTH CAROLINA TORT CLAIMS ACT, S.C. CODE ANN. § 15-78-10, *et. seq.*

The South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et. seq.* (Supp. 2004), which provides the exclusive remedy in tort against the Town, is a limited waiver of governmental immunity. Under the Act, "[t]he governmental entity is not liable for a loss resulting from ... enforcement [of] any law." S.C. Code. Ann. § 15-78-60(4). Additionally, "[t]he governmental entity is not liable for a loss resulting from...the performance of any act or service which is in the discretion or judgment of a governmental employee." S.C. Code. Ann. § 15-78-60(5). "To establish discretionary immunity, the governmental entity must prove its employees, faced with

alternatives, actually weighed competing considerations and made a conscious choice” while utilizing “accepted professional standards appropriate to resolve the issues before them.” *Clark v. S.C. Dep’t of Pub. Safety*, 362 S.C. 377, 386, 608 S.E.2d 573, 578 (2005).

In this case, S.C. Code Sections 44-53-370 and 44-53-375 make the possession of the drugs found in the home where Plaintiff was an occupant illegal. More specifically, 44-53-370(e) and 44-53-375(C) make it illegal to be in “constructive possession” of these substances. *See Wortman v. Spartanburg*, 310 S.C. 1, 3, 425 S.E.2d 18, 20 (1992) (finding that a governmental entity “cannot claim that [a plaintiff’s] arrest...resulted from its attempt to enforce a law absent a showing that a law exists that prohibits” the conduct for which plaintiff was arrested). Plaintiff’s arrest in this case resulted from Detective Barlow’s enforcement of these South Carolina criminal laws making it illegal to constructively possess drugs. Furthermore, Detective Barlow, faced with the choice of which occupant to charge for the illegal drugs, used his discretion to enforce the law and arrest all occupants, including Plaintiff. He testified: “I could easily argue that it could have been anybody in that house. Nobody claimed it.” Barlow Dep. 27:7-8. Based on the protections afforded under the Tort Claims Act for discretionary immunity, the Town cannot be held liable for Plaintiff’s arrest and Plaintiff’s claims must be dismissed.

II. PLAINTIFF’S CLAIM FOR FALSE ARREST FAILS AS A MATTER OF LAW.

The elements of false arrest in South Carolina are “intentional restraint of another without lawful justification.” *Carter v. Bryant*, 429 S.C. 298, 306, 838 S.E.2d 523, 527 (Ct. App. 2020). Plaintiff’s Complaint alleges that Plaintiff’s arrest was improper on the grounds that it “was without probable cause” and that “the warrant was invalid on its face.” Compl. ¶ 18. “[W]hether an arrest warrant was supported by probable cause is a different question than whether the warrant was facially valid.” *Carter*, 429 S.C. 309, 838 S.E.2d 529.

(A) Plaintiff's Arrest Was Supported by Probable Cause.

In an action for false arrest or malicious prosecution, the plaintiff has the burden of demonstrating lack of probable cause. *Jackson v. City of Abbeville*, 366 S.C. 662, 666, 623 S.E.2d 656, 658 (Ct. App. 2005). Probable cause does not turn on an individual's guilt or innocence, but rather "a good faith belief that a person is guilty of a crime when this belief rests upon such grounds as would induce an ordinary prudent and cautious person, under the circumstances, to believe likewise." *Id.* at 366 S.C. 666, 623 S.E.2d 658; *Gist v. Berkeley Cty. Sheriff's Dep't*, 336 S.C. 611, 615, 521 S.E.2d 163, 165 (Ct. App. 1999). "The determination of probable cause is not an academic exercise in hindsight," and it can be "decided as a matter of law when the evidence yields but one conclusion." *Jackson*, 366 S.C. 667, 670, 623 S.E.2d 659, 660. *See also Parrott v. Plowden Motor Co.*, 246 S.C. 318, 323, 143 S.E.2d 607, 609 (1965) (finding probable cause as a matter of law); *Seabrook v. Town of Mount Pleasant*, 432 S.C. 441, 446, 853 S.E.2d 508, 511 (Ct. App. 2020) (finding probable cause as a matter of law). Furthermore, "the determination of 'probable cause to arrest' for the purpose of [a plaintiff's] tort claims may properly include consideration of an uncharged offense" such that a finding of probable cause on the uncharged offense will defeat the plaintiff's claims. *Jackson*, 366 S.C. 666, 623 S.E.2d 658.

In this deposition, Detective Barlow testified that he had knowledge of the South Carolina Court of Appeals case *State v. Muhammed*, which held that constructive possession (a shareable offense) required a showing, either by direct or circumstantial evidence, that an individual "had dominion and control, or the right to exercise dominion and control" over the drugs. *State v. Muhammed*, 338 S.C. 22, 26, 524 S.E.2d 637, 639 (Ct. App. 1999). *See also United States v. Bailey*, 329 F. App'x 439, 441 (4th Cir. 2009) (finding

evidence sufficient for conviction of defendant for constructive possession of firearm seized from under couch in living room of residence and not far from defendant's location as observed by law enforcement). Far from *the State's* necessary burden of proving *beyond a reasonable doubt* that Plaintiff constructively possessed the drugs, **Detective Barlow only needed a good faith belief that Plaintiff constructively possessed the drugs under the circumstances he observed prior to her arrest.**

In this case, Plaintiff was present in a home with marijuana laying in plain view in close proximity to Plaintiff along with the smell of marijuana throughout the home. These facts alone would have supported probable cause to arrest Plaintiff for constructive possession of marijuana. Although Detective Barlow testified that all occupants denied ownership of the open and obvious marijuana found in the living room, he chose not to charge them with possession of marijuana because "[t]here were other serious drugs there." Barlow Dep. 34:2, 19-20. As to those "other serious drugs," Plaintiff was positioned a mere ten (10) feet from the location where significant amounts of cocaine, methamphetamine, and heroin were recovered when Detective Barlow entered the home. Moreover, none of the individuals present in the home claimed ownership of the drugs.¹ Given these circumstances, there is no genuine issue of material fact as to whether Detective Barlow had probable cause to arrest the Plaintiff.

Just as in *Seabrook*, probable cause in this case does not turn on a conflict in witness testimony. Both Detective Barlow and Plaintiff confirmed that Plaintiff was present in the home² in close proximity to illegal drugs in plain view as well as mere feet from the

¹ Plaintiff testified that law enforcement "should have picked one out of the five to charge and not all five of us." Gardner Dep. at 104:15-16.

² Despite Plaintiff's denial that she was an occupant of the residence, she testified that she was present *in* the residence and standing on the "back porch" when law enforcement arrived; she described the "back porch" as a

location of the drugs located in the living room. While Detective Barlow described Plaintiff as ten (10) feet from the location of the drugs, Plaintiff stated that she was “a car length” from them. Gardner Dep. 118:6-8. Plaintiff also testified that she walked throughout the house, including the living room, prior to law enforcement’s arrival. *Id.* at 113:13-19. Moreover, Plaintiff agreed that a judge signed the warrants and determined that there was probable cause for her arrest. *Id.* at 131:6-9. *See Carter*, 429 S.C. 310, 838 S.E.2d 530 (adopting in a civil case the finding of *State v. Dill*, 423 S.C. 534, 544-545, 816 S.E.2d 557, 563 (2018) that the court may determine whether probable cause existed for the issuance of a criminal arrest warrant and must give great deference to the magistrate judge’s probable cause conclusion).

(B) Plaintiff’s Arrest Warrants Were Facially Valid.

As to Plaintiff’s argument that the warrants were facially invalid, South Carolina courts have held that “a warrant is ‘facially valid’ if (1) it is regular in form, (2) it is issued by a court official having authority to issue the warrant for the conduct it describes and jurisdiction over the person charged, and (3) all proceedings required for the proper issuance of the warrant have duly taken place.” *Carter*, 429 S.C. 308, S.E.2d 529. In this case, Plaintiff has provided no evidence to support her claim that the warrants were invalid. As in *Carter*, the warrant in this case meets the requirements for a facially valid warrant under South Carolina law.

First, it is regular in form because it was on a form approved by the South Carolina Attorney General as required by S.C. Code Section 17-13-160 (2014) and its content

“built-in porch with two doors open,” under the home’s roof, with boarded up windows and accessible through “a hole...in the middle of the house” connecting it to the home’s living room. *Id.* at 50:12-52:9; 84:15-17; 114:4-6. Additionally, Plaintiff testified that she returned to the home after she was released from jail. *Id.* at 95:5-6.

complied with S.C. Code Section 22-3-710 (“All proceedings before magistrates in criminal cases shall be commenced on information under oath, plainly and substantially setting forth the offense charged, upon which, and only which, shall a warrant of arrest issue.”). *See McConnell v. Kennedy*, 29 S.C. 180, 7 S.E. 76, 80 (1888) (a warrant or affidavit upon which it is based does not need to “set forth the offense charged with the technical precision required in indictments”). Second, Plaintiff has not disputed that the Magistrate Judge who signed the warrant had sufficient authority and jurisdiction to do so or that the judge was neutral, independent, and detached³. Finally, Plaintiff has not disputed that the necessary proceedings for the warrant’s issuance occurred. In contrast, Detective Barlow testified that the necessary proceedings did in fact occur. South Carolina courts have routinely held that “one arrested pursuant to a facially valid warrant has no cause of action for false arrest.” *Id.* 838 S.E.2d at 528. Because Plaintiff has failed to prove that her warrants were facially invalid, she cannot succeed on her claim of false arrest.

In sum, Detective Barlow arrested Plaintiff pursuant to probable cause developed while at the residence and the warrants for her arrest were facially valid. Therefore, the Court must dismiss Plaintiff’s false arrest claim against the Town.

III. PLAINTIFF’S CLAIM FOR MALICIOUS PROSECUTION FAILS AS A MATTER OF LAW.

Plaintiff’s Complaint alleges that Defendants “prosecuted and maintained a criminal charge against Gardner without probable cause to believe she possessed illegal drugs with intent to distribute them, by instituting a prosecution against her....” Compl. ¶ 22. “To maintain an action for malicious prosecution, a plaintiff must establish: (1) the institution or continuation of original

³ When questioned regarding whether she has any evidence that the signatures on her warrants were not a judge’s signature, she testified: “I have no clue.” Gardner Dep. 82:10-13.

judicial proceedings; (2) by or at the instance of the defendant; (3) termination of such proceedings in [the] plaintiff's favor; (4) malice in instituting the proceedings; (5) lack of probable cause; and (6) resulting injury or damage." *Pallares v. Seinar*, 407 S.C. 359, 366, 756 S.E.2d 128, 131 (2014) (internal citation omitted). Furthermore, "[a]n action for malicious prosecution fails if the plaintiff cannot prove each of the required elements by a preponderance of the evidence, including malice and lack of probable cause." *Id.*

As an initial matter, the discussion above provides the analysis wherein Plaintiff's arrest satisfies the "good faith belief" and "ordinary prudent person to believe likewise" probable cause standard. As more fully explained below, even Plaintiff acknowledged that law enforcement believed that they were arresting five drug traffickers. Gardner Dep. at 132:15-16. Therefore, Plaintiff cannot prove element (5) of the malicious prosecution test.

As to element (4), "[m]alice is defined as 'the deliberate[,] intentional doing of an act without cause or excuse.'" *Pallares*, 407 S.C. 366, 756 S.E.2d 131. While Plaintiff's Complaint alleges that she was arrested "to coerce her to give false testimony and such was an improper motive for Plaintiff's arrest and detention," Plaintiff testified:

- 16 Q. Before your charges were
17 dismissed, did anyone try to coerce you to give false
18 testimony about somebody else?
19 A. I was just asked to testify by them, but –
20 Q. And you said you couldn't?
21 A. Right.
22 Q. Did anyone ever threaten you?
23 A. No, I never got a threat.

Compl. ¶ 19; Gardner Dep. 86:16-23. Plaintiff cannot even recall which Defendant made the request for her testimony. *Id.* at 85:24-25. Additionally, Plaintiff testified as to her belief that law enforcement believed that they had "caught five big bad drug traffickers." *Id.* at 132:15-16. These statements reveal that Plaintiff cannot prove malice or ulterior motives on the part of Detective

Barlow as required by element (4).

As to element (6), Plaintiff testified as follows regarding phone calls⁴ she placed while incarcerated on these charges:

- 21 Q. Okay. Do you remember telling family members on
22 the phone that you did not want them to bond you out
23 because it was too expensive and you had been told
24 that you could get paid for being in jail?
25 A. Yes.
...
8 Q. Do you remember telling your family that a lawyer
9 told you that, too?
10 A. I might have. I don't remember all of our
11 conversations. I called them every day.
12 Q. Okay. If you listen to the telephone calls and
13 hear yourself say that a lawyer told you that, would
14 that be a true statement?
15 A. If I heard myself say it, yes.

Id. at 80:21-25; 100:8-15. Additionally, Plaintiff testified that she was claiming damages for rent and gas money she spent during the three months between the date that she was released from jail and the date that her charges were dismissed. *Id.* at 98:5-9. Plaintiff also testified that she was claiming 45 days' worth of lost wages despite the fact that, prior to her arrest, she had been fired from her job and only earned money as an independent contractor for two days at a strip club. *Id.* at 15-22; 19:3-5. These claims, together with Plaintiff's admission that she intentionally remained in jail for monetary purposes, fail to demonstrate "resulting injury or damage" as required by element (6).

⁴ A sample of phone calls relevant to this element took place on the following dates: May 11, 2018 (Plaintiff stated that it would be "worth it" to stay in jail for the "long run" because she will get money from a civil suit); May 12, 2018 (Plaintiff stated that her lawyer had the idea to sue Berkeley County Sheriff's Office and told her that "they" have to pay her \$2,000 per day for being in jail. Plaintiff also stated that she did not care that she was being recorded and that if the charges are dropped then she will "drop the lawsuit."); May 12, 2018 (Plaintiff stated that she does not want anyone to post her bond because it's unfair that her family has to pay for "Berkeley County's mistake"); May 14, 2018 (Plaintiff stated that a "lawyer friend of the family" told her that "they" would have to pay her \$2,000 per day for remaining in jail); May 14, 2018 (Plaintiff stated that she was told that someone got paid \$2,000 per day for remaining in jail and that "they" are going to pay her lost wages).

In sum, Plaintiff cannot prove elements (4), (5) and (6) of the malicious prosecution test. Therefore, Plaintiff's causes of action for malicious prosecution must be dismissed.

V. PLAINTIFF'S CLAIM OF A SOUTH CAROLINA CONSTITUTIONAL VIOLATION FAILS AS A MATTER OF LAW.

Plaintiff's Complaint fails to allege the violation of any specific provisions of the South Carolina Constitution, but rather states that Defendants "deprived [Plaintiff] of her liberty by arresting her without probable cause and keeping her in their custody on a warrant that on its face did not show a violation of law in violation of her rights under the Constitution of the State of South Carolina and of the Constitution of the United States." Compl. ¶ 20. However, "the South Carolina Constitution does not provide for monetary damages for civil rights violations and the legislature has not enacted an enabling statute." *Palmer v. State*, 427 S.C. 36, 46, 829 S.E.2d 255, 261 (Ct. App. 2019). Therefore, there is no constitutional right to damages for an individual who suffers a constitutional tort. *Id.* Even if such a remedy existed, the Town has proved that Plaintiff was arrested pursuant to probable cause and her warrants were facially valid. For these reasons, this cause of action should be dismissed.

CONCLUSION

For the reasons set forth herein, the Town of Moncks Corner requests that the Court grant the Motion for Summary Judgment and dismiss the Plaintiff's Complaint as to the Town of Moncks Corner, with prejudice.

Respectfully submitted this the 29th day of March, 2021.

Signature on following page.

RICHARDSON, PLOWDEN & ROBINSON

s/Drew Hamilton Butler

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***ATTORNEYS FOR DEFENDANT TOWN OF
MONCK'S CORNER***

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

STEPHANIE MICHELLE GARDNER,

Plaintiff,

v.

BERKELEY COUNTY SHERIFF'S OFFICE
and TOWN OF MONCK'S CORNER,
Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2020-CP-08-00773

**BERKELEY COUNTY SHERIFF'S
OFFICE'S MEMORANDUM OF LAW IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

OVERVIEW

This matter arose when Samantha Gardner was spending time at a friend's house and officers from a joint task force arrived to serve an arrest warrant on one of the residents. While present in the house, a resident gave officers consent to search and drugs were located but no one claimed them. All occupants were then arrested and charged with constructive possession. The charges against Ms. Gardner were later dismissed by the solicitor.

Gardner has sued the Berkeley County Sheriff's Office alleging false arrest/false imprisonment, malicious prosecution, defamation, negligence and gross negligence. The Sheriff's Office denies the allegations and asserts that it is entitled to summary judgment on all causes of action pursuant to state law and pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. 15-78-10 *et. seq.*

FACTS

Stephanie Gardner worked as a stripper at the Trophy Club in Florence. On the night before this incident, she asserts that she got a ride to work from a guy named Chris who she met on Facebook. (Deposition of Stephanie Gardner, 108/3-22, Exhibit A). During the ride, she says she

left her money bag with her ID in it in his car. (Gardner, 109/13-24, Ex. A). She then worked that night as a stripper and after work, decided to ride to North Charleston with a man she claims was the manager, Joey, in order to strip the next day at a different club to make more money. (Gardner, 110/3-111/2, Ex. A). While Gardner was aware of the rule amongst strippers that “you cannot work a good night unless you worked a bad night”. What this means is that you cannot work on a weekend unless you worked on a less busy week night. Gardner had not worked a week night at the North Charleston club, but says she believed Joey could get her in, because he was the manager there as well. Further, Gardner did not have her identification as she had left it in Chris’s car.

When they arrived at Joey’s house in Summerville, Gardner claims that is when she discovered that she did not have identification and Joey was unable to allow her to work at the club. Gardner then borrowed clothing from Joey’s girlfriend and looked for a place to “sit” until Joey got done with work and could drive her back to Florence. (Gardner, 38/16-23, Ex. A)

Gardner used Facebook to hunt down a former friend of hers, Samantha Eason. Although reluctant to agree, Samantha gave her the address for Gardner to go to her house. (Gardner, 40/4-15, Ex. A). Gardner got a ride to Samantha’s home and arrived while it was still daylight.¹ When she arrived, Samantha, Corey Gethers, Michael Molyneaux and Michael’s nephew were at the house. According to Gardner, she and Samantha “got dressed up” and got a ride to the gas station from Corey. (Gardner 42/9-16, Ex. A). They spent a few minutes inside, picking out snacks and beers. Gardner says she paid for them, but gave Samantha the money since she did not have her identification.

When they returned from the store, Gardner asked Michael for a phone charger, but the house did not have any power. (Gardner, 48/20-49-5, Ex. A). He ran a cord from the car battery

¹ According to www.sunrise-and-sunset.com Sunset on April 27, 2018 was at 7:59pm.

and Gardner asserts that she was on a “back porch” plugging her phone in while Samantha put the beers in the refrigerator “just keeping them cold” despite the lack of electricity. (Gardner, 49/6-12, Ex. A). Gardner asserts that she was on the back porch or the Lodestone residence, but photos of it show the ‘porch’ is actually an enclosed room with open access to the rest of the residence. Exhibit F). She and Samantha were drinking their beers when Michael ran back into the house saying “Cops got us surrounded.” (Gardner, 50/22-23, Ex. A). According to Gardner, she stayed where she was on the “porch”.

About that time, Michael ran into the bedroom and shut the door behind him. Officers entered the house from the front and the rear asking where Michael had gone. Samantha pointed toward the bedroom and officers entered and placed Michael under arrest. While in the bedroom, officers were able to observe marijuana on the bedside table in plain sight. Samantha acknowledged that it was hers. Officers then asked her for consent to search the home and she signed a consent. During the search, Officer Barlow located a supply of drugs under the couch cushion. He gave each person in the house the opportunity to claim them, but no one did. Therefore, each person who was in the house was placed under arrest and criminally charged with the drugs.

Samantha Eason and Stephanie Gardner were arrested and booked into the Berkeley County Detention center along with Corey Gethers, Nathan Pesek and Michael Molyneaux. While incarcerated, Gardner received a bond hearing, but did not bond out. After the bond hearing, she told her mother on the phone that an attorney had contacted her about representing her in a suit against the detention center. She said that he told her the longer she stayed in jail, the more money she would get in a civil suit, so she did not want anyone to bond her out until she got a bond reduction. While she was in the detention center, she was not involved in any fights and was not

assaulted. She made numerous phone calls, ordered canteen and had a relatively uneventful incarceration. Eventually, on June 11, 2018, she bonded out of jail. After all of the testing returned and the investigation was completed, the solicitor's office dismissed the charges against Gardner, Eason, Pesek and Molyneaux and prosecuted Gethers.

THE PLAINTIFF'S TWO ALTERNATE THEORIES OF RECOVERY AGAINST THE SHERIFF'S OFFICE.

The plaintiff initially alleged that Barlow had falsely arrested her and the Sheriff's Office had falsely imprisoned her by holding her on an invalid warrant. In the course of discovery, plaintiff now asserts (or has advised that she will assert) that the Sheriff's Office is also responsible for the arrest, because it controlled the task force that Barlow was a part of. The plaintiff has no support for this position.

The Sheriff's Office denies that Barlow was an employee of the Sheriff's Office during the time of this arrest. Barlow was employed by Moncks Corner Police Department. The agreement between the agencies sets out the duties and responsibilities for each agency with relation to officers assigned to task forces. (Agreement, Exhibit B). Under the agreement, Moncks Corner was the employer of Barlow at the time of the arrest. (Ex. B). Further, the agreement sets out that each party (agency) shall be solely responsible for the acts and omissions of their respective employees, officers and officials, and for any claims, lawsuits and payment of damages that arise from activities of its officers." (Ex. B #14). The paperwork was done on Sheriff's Office forms because it was made during the activities of the task force, but that does not make Barlow it's officer. The Sheriff's Office is only responsible for those deputies under its employ and at the time of this arrest, Barlow was not employed by the Sheriff's Office.

The second theory of recovery is that the Sheriff's office should not have held Gardner in the jail because, in her opinion, the warrant was not valid. She takes the position that the detention center had a duty to review the warrant and independently determine whether there was probable cause to hold her. If there was not, the detention center should have released her. There is no legal support for this position, as it would allow a detention officer to overrule a judge's decision.

Since these two theories deal with different aspects of this arrest and detention, out of an abundance of caution, the Sheriff's Office will address both, but asserts that (1) it is not liable for the arrest, since Barlow was not its employee, and (2) that there can be no liability for holding Ms. Gardner under a facially valid arrest warrant.

STANDARD OF REVIEW

"The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). "A motion for summary judgment shall be granted 'if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no *genuine* issue as to any *material* fact and that the moving party is entitled to a judgment as a matter of law.'" *Id.* (quoting Rule 56(c), SCRCF); *accord Trivelas v. S.C. Dep't of Transp.*, 348 S.C. 125, 130, 558 S.E.2d 271, 273 (Ct. App. 2001); *Wells v. City of Lynchburg*, 331 S.C. 296, 301, 501 S.E.2d 746, 749 (Ct. App. 1998); *see also Tupper v. Dorchester Cnty.*, 326 S.C. 318, 325, 487 S.E. 2d 187, 191 (1997). "Summary judgment is appropriate in those cases in which plain, palpable and undisputable facts exist on which reasonable minds cannot differ. It is not sufficient that one create an inference which is not reasonable or an issue of fact that is not genuine." *Thompkins v. Festival Ctr. Grp. I*, 306 S.C. 193, 194, 410 S.E.2d 593, 593-94 (Ct. App. 1991)

(citing *Main v. Corley*, 281 S.C. 525, 526–27, 316 S.E.2d 406, 407 (1984). Further, the United States Supreme Court has held that:

The mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no *genuine* issue of *material* fact. When opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment.

Scott v. Harris, 550 U.S. 372, 380 (2007) (internal quotations and citations omitted) (emphasis in original). Rule 56(e), SCRCP, further states:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.

See also Stoneledge at Lake Keowee Owners' Ass'n, Inc. v. Builders FirstSource-Southeast Group, 413 S.C. 630, 640, 776 S.E.2d 434, 439–40 (Ct. App. 2015); *Lord v. D & J Enters., Inc.*, 407 S.C. 544, 553, 757 S.E.2d 695, 699 (2014) (“Once the moving party carries its initial burden, the opposing party must do more than rest upon the mere allegations or denials of his pleadings, but must, by affidavit or otherwise, set forth specific facts to show that there is a genuine issue for trial.” (citing *Baughman v. Am. Tel. & Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991))); *Sides v. Greenville Hosp. Sys.*, 362 S.C. 250, 255, 607 S.E.2d 362, 364 (Ct.App.2004) (“Once the moving party carries its initial burden, the opposing party must come forward with specific facts that show there is a genuine issue of fact remaining for trial.” (citing *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545)).

LAW AND ARGUMENT

Plaintiff has brought the following claims against the Berkeley County Sheriff's Office: (1) False Arrest, (2) Malicious Prosecution, and (3) Defamation. The Berkeley County Sheriff's Office asserts that it is not responsible and further it is entitled to immunity pursuant to the South Carolina Tort Claims Act and is requesting an order of summary judgment on all causes of action and a dismissal of this action.

I. THE BERKELEY COUNTY SHERIFF'S OFFICE IS ENTITLED TO IMMUNITY FROM THE PLAINTIFF'S CLAIMS.

This case is governed by the South Carolina Tort Claims Act (hereafter "Tort Claims Act" or "the Act"). The Berkeley County Sheriff's Office is entitled to the immunities under the Tort Claims Act. The South Carolina Tort Claims Act, S.C. Code Ann. 15-78-10, *et. seq.* (Supp. 1997), which provides the exclusive remedy in tort against the Sheriff's Office, is a limited waiver of governmental immunity, *Moore v. Florence Sch. Dist. No.1*, 314 S.C. 335, 444 S.E.2d 498 (1994). *See also* S.C. Code Ann. 15-78-20(b) (Supp. 1997) (while acting within the scope of official duty, the State, its political subdivisions and employees are immune from liability and suit for any tort except as waived by the Tort Claims Act); S.C. Code Ann. 15-78-40 (Supp. 1997) ("The State, an agency, a political subdivision, and a governmental entity are liable for their torts in the same manner and to the same extent as a private individual under like circumstances, subject to the limitations upon liability and damages, and exemptions from liability and damages, contained herein.").

Importantly, the Act also spells out that the exceptions to the waiver of immunity "must be **liberally construed in favor of limiting the liability of the state.**" S.C. Code Ann. § 15-78-20(f)

(Emphasis added). Defendants assert several subsections of the Act that are applicable and assert that these are absolute immunities to suit.

A. THE DEFENDANT IS NOT LIABLE FOR A LOSS RESULTING FROM THE EXERCISE OF DISCRETIONARY JUDGMENT.

“The governmental entity is not liable for a loss resulting from . . . the exercise of discretionary judgment by a governmental employee or the failure to perform any act or service which is in the discretion or judgment of the employee.” § 15-78-60 (5). To establish “discretionary immunity,” the governmental entity must prove that the governmental employees, faced with alternatives, actually weighed competing considerations and made a conscious choice; furthermore, the governmental entity must show that in weighing the competing considerations and alternatives, it utilized accepted professional standards appropriate to resolve the issue before them. *Stephens v. CSX Transp., Inc.*, 415 S.C. 182, 781 S.E.2d 534 (2015); *Steinke v. S.C. Dep’t of Labor, Licensing and Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999); *Clark v. S.C. Dep’t of Public Safety*, 353 S.C. 291, 578 S.E.2d 16 (Ct. App. 2002), *aff’d*, 362 S.C. 377, 608 S.E.2d 573. A governmental entity is not liable for losses resulting from an exercise of discretion by its employees. *Faile v. South Carolina Dept. of Juvenile Justice*, 350 S.C. 315, 566 S.E.2d 536 (S.C. 2002).

Here, it should first be noted that Officer Barlow is the arresting officer and he is employed by Moncks Corner Police Department.² Therefore, there should be no liability on the Sheriff’s Office for the arrest. However, to the extent that the court may determine that the Sheriff’s Office may have some responsibility for the actions of the task force, the Sheriff’s Office asserts that it is clear that Brooks Barlow used discretion in making this arrest. The evidence is that he gave each

² In addition to the argument here, the Sheriff’s Office also incorporates by reference the positions taken by counsel for Moncks Corner with regard to discretionary immunity.

occupant the opportunity to claim possession of the drugs before making the arrest. While one person admitted ownership of a phone located near the drugs, no one admitted ownership of the drugs. Therefore under the law, based on the location of the drugs in the couch and the proximity of all persons to that couch, all persons had constructive possession of the drugs and were subject to arrest by Officer Barlow. Because of this, the Sheriff's Office, to the extent it is responsible for the arrest, is entitled to discretionary immunity.

B. THE DEFENDANT IS NOT LIABLE FOR A LOSS RESULTING FROM THE INSTITUTION OR PROSECUTION OF A JUDICIAL PROCEEDING.

The Sheriff's Office contends that it is immune from liability under the Act's immunity relating to "the institution or prosecution of a judicial proceeding." S.C. Code Ann. § 15-78-60(23). Again, the Sheriff's Office takes the position that it cannot be held liable for the acts of Barlow, pursuant to the agreement, but submits this argument if the court considers it responsible for the task force. For purposes of this Motion and subject to the position of the Sheriff's Office set forth above, the Sheriff's Office admits that it instituted a judicial proceeding against Ms. Gardner by arresting her. Because of that, her causes of action for false arrest and malicious prosecution fall squarely within this immunity. Without establishing that the Sheriff's Office "instituted or prosecuted" a claim against her, Gardner could not establish the first element of the malicious prosecution or false arrest claim. *See McCoy v. City of Columbia*, No. CA 5:10-132-JFA-KDW, 2013 WL 936607, at *27 (D.S.C. Jan. 16, 2013), *report and recommendation adopted in part, rejected in part*, 929 F. Supp. 2d 541 (D.S.C. 2013). The Sheriff's Office is entitled to absolute immunity for such.

C. THE DEFENDANT IS NOT LIABLE FOR A LOSS RESULTING FROM THE METHOD OF PROVIDING POLICE PROTECTION.

“The governmental entity is not liable for a loss resulting from civil disobedience, riot, insurrections, or rebellion or the failure to provide [or] the method of providing police or fire protection”.³ S.C. Code Ann. § 15-78-60(6). The Act specifically exempts the Police from liability concerning the methods which they choose to utilize to provide police protection. Here, the officers in the joint task force were serving arrest warrants for people who were wanted by law enforcement for criminal activity. The officers arrived at the Lodestone residence as part of their police protection duties and therefore the Sheriff’s Office is entitled to immunity. Even were [this court] to accept all of [Gardner’s] assertions as true, it would not remove the immunity which the legislature has bestowed on the Police in this situation. *Huggins v. Metts*, 371 S.C. 621, 624–25, 640 S.E.2d 465, 467 (Ct. App. 2006).

D. THE SHERIFF’S OFFICE IS NOT LIABLE FOR A LOSS RESULTING FROM THE ACT OR OMISSION OF A PERSON OTHER THAN AN EMPLOYEE.

“The governmental entity is not liable for a loss resulting from . . . an act or omission of a person other than an employee including but not limited to the criminal actions of third persons.” § 15-78-60 (5). In this case, there are multiple acts/omissions of persons other than employees. Stephanie Gardner’s acts in being present in a location where a plethora of drugs were located at the same time law enforcement was present to arrest Mr. Molyneaux is one act. The act of Moncks Corner Officer Brooks Barlow in arresting Ms. Gardner is a second act. The omission was from whoever actually owned the drugs that were found, whether it be Ms. Gardner, Mr. Gethers or

³ The Court of Appeals has previously held this statute contains a scrivener's error. The conjunctive “or” is missing. Therefore, the statute is properly read as the governmental entity is not liable for the failure to provide **or** the method of providing police or fire protection. *Wells v. City of Lynchburg*, 331 S.C. 296, 304, 501 S.E.2d 746, 750 (Ct.App.1998).

someone else who refused to acknowledge ownership when asked by law enforcement. These are all acts and omissions which may have resulted in the alleged losses of the plaintiff for which the Sheriff's Office is not liable. The only act of the Sheriff's Office was to hold Gardner in the detention center on facially valid arrest warrants and based on other arguments in this brief, the Sheriff's Office is entitled to immunity and/or summary judgment for that action.

II. FALSE ARREST/IMPRISONMENT IS NOT PROPER IN THIS MATTER AS THE SHERIFF'S OFFICE DID NOT MAKE THE ARREST AND EVEN IF IT HAD, THE ARREST IS SUPPORTED BY A FACIALLY VALID WARRANT.

A. THE SHERIFF'S OFFICE DID NOT MAKE THE ARREST

As set forth above, the arrest in this case was made by Officer Brooks Barlow, who is employed by the Moncks Corner Police Department. Even though he was a part of a task force that included Sheriff's Office employees, he was still an employee of the Moncks Corner Police Department. (Ex. B #14). Therefore, as the Sheriff's Office does not employ Barlow, it is not responsible for any arrests that he may make and is not a proper defendant for the claim of false arrest/imprisonment.

B. THERE IS NO FALSE ARREST WITH A FACIALLY VALID WARRANT

If the court does consider Brooks Barlow to be an agent of the Sheriff's Office for purposes of the arrest, this cause of action should still be dismissed. Generally, a police officer who arrests an individual will not be liable for false arrest or false imprisonment if the arrest was supported by probable cause. *See Jones v. City of Columbia*, 301 S.C. 62, 389 S.E.2d 662, 663 (1990). In this case, Plaintiff claims that the officer lacked probable cause to arrest her, and therefore, the restraint was unlawful. Plaintiff has the burden of proving lack of probable cause. *Jackson v. City of Abbeville*, 366 S.C. 662, 666, 623 S.E.2d 656, 658 (S.C.App.2005). When a

person is arrested on the strength of a facially valid warrant, there is no false arrest as a matter of law. (Arrest Warrants, Exhibit C). False arrest and false imprisonment are one in the same with the same elements. *Jones v. City of Columbia*, 301 S.C. 62 64, 389 S.E.2d 662, 663 (1990); *Jones by Robinson v. Winn-Dixie Greenville, Inc.*, 318 S.C. 171, 175, 456 S.E.2d 429, 432 (Ct. App. 1995). “It has been definitely decided in this jurisdiction that where one is ‘properly arrested by lawful authority,’ ‘an action for false imprisonment cannot be maintained against the party causing the arrest.’” *Bushardt v. United Inv. Co.* 121 S.C. 324 330, 113 S.E.637, 639 (1922); *see also Porterfield v. Lott*, 156 F.3d 563, 568 (4th Cir. 1998)(accord). “The facially valid inquiry is not an invitation to look beyond the language of the warrant, which need only contain information given under oath that “plainly and substantially” sets forth the offense charged.” S.C. Code Ann. §22-3-710; *Carter v. Bryant*, Op. 5710, S.C. Ct. App. 2020. The only allegation is that there was a “factual misrepresentation” that Gardner was an occupant. The dictionary defines “occupant” as a person who is present in a place at a given time.⁴ Per the Complaint, Gardner was present, having arrived almost an hour prior (Compl. ¶13). The warrant is facially valid and therefore any claim for false arrest/false imprisonment should be dismissed.

C. THE DETENTION CENTER DID NOT FALSELY IMPRISON THE PLAINTIFF.

Plaintiff alleges that the Sheriff’s Office falsely imprisoned Gardner by “keeping her in their custody on a warrant that on its face did not show a violation of law in violation of her

⁴ The court should take judicial notice of the definition of “occupant”, as it is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. *See* Rule 201(b), SCRE; *see also Masters v. Rodgers Dev. Group*, 283 S.C. 251, 321 S.E.2d 194 (Ct. App. 1984). Further it is requested by a party who has supplied the necessary information. Rule 201 (d), SCRE. Additionally, *See, e.g., Papasan v. Allain*, 478 U.S. 265, 268 n. 1 (1986) (“Although this case comes to us on a motion to dismiss ..., we are not precluded in our review of the complaint from taking notice of items in the public record”).

<https://www.google.com/search?q=dictionary&oq=dictionary&aqs=chrome..69i57j0l4j69i60l2j69i61.1391j0j4&sourceid=chrome&ie=UTF-8#dobs=occupant>

rights...” (Compl. ¶20). Plaintiff would have the detention center be responsible to review the arrest warrants for every inmate and if, in the staff’s opinion, there was not sufficient probable cause stated in the affidavit for the arrest, release that person. Such is not the law and would turn due process on its head. The detention center does not have the power or authority to release any inmate, under any circumstances, without a court order. There are also limited bases upon which the detention center can refuse an inmate—most of which are medically related, and none of which rely on a “probable cause review” of the warrant. It is axiomatic that a detention center employee would not have a better understanding of the facts surrounding an arrest, than the officer who made the arrest, or for that matter, the judge who considered the facts as presented by said arresting officer and signed the arrest warrant.

Plaintiff takes the position that anyone reading the warrant for her arrest would automatically know that it did not contain probable cause. This is a flawed position for several reasons. First, consider the language used in the warrant for Possession with Intent to Distribute Drugs, Schedule I and II:

While located on a consent search of the said residence, the defendants was an occupant, Law Enforcement officers located 13 gg of presumptive Methamphetamine, 14.9 gg of presumptive cocaine, .4 gg of presumptive Heroin, and .3 gg of presumptive Cocaine Base under a couch cushion in the living room of the residence. (JA-19)

In order to even evaluate the statements in the warrant, a person would first have to actually review the warrant. Here, Plaintiff has not even alleged that the detention center ever saw the warrant, or that there is any requirement under the law that a detention officer see and review the warrant before accepting an inmate. Such would be impractical as inmates are received twenty-four hours a day.

Second, a person would have to have some knowledge of the facts of the encounter, without which any number of possible questions arise: *Was it actually a consent search? Who gave consent? Were the drugs under the couch cushion? Were the drugs tested to show presumptive positives? Are the weights correctly listed? Who, if anyone, else was charged?* These are not questions that the detention center is in a position to answer, or even to ask. The incident report and other information does not come to the jail, nor do the staff have access to review such information.

Third, the detention officers would have to have the authority to overrule a Judge with regard to his or her determination that a warrant is proper. Plaintiff cannot provide case law in support of her position that the detention center has such authority, because there is none. To give a detention officer the ability to question the decision of a judge would undermine the very protections afforded by due process. Warrants are to be considered and issued by detached magistrates. The only way a warrant can be struck down is by the same, or another judge. There is no process by which a county jail or detention center can invalidate an arrest warrant and release an inmate on its own decision-making. Therefore, the Complaint does not allege a cause of action against the Sheriff's Office with regard to the detention center.

This case relates to the duty of a jailer when presented with an arrestee to be booked into that jail and whether s/he can release an inmate based on the officer's own determination of a lack of probable cause in an arrest warrant. The answer is a resounding no.

III. THERE WAS NO MALICIOUS PROSECUTION OF THE PLAINTIFF.

Plaintiff's Second Cause of Action is for Malicious Prosecution. In order to recover in an action for malicious prosecution, the plaintiff must show (1) the institution or continuation of

original judicial proceedings, either civil or criminal; (2) by, or at the instance of, the defendant; (3) termination of such proceeding in the plaintiff's favor; (4) malice in instituting such proceedings; (5) lack of probable cause; and (6) resulting injury or damage. *Ruff v. Eckerd's Drugs, Inc.*, 265 S.C. 563, 566, 220 S.E.2d 649, 651 (1975). An action for malicious prosecution fails if the plaintiff cannot prove each of the required elements by a preponderance of the evidence, including malice, termination in his favor and lack of probable cause. *Law v. S.C. Dep't of Corr.*, 368 S.C. 424, 435, 629 S.E.2d 642, 648 (2006).

Officer Brooks Barlow of the Moncks Corner Police Department made the arrest as part of a task force. There is nothing in the Complaint to suggest that any employee of the Berkeley County Sheriff's Office took part in the decision to arrest her or in the actual arrest. Defendant Barlow applied for the warrant and received the warrants signed by a judge. (Exhibit C). Therefore, there is nothing to suggest that the Berkeley County Sheriff's Office "instituted" judicial proceedings or "prosecuted" the plaintiff. Even if the Berkeley County Sheriff's Office did institute or prosecute the plaintiff, it is entitled to absolute immunity under the South Carolina Tort Claims Act. S.C. Code 15-78-60 (23) set forth more fully above.

In the unusual circumstance that the Sheriff's Office is considered responsible for the acts of Barlow and the court rules that it is not entitled to immunity, the Sheriff's Office would still be entitled to summary judgment on Gardner's malicious prosecution claim because Gardner's arrest was supported by probable cause. One element of the tort of malicious prosecution is the lack of probable cause. *Law v. S.C. Dep't of Corr.*, 368 S.C. 424, 629 S.E.2d 642, 648 (2006). Thus, the existence of probable cause as set forth above to support Gardner's arrest defeats her claim for malicious prosecution. Therefore, plaintiff cannot meet her burden with respect to the fourth or

fifth element, and the further the Sheriff's Office is entitled to immunity based on the first element to be proven. This cause of action should be dismissed.

IV. THERE IS NO DEFAMATORY STATEMENT AND PLAINTIFF CANNOT PROVE THE ELEMENTS OF DEFAMATION AGAINST THIS DEFENDANT.

The elements of defamation are 1) defamatory language; 2) of or concerning the plaintiff; 3) publication by defendant to a third party; and 4) damage to the plaintiffs reputation. In this case, the plaintiff alleges that through a Facebook posting the Sheriff's Office "falsely accused Gardner of criminal acts" "without a reasonable basis for believing the charges to be true..." Compl. ¶24. The "accusation" was a statement that Ms. Gardner was arrested and charged with several drug related crimes. During her deposition, Ms. Gardner admitted that the statements in the Facebook posting were, in fact, true. Depo. Gardner, 87/13-89/15.

Q. Okay. And then on the second page it has, about halfway down, Gardner, comma, Stephanie, colon, Lester Road, comma, Dillon, comma, 32-year-old. Is that true, or was it true as of May 1 of 2018?

A. It was.

Q. And were you charged with trafficking and cocaine, 10 grams or more but less than 28 grams, 1st offense?

A. Yeah. My family saw this.

Q. And were you charged with trafficking in meth or cocaine base, 10 grams or more but less than 28 grams, 1st offense?

A. I was.

Q. And were you charged with possession of less than one gram of meth or cocaine base, 1st offense?

A. I was.

Q. And were you charged with MDP, narcotic drugs in Schedule I, LSD, and Schedule II, 1st offense?

A. I was.

Q. So those are all true statements?

A. Yes.

(Gardner 88/19 to 89/15, Ex. A)

(Facebook Post, Exhibit D)

Truth is a complete defense to defamation.

The Plaintiff has failed to establish the proper elements of a defamation claim. Namely, Plaintiff has failed to allege that the defendant made a defamatory statement. Rather, she says that having truthful information about her actual criminal charges listed on the Facebook page resulted in damage to her reputation. (Compl. ¶24). Finally, Plaintiff cannot show that being arrested damaged her reputation, as this is far from her only arrest and further not her first or only incarceration.

Even if Plaintiff alleged the proper elements of defamation, the publication of the information regarding this crime is privileged. The South Carolina Court of Appeals has addressed the requirements of defamation in the context of privileged communications and has held that in these circumstances, the plaintiff must show (1) a false and defamatory statement was made; (2) the unprivileged publication was made to a third party; (3) the publisher was at fault; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. *McBride v. Sch. Dist. of Greenville Cnty.*, 389 S.C. 546, 559-60, 698 S.E.2d 845, 852 (Ct. App. 2010). “In a defamation action, the defendant may assert the affirmative defense of conditional or qualified privilege. Under this defense, one who publishes defamatory matter concerning another is not liable for the publication if (1) the matter is published upon an occasion that makes it conditionally privileged, and (2) the privilege is not abused.” *Williams v. Wright*, No. 6:10-cv-2844-TMC-JDA, 2011 WL 6700373, at *8 n.12 (D.S.C. Nov. 2, 2011) (quoting *Swinton Creek Nursery v. Edisto Farm Credit, ACA*, 334 S.C. 469, 484, 514 S.E.2d 126, 134 (1999)). To determine whether a communication was qualifiedly privileged,

regard must be had to the occasion and to the relationship of the parties. When one has an interest in the subject matter of a communication, and the person (or persons) to whom it is made has a corresponding interest, every communication honestly made, in order to protect such common interests, is privileged by reason of the occasion. The statement, however, must be such as the occasion warrants, and must be made in good faith to protect the interests of the one who makes it and the persons to whom it is addressed.

Bell v. Bank of Abbeville, 208 S.C. 490, 493-94, 38 S.E.2d 641, 643 (1946). South Carolina courts have recognized a qualified privilege for communications protecting or promoting law enforcement interests. 20 S.C. Jur. *Libel and Slander* § 55 (1993) (citing *Switzer v. Am. Ry. Express Co.*, 119 S.C. 237, 112 S.E. 110 (1922)). As a general rule, a defamatory statement is qualifiedly privileged if made by one who “reasonably believes that some important interest of his own or a third party is threatened.” *Abofreka v. Alston Tobacco Co.*, 288 S.C. 122, 125, 341 S.E.2d 622, 624 (1986). Further, a communication is privileged where it is published in the discharge of a legal, social, or moral duty. *Montgomery Ward & Co. v. Watson*, 55 F.2d 184, 187 (4th Cir. 1932); *Flowers v. Zayre Corp.*, 286 F. Supp. 119, 121 (D.S.C. 1968); *Conwell v. Spur Oil Co.*, 240 S.C. 170, 178-79, 125 S.E.2d 270, 274-75 (1962).

In our case, if any defamatory statement was made (which is expressly denied), any such statement would have been made in the discharge of a legal duty to enforce the law. Information about arrests is public. Any citizen can obtain this information as can the media. The Sheriff’s Office provided this information based on the interest it received from both its citizenry and the media. (Deposition Jeremy Baker, 7/8-12; 8/6-10; 15/23-16/8, Exhibit E). This qualifies the reports as privileged statements. *See Abofreka, supra*. Based on all of the above, most importantly - there was no defamatory statement made, but further, Plaintiff cannot establish the requisite elements to

prove defamation. Even if she could, the alleged defamatory statements were privileged. Therefore, any claim for defamation should be dismissed with prejudice.

CONCLUSION

For all of the reasons set forth in this motion, memorandum and supporting documents and based on the law of the State of South Carolina, the Berkeley County Sheriff's Office asks this court to grant summary judgment to the defendant for False Arrest, Malicious Prosecution, and Defamation, and dismiss this matter with prejudice.

Respectfully submitted,

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Sheriff's Office

March 29, 2021
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF BERKELEY	)	IN THE COURT OF COMMON PLEAS
		2020-CP-08-00773
Stephanie Michelle Gardner	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
Berkeley County Sheriff's Office, and	)	PLAINTIFF'S MEMORANDUM
Town of Moncks Corner	)	IN OPPOSITON TO DEFENDANT'S
	)	MOTIONS FOR SUMMARY
Defendants.	)	JUDGMENT

FACTS: Late on the evening of April 27, 2018 Stephanie Gardner when to the residence of her friend Samantha Eason on Loadstone Court in Moncks Corner because see needed a place to stay overnight. Eason was in the process of moving out and the residence had no electricity. Eason and Gardner left the residence shortly after Gardner arrived and went to a store to buy beer. Gardner and Eason returned to the residence and were trying to recharge a phone from a battery at the rear of the residence. Shorty after their return members of the Berkley County Sheriff's Office Drug Enforcement Community Action Team including Brooks Barlow arrived to serve a family court bench warrant on Michael Molyneaux. When the Law Enforcement officers arrived Molyneaux was outside working on a motor vehicle. Molyneaux ran inside the residence through the front door and locked himself in a bathroom. Members of the task force include Barlow entered the residence in pursuit of Molyneaux. When Barlow entered the rear of the residence, he found Eason, Gardner, Cory Gethers, and Nathan Pesek around the battery being used to charge

the phones. In response to a question by Barlow, Eason stated that the residence was her home. Eason later identified the bedroom as being shared by her and Molyneaux. Eason consented to a search of her home. There was marijuana found in the Eason bedroom and she told Barlow it belonged to her. No one was charged with possession of the marijuana belonging to Eason.

Lt. Ham discovered drugs hidden in a couch along with a phone belonging to Gethers. Barlow confronted Plaintiff, Eason, Gethers and Pesek regarding the drugs found in the couch and told them "since no one claimed ownership of the plastic bags containing the said substance they would all be arrested due to it being in a common area of the residence."

Gardner, Eason, Pesek, Gethers, and Molyneaux were then all arrested at the scene by Barlow and charged with possession with intent to distribute the drugs found in the couch. After the arrests identical warrants were obtained by the defendants for all those arrested.

Gardner's bonds amounts were set at a total of \$210,000.00. She was jailed for 45 days until her bond was drastically reduced and it was 180 day from her arrest until the charges were dismissed.

Short after her arrest the Berkeley County Sheriff Office posted her name and the charges on Facebook accusing her of being a drug trafficker. The incident report is attached as an exhibit.

THE ARREST, DETENTION AND PROSECUTION.

Gardner was arrested, detained, and prosecuted by the Defendants for possession of illegal drugs without probable cause. The Defendants had no reason to believe Gardner ever possessed the drugs. Defendants do not argue that Gardner had actual physical possession of the drugs. They rely on constructive possession. Possession requires evidence that the accused had dominion and control over the thing allegedly possessed or had the right to exercise dominion and control over it. All the Defendants have produced is that Gardner was present at a location she did not control when hidden drugs were found. Mere presence in the area where drugs are found does not constitute constructive possession. *State v. Brown*, 267 S.C. 311, 227 S.E.2d 674 (S.C. 1976), *State v. Ballenger*, 454 S.E.2d 355, 317 S.C. 364 (S.C. App. 1995), *U.S. v. Dunlap*, 28 F.3d 823 (8th Cir. 1994) *State v. Muhammed*, 524 S.E.2d 637, 338 S.C. 22 (S.C. App. 1999) *State v. Ellis*, 263 S.C. 12, 207 S.E.2d 408 (S.C. 1974) *United States v. Blue*, 808 F.3d 226 (4th Cir., 2015)

United States v. Dunlap, supra, is cited because it was cited in *State v. Muhammed*. In *Dunlap*, the co-defendant Coleman was found present when police executed a search warrant on Dunlap's apartment. Coleman had arrived at the apartment shortly before the police. Coleman's conviction for possession was

reversed. In *Muhammed*, the defendant, who was suspected of dealing had a key to the room where the drugs were found, and the Court found that was evidence that satisfied the control test for constructive possession.

Additionally, there is no evidence that Gardner had control of the bedroom where the marijuana was found or that she had any knowledge of Eason's marijuana.

SOUTH CAROLINA TORT CLAIMS ACT

SECTION 15-78-40. Tort liability of State, agency, political subdivision, or governmental entity, generally.

The State, an agency, a political subdivision, and a governmental entity are liable for their torts in the same manner and to the same extent as a private individual under like circumstances, subject to the limitations upon liability and damages, and exemptions from liability and damages, contained herein.

Gist v. Berkeley County Sheriff's Dept., 336 S.C. 611, 521 S.E.2d 163 (S.C. App. 1999), *Wortman v. Spartanburg*, 310 S.C. 1, 425 S.E.2d 18 (S.C. 1992)

Defendants arrested Gardner on the belief she could have had possession without any facts to support a contention that she did have dominion and control over the drugs. Speculation is not probable cause. There was no urgency to arrest defendant and Defendants could have waited until they did have more than speculation before an arrest.

BARLOW WAS ACTIING ON BEHALF OF THE DEFENDANTS.

Barlow was employed by the Town of Moncks Corner and was assigned to the Berkeley County Sheriff's Office Task Force at the time of the arrest. He was

performing duties normally performed by the Sheriff's office. He prepared the incident report on behalf of the Sheriff's Department and was supervised by Sheriff's office employee. Deposition of Barlow p.9 l. to p. 13 l. 4

DEFAMATION

The Sheriff's office published on Facebook that Gardner had been arrested by them for trafficking in drugs. The gist of this would be, to the public, a factual claim that Gardner was a drug trafficker.

The Defendant Sheriff's Office claims this is not libel because the statement that the Plaintiff had been arrested was true. The Sheriff's Office made the arrest and was not reporting on something a third party did. There is no fair reporting privilege for one's own statement. It is as if someone swore out a warrant against a neighbor then published to the other neighbors that the defamed party has been arrested for a crime. The neighbors would believe that the person bringing the warrant had special knowledge of the defamed party's guilt and a claim that it was true that the defamed party had been arrested would be unavailing as a defense. For the defense of truth to apply, however, the truth must be as broad as the defamatory imputation or 'sting' of the statement. *Richardson v. STATE-RECORD COMPANY, INC.*, 330 S.C. 562, 499 S.E.2d 822 (S.C. App. 1998)

A claim for privilege does not survive unnecessary publication. *Kunst v. Loree*, 424 S.C. 24, 817 S.E.2d 295 (S.C. App. 2018)

CONCLUSION

The Defendant have failed to establish the absence of material issues of fact, nor have they established a privilege as a matter of law. The motions should be denied.

April 1, 2021

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STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF BERKELEY	)	IN THE COURT OF COMMON PLEAS
		2020-CP-08-00773
Stephanie Michelle Gardner	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
Berkeley County Sheriff's Office, and	)	MOTION TO RECONSIDER
Town of Moncks Corner	)	SUMMARY JUDGMENT
	)	IN FAVOR OF TOWN OF
Defendants.	)	MONCKES CORNER

The Plaintiff moves before the Court for reconsideration of the Order granting Summary Judgment to the Town of Moncks Corner on the following grounds:

1. The Court relies on the facts that Samantha Eason was smoking marijuana in the presence of the investigation officers.

2. That the Court's decision is based on a misapprehension of the law of constructive possession and the arresting officer's good faith basis for believing that Plaintiff had constructive possession of the marijuana and the drugs for which she was charged.

a. There is no evidence that Plaintiff had dominion and control of the "minor amount of marijuana possessed by Eason.

B. The marijuana possessed by Eason provides no basis for believing Plaintiff exercised dominion and control of the drugs for which she was charged.

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April 1, 2021

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STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF BERKELEY	)	IN THE COURT OF COMMON PLEAS
		2020-CP-08-00773
Stephanie Michelle Gardner	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
Berkeley County Sheriff's Office, and	)	MOTION TO RECONSIDER
Town of Moncks Corner	)	SUMMARY JUDGMENT
	)	IN FAVOR OF BERKELEY COUNTY
Defendants.	)	SHERIFF'S OFFICE

The Plaintiff moves before the Court for reconsideration of the Order granting Summary Judgment to Berkeley County Sheriff's Office on the following grounds:

1. That the Court's decision is based on a misapprehension of the law of constructive possession and the arresting officer's good faith basis for believing that Plaintiff had constructive possession of the marijuana and the drugs for which she was charged.

a. There is no evidence that Plaintiff had dominion and control of the "minor amount of marijuana possessed by Eason.

b. The marijuana possessed by Eason provides no basis for believing Plaintiff exercised dominion and control of the drugs for which she was charged.

3. The Court failed to view the facts and inference in favor of the non-moving party in ruling that this defendant is not responsible for the actions of Barlow.

4. The Court erred in granting summary judgement on the false arrest claim because Plaintiff was arrested without a warrant by Barlow acting on its behalf.

5. An arrest and prosecution without probable cause is not the institution or a judicial proceeding under the tort claims act.

April 1, 2021

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STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF BERKELEY	)	IN THE COURT OF COMMON PLEAS
		2020-CP-08-00773
Stephanie Michelle Gardner	)	
	)	
Plaintiff,	)	
	)	MEMORANDUM IN
vs.	)	SUPPORT OF
Berkeley County Sheriff's Office, and	)	MOTION TO RECONSIDER
Town of Moncks Corner	)	SUMMARY JUDGMENT
	)	IN FAVOR OF TOWN OF
Defendants.	)	MONCKS CORNER

The Plaintiff has moved before the Court for Reconsideration of its order granting Summary Judgment to Defendant Town of Moncks Corner and files this memorandum in support of her motion:

1. The Court relies on the facts that Samantha Eason was smoking marijuana in the presence of the investigating officers.

The Court states in its order that the officers observed Samantha Eason smoking marijuana at the Lodestone Court address (Order page 2). There is nothing in the record to support this. Barlow testified that a hand rolled cigarette was found on the nightstand and dresser of the bedroom shared by Eason and Molyneaux and that the marijuana belonged to her. (Barlow Deposition page 21). Barlow described the marijuana as a minor amount. (Barlow Deposition page 34). Plaintiff testified that she did not see the marijuana until Eason brought it out to the law enforcement officers. (Gardner deposition pages 111-112)

2. That the Court's decision is based on a misapprehension of the law of constructive possession and the arresting officer's good faith basis for believing that Plaintiff had constructive possession of the marijuana and the drugs for which she was charged.

Barlow testified that he believed that he had probable cause based on *State v. Muhammed* to arrest Gardner because she was near where the illegal drugs were found and therefore had the "ability to have dominion and control." Deposition of Barlow page 27.

State v. Muhammed, 524 S.E.2d 637, 338 S.C. 22 (S.C. App. 1999) actually holds that:

"[C]onstructive possession occurs when the person charged with possession has dominion and control over either the drugs or the premises upon which the drugs are found." *State v. Ballenger*, 322 S.C. 196, 199, 470 S.E.2d 851, 854 (citing *State v. Ellis*, 263 S.C. 12, 207 S.E.2d 408 (1974)). Possession requires more than mere presence. The State must show the defendant had dominion or control over the thing allegedly possessed or had the right to exercise dominion or control over it. *State v. Ellis*, 263 S.C. 12, 23, 207 S.E.2d 408, 413 (1974) (citing *State v. Tabory*, 260 S.C. 355, 196 S.E.2d 111 (1973)).

State v. Muhammed 338 S.C. 22 at page 27

In *State v. Ballenger*, 454 S.E.2d 355, 317 S.C. 364 (S.C. App. 1995) the Court held

Proof of constructive possession requires a showing that the accused had dominion and control over either the drugs or the premises upon which the drugs were found, as well as knowledge of the presence of the drugs. *State v. Hudson*, 277 S.C. 200, 284 S.E.2d 773 (1981). Mere presence in the area where drugs are found does not constitute constructive possession. *State v.*

Kimbrell, 294 S.C. 51, 362 S.E.2d 630 (1987); *State v. Tabor*, 260 S.C. 355, 196 S.E.2d 111 (1973). Applying these standards, we hold that the record does not contain evidence of constructive possession.

317 S.C. 364 at 267

Barlow acknowledged that Eason was the person in control of the premises and especially of the bedroom where the marijuana was found. Deposition of Barlow
Page 32

a. There is no evidence that Plaintiff had dominion and control of the “minor amount of marijuana possessed by Eason.

Barlow acknowledged that the marijuana found by him belonged to Eason and had no evidence that Gardner was even aware of its existence prior to the arrival of the officers. This court is required to view this evidence in the light most favorable to the non-moving party.

b. The marijuana possessed by Eason provides no basis for believing Plaintiff exercised dominion and control of the drugs for which she was charged.

As stated above the Defendant did not have probable cause to believe that Plaintiff had constructive possession of the marijuana and that therefore provides no basis for believing that her presence near the hidden drug was evidence of constructive possession of those hidden drugs.

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April 1, 2021

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BERKELEY	)	2020-CP-08-00773
Stephanie Michelle Gardner	)	
	)	
Plaintiff,	)	
	)	MEMORANDUM IN SUPPORT OF
vs.	)	MOTION TO RECONSIDER
Berkeley County Sheriff's Office, and	)	SUMMARY JUDGMENT
Town of Moncks Corner	)	IN FAVOR OF BERKELEY
	)	COUNTY SHERRIFF'S OFFICE
Defendants.	)	

The Plaintiff has moved before the Court for Reconsideration of its order granting Summary Judgment to Defendant Berkeley County Sheriff's Office and files this memorandum in support of her motion:

1. That the Court's decision is based on a misapprehension of the law of constructive possession and the arresting officer's good faith basis for believing that Plaintiff had constructive possession of the marijuana and the drugs for which she was charged.

Barlow testified that he believed that he had probable cause based on State v. Muhammed to arrest Gardner because she was near where the illegal drugs were found and therefore had the "ability to have dominion and control." Deposition of Barlow page 27.

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Proof of constructive possession requires a showing that the accused had dominion and control over either the drugs or the premises upon which the drugs were found, as well as knowledge of the presence of the drugs. *State v. Hudson*, 277 S.C. 200, 284 S.E.2d 773 (1981). Mere presence in the area where drugs are found does not constitute constructive possession. *State v. Kimbrell*, 294 S.C. 51, 362 S.E.2d 630 (1987); *State v. Tabory*, 260 S.C. 355, 196 S.E.2d 111 (1973). Applying these standards, we hold that the record does not contain evidence of constructive possession.

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Barlow acknowledged that Eason was the person in control of the premises and especially of the bedroom where the marijuana was found. Deposition of Barlow

Page 32

a. There is no evidence that Plaintiff had dominion and control of the "minor amount of marijuana possessed by Eason.

Barlow acknowledged that the marijuana found by him belonged to Eason and had no evidence that Gardner was even aware of its existence prior to the arrival of the officers. This court is required to view this evidence in the light most favorable to the non-moving party.

b. The marijuana possessed by Eason provides no basis for believing Plaintiff exercised dominion and control of the drugs for which she was charged.

As stated above the Defendant did not have probable cause to believe that Plaintiff had constructive possession of the marijuana and that therefore provides no basis for believing that her presence near the hidden drug was evidence of constructive possession of those hidden drugs.

3. The Court failed to view the facts and inference in favor of the non-moving party in ruling that this defendant is not responsible for the actions of Barlow.

The Plaintiff is not bound by the agreement between the two defendants. She is not a party to the agreement. This Court at this time is required to view the evidence and the inferences there from in the light most favorable to the non-moving party. The evidence shows that Barlow was a participant in a warrant sweep organized by BCSO serving warrants that were the responsibility of BCSO. That he acted as a special deputy for BCSO. Deposition of Barlow page 11. He prepared a incident of report for BCSO under the supervision of and employee of the BCSO. The warrants were prepared at the direction of BCSO, signed by Barlow and listed BCSO as the prosecuting agency. This is sufficient to raise a jury issue as to the involvement of the BCSO.

4. The Court erred in granting summary judgement on the false arrest claim because Plaintiff was arrested without a warrant by Barlow acting on its behalf.

Wortman v. Spartanburg, 310 S.C. 1, 425 S.E.2d 18 (S.C. 1992)

5. An arrest and prosecution without probable cause is not the institution or a judicial proceeding under the tort claims act.

Viewing the facts in the light most favorable to the Plaintiff she was arrested for being found in proximity to hidden drugs in a location not under her control. The Supreme Court of South Carolina interpreted the provision of the South Carolina Tort Claims Act in *Wortman v. Spartanburg*, 310 S.C. 1, 425 S.E.2d 18 (S.C. 1992). The Plaintiff in *Wortman* was for possession of lottery tickets. Later a warrant was obtained from a magistrate. The Supreme Court held that immunity did not apply because possession of lottery tickets was not a crime. Here, Plaintiff was arrested for being in proximity to drugs that were not in her possession and this is likewise not a crime. Allowing this action to go forward server right of citizens to be free of arrests without probable cause and yet protects law enforcement when probable cause exists. See also *Gist v. Berkeley County Sheriff's Dept.*, 336 S.C. 611, 521 S.E.2d 163 (S.C. App. 1999).

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May 6, 2021

STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2020-CP-08-00773

STEPHANIE MICHELLE GARDNER,

Plaintiff,

v.

BERKELEY COUNTY SHERIFF'S OFFICE
and TOWN OF MONCK'S CORNER,
Defendants.

**BERKELEY COUNTY SHERIFF'S
OFFICE'S OPPOSITION TO
PLAINTIFF'S MOTION TO
ALTER OR AMEND**

NOW COMES the Berkeley County Sheriff's Office, after receiving the Plaintiff's motion to reconsider, alter or amend the order granting summary judgment to this defendant, and hereby submits this response in opposition.

STANDARD

Rule 59(e), SCRPC, permits a party to move the court to alter or amend its judgment. Although it uses the language "alter or amend" a "motion under Rule 59(e) long has been viewed as a "motion for reconsideration" despite the absence of those words from the rule." *Elam v. S.C. DOT*, 361 S.C. 9, 21, 602 S.E.2d 772, 779 (2004). The "purpose of [a motion under] Rule 59(e), SCRPC, to alter or amend the judgment is to request the trial judge to "reconsider matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). A motion to alter or amend is not an opportunity for a party to reargue its case. *See Collins Music Co., Inc. v. IGT*, 353 S.C. 559, 579 S.E.2d 524 (Ct. App. 2002). A party cannot use a motion to reconsider, alter or amend a judgment to present an issue that could have been raised prior to the judgment, but was not. *See Johnson v. Sonoco Products Co.*, 381 S.C. 172, 672 S.E.2d 567

(2009); *Poch v. Bayshore Concrete Products/South Carolina, Inc.*, 386 S.C. 13, 686 S.E.2d 689 (Ct. App. 2009).

South Carolina law on Rule 59(e) looks to the federal rules of civil procedure and federal courts' interpretations of Rule 59(e) issues because "Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical." *Elam*, 361 S.C. at 22, 602 S.E.2d at 779. Both contain only the "alter or amend" language. "However, federal courts consider it appropriate for a party to make a "motion for reconsideration" under Rule 59(e) even though the rule mentions only a "motion to alter or amend a judgment." *Id.* Furthermore, "the United States Supreme Court explicitly has described a motion under federal Rule 59(e) as one which involves *reconsideration* of matters properly encompassed in a decision on the merits." *Id.*

The Fourth Circuit Court of Appeals held, "[i]n general 'reconsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly.'" *Pacific Ins. Co. v. American Nat'l Fire Assoc.*, 148 F.3d 396, 403 (4th Cir. 1998) (citing 11 Wright et al., *Federal Practice and Procedure*, § 2810.1, at 124 (2nd ed. 1995)). In a similar evaluation, the U.S. District Court for South Carolina had held that "[a] party's mere disagreement with the court's ruling does not warrant a Rule 59(e) motion, and such a motion should not be used to rehash arguments previously presented or to submit evidence which should have been previously submitted." *Singletary v. Beazley Ins. Co., Inc.*, No. 2:13-CV-1142-DCN, 2013 U.S. Dist. LEXIS 181253 at *5 (D.S.C. December 30, 2013) (internal citations omitted). The South Carolina Supreme Court has weighed in, holding that a party may file a motion under Rule 59(e) when it "believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." *Elam*, 361 S.C. at 24, 602 S.E.2d at 780.

LAW AND ARGUMENT

Plaintiff has laid out four arguments in support of his motion to reconsider summary judgment.¹ None of the reasons set forth by the plaintiff are sufficient to reconsider the well-reasoned grant of summary judgment to the Sheriff's Office.

1. Plaintiff sets forth the standard for "constructive possession" and claims that the court has misunderstood the law. This court was not asked to determine factually whether there was constructive possession or not constructive possession. Ms. Gardner was not convicted. This court was asked to determine probable cause. Certainly the arresting officer had probable cause to believe that she was in constructive possession. This is a much lower standard. Additionally, a judge signed the arrest warrant and made an independent determination of probable cause. Plaintiff has not set forth any new information in her motion to reconsider. The arguments she makes and the case law she cites is the same as in her original brief. Therefore, there is no basis on which to reconsider this aspect of the Order.

3. [sic] Plaintiff for the first time, asserts that because she was not a party to the agreement between the Sheriff's Office and Moncks Corner that is it not binding upon her. This argument should not even be considered by the court as it is being raised for the first time on the motion to reconsider. Even if the court considers this argument, the agreement is binding between the agencies. The plaintiff does not need to be a party to the agreement for it to be controlling. It sets out liability, insurance, payroll and control over officers who are lent or assigned to multi-agency task forces. Without such agreements, no agency would take on the responsibility of running such a task force, and without such task forces in place, much of effective law enforcement in places like Berkeley County, where jurisdictions overlap, would be lost. Finally, the Order granting

¹ There is no #2. The arguments are numbered 1, 3, 4, 5. Defendant will address them by the same numbering system used by the plaintiff.

summary judgment specifically states “[e]ven if the Court had determined that the Sheriff’s Office was responsible for the acts of Barlow, the same analysis of the facts and law supporting the grant of summary judgment herein would apply to Barlow.” (FN1). Therefore, there is no basis to reconsider the grant of summary judgment on this basis.

4. Plaintiff makes a single statement that summary judgment should not have been granted as to false arrest because the arrest was made prior to obtaining the warrant. She submits no argument in support of her position. This Court determined that the Sheriff’s Office was not responsible for the arrest. The argument and issue for the Sheriff’s Office was whether the detention center could rely on the facially valid warrant in order to continue to hold Gardner at the detention center. The court determined that the warrant was facially valid and the plaintiff has never set forth any type of argument that the warrants were not facially valid. Therefore, there is no basis upon which to reconsider the grant of summary judgment on this basis.

5. Plaintiff argues that an arrest without probable cause is not the “institution or prosecution of a judicial proceeding”. However, nowhere in the motion to reconsider is the plaintiff asking the court to reconsider the determination that there was probable cause for the arrest. Instead, she is simply asking the court not to give the Sheriff’s Office this immunity. The court has never ruled that there was not probable cause for the arrest. Therefore, without any motion to reconsider the issue of probable cause, that is dispositive. There is no valid argument for not recognizing the immunity for institution or prosecution of judicial proceedings. This is not a basis upon which the court should reconsider the grant of summary judgment to the Sheriff’s Office.

CONCLUSION

The Berkeley County Sheriff's Office asserts that all arguments were properly made to the Court during the summary judgment stage and that the court properly considered all aspects of the arguments and positions of both sides. The plaintiff has not set forth any valid basis under SCRCF Rule 59(e) for the court to reconsider its ruling or to alter or amend its judgment in any manner. Therefore the Sheriff's Office asks this court to deny the motion.

Respectfully Submitted,

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May 12, 2021

Counsel for Defendant Berkeley County Sheriff's
Office

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BERKELEY	)	
	)	Civil Action No. 2020-CP-08-00773
Stephanie Michelle Gardner,	)	
	)	
Plaintiff,	)	
	)	
v.	)	DEFENDANT
	)	TOWN OF MONCKS CORNER'S
	)	RESPONSE IN OPPOSITION TO
Berkeley County Sheriff's Office and	)	PLAINTIFF'S MOTION TO RECONSIDER
Town of Moncks Corner,	)	SUMMARY JUDGMENT IN FAVOR OF
	)	TOWN OF MONCKS CORNER
Defendants.	)	
	)	

Defendant Town of Moncks Corner (hereinafter the "Town") hereby submits this Response in Opposition to Plaintiff's Motion to Reconsider Summary Judgment in Favor of the Town of Moncks Corner filed pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure. The Town respectfully requests that the Court deny the Plaintiff's Motion for the reasons stated below.

FACTUAL AND PROCEDURAL HISTORY

In its Order Granting Town of Moncks Corner's Motion for Summary Judgment, the Court made the following factual findings which are pertinent to Plaintiff's Motion:

On the night of April 27, 2018, members of the Berkeley County Sheriff's Office (hereinafter "BCSO") Drug Enforcement Unit and narcotics Detective Brooks Barlow of the Town of Moncks Corner Police Department arrived at 112 Lodestone Court in Moncks Corner to locate an individual with an outstanding arrest warrant. [Following his entry into the home and] [d]uring the course of arresting the suspect, Detective Barlow observed what was later confirmed to be marijuana in plain view as well as the strong odor of marijuana in the home. He also observed that the home was without power or running water. Additionally, law enforcement observed Ms. Eason smoke marijuana in their presence and drug

paraphernalia lying in plain view. Based upon his observation of the marijuana in plain view, Detective Barlow received both verbal and written consent from Ms. Eason to search the residence. The search uncovered a large quantity of illegal drugs under a living room couch cushion roughly ten (10) feet away from the location where Detective Barlow observed Plaintiff at the time he made entry into the residence. None of the occupants claimed ownership of the drugs following Detective Barlow's inquiry as to the same.

Based on the forgoing facts, Detective Barlow determined that he had probable cause to place all individuals inside the home, including Plaintiff, under arrest for constructive possession of the drugs found in the living room couch. Plaintiff's charges were subsequently dismissed on October 24, 2018 following a determination by the Solicitor's Office that it was unable to prove the charges beyond a reasonable doubt.

Plaintiff then filed this lawsuit on March 20, 2020 through which she alleged false arrest, malicious prosecution and a violation of the South Carolina Constitution against both the Town of Moncks Corner and BCSO. Following a hearing on April 5, 2021, the Court granted the Town's Motion for Summary Judgment as to all of Plaintiff's claims against it by Order dated April 27, 2021. Plaintiff then filed this Motion to Reconsider on May 6, 2021.

ARGUMENT

I. THE COURT SHOULD DENY PLAINTIFF'S MOTION AS PLAINTIFF HAS FAILED TO DEMONSTRATE CLEAR ERROR, A CHANGE IN CONTROLLING LAW OR NEW EVIDENCE THAT WAS NOT PREVIOUSLY AVAILABLE.

"The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to 'reconsider matters properly encompassed in a decision on the merits.'" *Pye v. Estate of Fox*, 360 S.C. 555, 565-566, 633 S.E.2d 505, 510 (2006) (internal citations omitted). "A party may

wish to file such a motion when [it] believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it.” *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). Notably, the comments to Rule 59, SCRCP state that it is “substantially the Federal Rule.” The South Carolina District Court has held that a Motion under Rule 59(e) “is an extraordinary remedy that permits the...court to correct its own errors, sparing the parties and the appellate courts the burden of unnecessary appellate litigation. A motion to alter or amend a judgment may be granted ‘(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.’ Mere disagreement with how the law is applied does not support a Rule 59(e) motion.” *McCall v. Williams*, 59 F. Supp. 2d 556, 558 (D.S.C. 1999) (internal citations omitted). A party may not use a Rule 59 motion to “relitigate old matters” or present issues that could have been raised prior to the judgment but were not. *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008).

Upon review of the Court’s Order, it is clear that the Court did not misunderstand, fail to fully consider, or fail to rule on any issue presented in the Town’s Motion for Summary Judgment. Plaintiff fails to offer any evidence that the Court committed a clear error of law, and each of her arguments are simply an attempt to relitigate issues already fully considered and ruled upon by the Court.

A. Plaintiff’s Argument for the Court’s Misapprehension of Law

Plaintiff’s first argument that the Court “misapprehended” the law on constructive possession is vague and fails to explain or prove a “clear error of law.” Essentially, this argument is a disagreement with how the Court applied the law. As stated above, such arguments are insufficient to support a Rule 59(e) motion.

Nevertheless, the Court addressed the standard for constructive possession in its Order by defining it as a showing that an individual “had dominion and control, or the right to exercise dominion and control” over the illegal drugs. The Court found that, under the probable cause standard applicable to Plaintiff’s arrest, Detective Barlow only needed a “good faith belief that Plaintiff constructively possessed the drugs under the circumstances he observed prior to her arrest.” The Court further found that the circumstances in this case included: (1) the fact that Plaintiff was positioned just feet from the location where significant amounts of illegal drugs were recovered when Detective Barlow entered the home; and (2) the fact that none of the individuals present in the home claimed ownership of the drugs. Moreover, the Court found that the existence of probable cause for constructive possession was further proven by: (1) Plaintiff’s admission during her deposition that she walked throughout the home prior to the arrival of law enforcement; and (2) Plaintiff’s acknowledgment that a judge signed the warrants and determined that there was probable cause for her arrest. In contrast, the Court found that the Plaintiff provided no admissible evidence to support her claim that she was arrested without probable cause despite the burden being on her to do so.

Finally, the Court found that Plaintiff failed to address the applicable probable cause standard and instead cited to case law discussing the inapplicable beyond a reasonable doubt standard. It appears that Plaintiff is now attempting to relitigate the same argument by claiming that the Court misapprehended the law. However, as explained above, the Court clearly and expressly addressed its application of the law on constructive possession in its Order, and therefore the Plaintiff’s Motion should be denied.

B. Plaintiff’s Evidentiary Argument

Plaintiff’s next argument that there is no evidence that Plaintiff constructively possessed the marijuana “possessed by Eason” is also insufficient to support her Rule 59(e) motion because

the Court has already considered this argument and ruled upon it. Nowhere in the Order does the Court find that the Plaintiff constructively possessed the marijuana “possessed by Eason.” Rather, the Court found that the undisputed circumstances observed by Detective Barlow would have supported probable cause to arrest Plaintiff for constructive possession of the marijuana because it was laying in plain view in close proximity to Plaintiff. This finding directly and fully addresses Plaintiff’s argument, and she is now attempting to relitigate the same issue already ruled upon by the Court. Therefore, Plaintiff’s Motion should be denied.

C. Plaintiff’s Dominion and Control Argument

Plaintiff’s final argument that the marijuana possessed by Eason provides no basis for finding that Plaintiff constructively possessed the drugs for which she was actually charged similarly fails to support her Rule 59(e) motion because it is a misinterpretation of the Court’s Order. As stated above, the Court found that the marijuana laying in plain view in close proximity to Plaintiff *would have* provided Detective Barlow probable cause to arrest her on a charge of constructively possessing the marijuana. The Court *did not find* that the presence of marijuana provided Detective Barlow probable cause to arrest Plaintiff for constructive possession of the other illegal drugs found in the home. Rather, as explained above, probable cause for her arrest for constructively possessing the other illegal drugs was analyzed under the circumstances specific to those drugs. As also explained above, the Court directly and fully addressed the issue of probable cause for Plaintiff’s arrest for constructive possession of the other illegal drugs, and Plaintiff’s argument again attempts to relitigate this issue as previously forbidden by the United States Supreme Court.

CONCLUSION

Given that the Plaintiff has failed to provide any proper basis for reconsideration as stated above, the Town of Moncks Corner requests that the Court deny Plaintiff's Motion to Reconsider Summary Judgment in Favor of Moncks Corner.

Respectfully submitted this the 12th day of May, 2021.

RICHARDSON, PLOWDEN & ROBINSON

s/Drew Hamilton Butler

Drew Hamilton Butler, Esquire

James E. Haarsgaard, Esquire

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***ATTORNEYS FOR DEFENDANT TOWN OF
MONCK'S CORNER***

In the Matter of:

STEPHANIE MICHELLE GARDNER

vs.

**BERKELEY COUNTY SHERIFF'S OFFICE, and
TOWN OF MONCK'S CORNER**

Chief Jeremy Baker

January 27, 2021

 **SPECTRUM**
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IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
BERKELEY COUNTY

DEPOSITION OF CHIEF JEREMY BAKER

Stephanie Michelle Gardner,
Plaintiff,

vs. Case No. 2020-CP-08-0773

Berkeley County Sheriff's Office, and Town of Moncks
Corner,

Defendants.

DEPONENT: CHIEF JEREMY BAKER

DATE: January 27, 2021

TIME: 1:09 p.m. - 1:29 p.m.

LOCATION: Mount Pleasant, South Carolina

REPORTED BY: SARAH GACIOCH

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E X H I B I T S

None

1 CHIEF JEREMY BAKER, having been first
2 duly sworn, testified as follows:

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

4 BY MR. NETTLES:

5 Q. Mr. Baker, my name is Louis Nettles, and I
6 represent the plaintiff, Stephanie Gardner, in this
7 matter.

8 We have noticed this deposition with the
9 Berkeley County Sheriff's Office, and you've been
10 designated to answer questions regarding four of the
11 matters that we've discussed, and I'm sure you have
12 been informed of those.

13 I just want to ask you if you've been told
14 what areas you're supposed to be testifying about.

15 A. Yes, sir.

16 Q. Okay. Have you had your deposition taken
17 before?

18 A. Yes, sir.

19 Q. Okay. So you're familiar with the process of
20 taking a deposition?

21 A. Yes.

22 Q. And you understand that if you need to take a
23 break for any reason, we'd be glad to accommodate
24 you on that, and that as long -- once we have
25 started questioning you, anything you discuss off

1 the record or regarding the substance of this case
2 is fair game for me to ask questions about. Do you
3 understand that?

4 A. Yes.

5 Q. And you also understand that the purpose of
6 this whole deposition is to communicate. That means
7 that you have to understand the questions that I ask
8 you. I have to understand your answers. Therefore,
9 if there's any reason you don't understand the
10 questions I ask you, if you'll stop, tell me that,
11 I'd be glad to rephrase it, and try to make that
12 communication work. Do you understand that?

13 A. Yes.

14 Q. Do you understand also if you don't do that,
15 anyone looking at this deposition or reading it
16 later, will assume that you did understand the
17 question, and that your answer was responsive to
18 that question?

19 A. Yes.

20 Q. And that would be fair, wouldn't it?

21 A. Yes.

22 Q. Okay. You've been designated to talk about
23 the two-day crime and drug sweep conducted by the
24 Berkeley County Sheriff's Office on August 26 and
25 August 27th, 2018.

1 MS. JACKSON: No, sir. He's been
2 designated on the social media topics.

3 MR. NETTLES: That helps a lot. Okay.
4 That will make things much clearer.

5 Q. All right. So we're talking to you about the
6 social media, and those are the questions -- the
7 subjects 4, 5, 6, 7, and 9 on the designation.

8 Were you involved in the social media
9 publication?

10 A. No, sir. At that time Mike Cochran was the
11 chief deputy, and he is who actually posted it.

12 Q. So that actually was done by the current
13 chief deputy in April 2018?

14 A. Yes, sir.

15 Q. And is that your role now?

16 A. Yes, sir.

17 Q. Okay. And was the social media posting
18 authorized by the Berkeley County Sheriff's Office?

19 A. Yes, sir.

20 Q. Okay. In the publication of this, what steps
21 were taken to make sure that these publications were
22 accurate?

23 A. We post what the individuals are charged
24 with.

25 Q. Okay. And that's your custom and practice to

1 do that?

2 A. Yes, sir.

3 Q. Okay. In this case, you -- the Berkeley
4 County Sheriff's Office, published information that
5 Stephanie Gardner was involved with trafficking
6 narcotics?

7 A. That's what she was charged with.

8 Q. Okay. Did that have a law enforcement
9 purpose?

10 A. Yes, sir. This is how we notify our
11 citizens, and also for the media, what incidents
12 occur.

13 Q. Okay. So you publish to the public the list
14 of people that have been arrested by the Berkeley
15 County Sheriff's Office?

16 A. Yes.

17 Q. In this case, was Ms. Gardner arrested by the
18 Berkeley County Sheriff's Office?

19 A. Yes.

20 Q. And that publication to the general public
21 accused Ms. Gardner of trafficking narcotics?

22 A. She was charged with trafficking narcotics.

23 Q. Okay. Did the chief deputy at the time
24 review the warrants or circumstances of Ms.
25 Gardner's arrest to confirm that she was, in fact,

1 guilty of trafficking narcotics?

2 A. I cannot speak to what he reviewed.

3 Q. Okay. Now --

4 A. He would have been provided with what the
5 individuals were charged with that evening.

6 Q. Okay. What purpose did publishing this on
7 social media have for that law enforcement purpose?

8 A. It notifies our citizens of what we're doing,
9 what incidents occur, and also, it is a means for us
10 to release the information to the media.

11 Q. Did you consider yourself a media outlet?

12 A. No, sir. We're not a media outlet, but we do
13 do media releases.

14 Q. What steps do you take to make sure the
15 people that are listed in these publications are
16 not, in fact, guilty of the crimes that you publish?

17 MS. JACKSON: Objection to the form.

18 THE WITNESS: Sir, we don't have
19 anything to do with the prosecution of individuals.
20 All we -- we make sure probable cause is present; we
21 seek a warrant for someone's arrest; and they're
22 arrested. That is up to the court system to find
23 someone guilty.

24 BY MR. NETTLES:

25 Q. Okay. And what steps do you take to confirm

1 that the arrests are, in fact, accurate?

2 A. Well, sir, probable cause would have to exist
3 for a magistrate to issue a warrant.

4 Q. Okay. You've never had opportunities where
5 magistrates sign warrants where there's no probable
6 cause?

7 MS. JACKSON: Objection to the form.

8 THE WITNESS: No, sir. I mean, a
9 magistrate determines if there's probable cause
10 there. If they don't find probable cause, they
11 don't issue a warrant.

12 BY MR. NETTLES:

13 Q. Now, do you on your website, the sheriff's
14 office, publish the arrest records from the
15 detention center?

16 MS. JACKSON: Objection to the form.

17 THE WITNESS: We do have a website where
18 you can do searches to see who has been charged and
19 who is currently incarcerated at the Berkeley County
20 Detention Center.

21 BY MR. NETTLES:

22 Q. Let me ask you, if I was to swear out a
23 warrant for, let's just say, the sheriff, and get a
24 magistrate to issue that warrant on incomplete or
25 false information, would it be appropriate for me to

1 publish that to the public?

2 MS. JACKSON: Objection to the form.

3 THE WITNESS: Sir, I do not understand
4 your question.

5 BY MR. NETTLES:

6 Q. Okay. Would you agree with me that by
7 publishing these arrest records, that it suggests to
8 the public that these people are, in fact, guilty of
9 these crimes?

10 A. No, sir.

11 Q. And why not?

12 A. Everyone is innocent until proven guilty.

13 Q. And why is it that you felt the need to
14 publish this information prior to the legal system
15 concluding its process?

16 A. I think it's important for the public to know
17 what we do on a daily basis.

18 Q. What's the importance of that?

19 A. Sir, I think that -- I believe that the
20 public wants to know what's going on in their
21 communities.

22 Q. And when people are exonerated from the
23 charges you've published, do you inform -- feel the
24 same need to inform the public of that?

25 A. Can we go back and make a post date stating

1 that someone is found not guilty?

2 Q. Yeah.

3 A. No, we don't.

4 Q. Or the charges are dismissed?

5 A. No, sir. We don't.

6 Q. Okay.

7 A. But it plainly says on our Facebook page that
8 everyone is innocent until proven guilty.

9 Q. And is it your belief that the general public
10 needs this information that these people have been
11 charged with these crimes for any purpose?

12 A. I believe the public has a right to know we
13 are a transparent agency. I believe it's important
14 for the public to know what we're doing.

15 Q. Is it similarly important to know when you
16 have arrested somebody when the charges are
17 dismissed? Is that what you do?

18 A. Sir, they are innocent until proven guilty.

19 Q. Did this publication of these charges have
20 any role in the prosecution of this -- of these
21 charges?

22 A. No, sir. That's left up to the solicitor's
23 office.

24 Q. And do you keep statistics of the reach of
25 the audience of your Facebook page?

1 A. There is a mechanism on Facebook. It will
2 tell you whatever the reach of a post is.

3 Q. Do y'all look at those statistics as to the
4 reach of each publication?

5 A. No, sir, but if you're a manager on there, it
6 shows up.

7 Q. And do you get quite a few comments as you
8 publish these things?

9 A. The comments range on every post.

10 Q. Okay. And do you publish this for every
11 arrest?

12 A. No, sir. Not every arrest. That would be
13 impossible for us to do a Facebook post for every
14 arrest.

15 Q. Okay. And what was it about this set of
16 arrests that made you want to publish this to the
17 public?

18 A. We conducted a warrant and saturation patrol
19 for several days. Of course, we get a lot of media
20 inquiries because of the amount of police out
21 working as to what's going on. So we post then the
22 statistics from that -- those few days.

23 Q. Okay. And you didn't just publish the
24 statistics, you published the names and charges?

25 A. Correct.

1 **Q.** And you felt it was sufficient to put a
2 disclaimer on there that people are not guilty -- or
3 presumed innocent until found guilty is sufficient
4 to make this publication non-defamatory?

5 MS. JACKSON: Objection to the form. Go
6 ahead.

7 BY MR. NETTLES:

8 **Q.** You can answer that.

9 A. Everyone we arrest is innocent until proven
10 guilty.

11 **Q.** Okay. And what percentages of your arrest
12 end up in not guilty findings or dismissals?

13 A. Sir, I have no clue on that.

14 **Q.** On the publication of these arrests from
15 April 27th, 2018, where is the disclaimer that the
16 people are presumed innocent until found guilty?

17 A. On our main Facebook page it says under
18 general information, all suspects posted on our
19 Facebook page are innocent until proven guilty in a
20 court of law.

21 **Q.** So that's on the main page, not within this
22 posting --

23 A. Correct.

24 **Q.** -- on April -- let's see.

25 And would it be fair to say somebody reading

1 this list of arrests coming from the sheriff's
2 office would consider the sheriff's office more
3 qualitative than a newspaper publication?

4 MS. JACKSON: I didn't hear all of that
5 question.

6 MR. NETTLES: I don't understand why,
7 but sometimes the microphone doesn't work.

8 Q. Wouldn't it be fair to say that a report from
9 the sheriff's office would have more credibility
10 than a newspaper report?

11 MS. JACKSON: Objection to the form.
12 You can answer.

13 THE WITNESS: Sir, I can't speak to what
14 other people would think.

15 MR. NETTLES: All right. I think that's
16 all the questions I have on these questions.

17 MS. JACKSON: Drew, do you have any
18 questions?

19 MR. BUTLER: Madam Court Reporter, this
20 is Drew Butler. I'm representing the Town of Moncks
21 Corner in the case. I do not have any questions of
22 this witness.

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

24 BY MS. JACKSON:

25 Q. This is Robin Jackson, and I have a couple

1 questions.

2 These arrests -- this warrant sweep, was this
3 a multi-jurisdictional task force that was working
4 on this?

5 A. Yes. We had people from multiple agencies
6 working with us.

7 Q. Do you know who Brooks Barlow was working for
8 at the time of this sweep?

9 A. At the time of this sweep he was employed by
10 the Moncks Corner Police Department.

11 Q. So if he made the arrest, he would have made
12 the arrest on behalf of the task force?

13 A. He was assigned --

14 MR. NETTLES: Objection. Leading.

15 THE WITNESS: He was assigned to our
16 narcotics division. So he would have been working
17 in conjunction with them.

18 BY MS. JACKSON:

19 Q. Okay. And is that why earlier when you were
20 asked if Berkeley County made the arrest you said
21 yes?

22 A. Correct.

23 Q. Did the sheriff's office start making the
24 Facebook posts as a result of requests by citizens
25 for information?

1 A. We always receive requests from citizens
2 about knowing what's going on in the county.

3 Q. And have you received feedback from citizens
4 with regard to the posts made on social media?

5 A. Yes.

6 Q. And what is their feedback?

7 A. The citizens like that we post what we're
8 doing on Facebook.

9 Q. Okay. Does the sheriff's office or the
10 deputies employed by the sheriff's office dismiss
11 charges?

12 A. No, ma'am.

13 Q. Who does that?

14 A. That would be the solicitor's office.

15 Q. And have you reviewed the posting that was
16 made on May 1st?

17 A. Yes.

18 Q. Okay. And the charges that are listed under
19 Stephanie Gardner, there was one, two -- those
20 charges was Stephanie Gardner, in fact, charged with
21 those crimes?

22 A. Yes, ma'am.

23 Q. And were warrants issued for Stephanie
24 Gardner with regard to those crimes?

25 A. Yes, ma'am.

1 **Q.** So are those true statements?

2 **A.** Yes.

3 MS. JACKSON: I don't have any further
4 questions.

5 MR. NETTLES: I have no further
6 questions.

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1 STATE OF SOUTH CAROLINA)
2)
3 COUNTY OF CHARLESTON)

4 I, Sarah Gacioch, Certified Shorthand Reporter and
5 Notary Public for the State of South Carolina at
6 Large, do hereby certify that the witness in the
7 foregoing deposition was by me duly sworn to testify
8 to the truth, the whole truth and nothing but the
9 truth in the within-entitled cause; that said
10 deposition was taken at the time and location
11 therein stated; that the testimony of the witness
12 and all objections made at the time of the
13 examination were recorded stenographically by me and
14 were thereafter transcribed by computer-aided
15 transcription; that the foregoing is a full,
16 complete and true record of the testimony of the
17 witness and of all objections made at the time of
18 the examination; and that the witness was given an
19 opportunity to read and correct said deposition and
20 to subscribe the same.

21 Should the signature of the witness not be affixed
22 to the deposition, the witness shall not have
23 availed himself/herself of the opportunity to sign
24 or the signature has been waived.

25 I further certify that I am neither related to nor
counsel for any party to the cause pending or
interested in the events thereof.

Witness my hand, I have hereunto affixed my
official seal this 25th day of February, 2021, at
Charleston, Charleston County, South Carolina.

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Sarah Gacioch
My Commission Expires:
October 15, 2025

1 E R R A T A S H E E T

2 RE: Stephanie Michelle Gardner v. Berkeley County
3 Sheriff's Office, and Town of Moncks Corner

4 DEPOSITION OF: CHIEF JEREMY BAKER

5 Please read this original deposition with
6 care, and if you find any corrections or changes you
7 wish made, list them by page and line number below.
8 DO NOT WRITE IN THE DEPOSITION ITSELF. Return the
9 deposition to this office after it is signed. We
10 would appreciate your prompt attention to this
11 matter.

12 To assist you in making any such corrections,
13 please use the form below. If supplemental or
14 additional pages are necessary, please furnish same
15 and attach them to this errata sheet.

16 Page ____ Line ____ should read: _____

17 _____

18 Page ____ Line ____ should read: _____

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SIGNATURE PAGE

Signature of Deponent

SUBSCRIBED and SWORN TO before me this
____ day of _____, 2021

Notary Public

My Commission expires: _____

In the Matter of:

STEPHANIE MICHELLE GARDNER

vs.

**BERKELEY COUNTY SHERIFF'S OFFICE, and
TOWN OF MONCK'S CORNER**

Lieutenant Kevin Ham

January 27, 2021

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Spectrumaaa@gmail.com
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IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
BERKELEY COUNTY

DEPOSITION OF LIEUTENANT KEVIN HAM

Stephanie Michelle Gardner,

Plaintiff,

vs.

Case No. 2020-CP-08-0773

Berkeley County Sheriff's Office, and Town of Moncks
Corner,

Defendants.

DEPONENT: LIEUTENANT KEVIN HAM

DATE: January 27, 2021

TIME: 1:32 p.m. - 1:56 p.m.

LOCATION: Mount Pleasant, South Carolina

REPORTED BY: SARAH GACIOCH

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E X H I B I T S

None

1 LIEUTENANT KEVIN HAM, having been first
2 duly sworn, testified as follows:

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

4 BY MR. NETTLES:

5 Q. All right. Lieutenant Ham, my name is Louis
6 Nettles, and I represent the plaintiff, Stephanie
7 Gardner in this case.

8 A. Yes, sir.

9 Q. Have you had your deposition taken before?

10 A. Yes, sir.

11 Q. Okay. So you're familiar with the process?

12 A. Yes, sir.

13 Q. Okay. And you would understand the purpose
14 of this is to communicate -- for me to ask you
15 questions and you to answer them, and for the
16 communication to work, you have to understand my
17 questions?

18 A. Yes, sir.

19 Q. All right. As we proceed, if there comes a
20 time you don't understand my question, will you stop
21 and tell me that?

22 A. Yes, sir.

23 Q. Okay. And you understand that if you don't
24 do that, anyone looking at this deposition later
25 will assume that you did understand my question and

1 your answer was responsive to that question?

2 A. Yes, sir.

3 Q. And that would be fair, wouldn't it?

4 A. Sure.

5 Q. Okay. Now, you're here on behalf of the
6 Berkeley County Sheriff's Office to talk about the
7 two-day crime and drug sweep conducted by the
8 Berkeley County Sheriff's Office on August 26th and
9 27th, 2018 --

10 A. Yes, sir.

11 Q. -- this organization Command Structure and
12 Membership Goals -- Membership and Goals. Now, tell
13 me, do you know who actually organized this two-day
14 crime and drug spree [sic]? Sweep not spree.

15 A. I gotcha. I think it was Major Baker at the
16 time, I believe. I'm not 100 percent sure on that.

17 Q. And you were one of the participants in this?

18 A. Yes, sir.

19 Q. And is this something that you -- that the
20 sheriff's office organizes frequently?

21 A. I don't know how frequently, but once a year,
22 maybe.

23 Q. Okay. And the Facebook post of May 1, 2018,
24 it said the Berkeley County Sheriff's Office
25 conducted a two-day crime and drug sweep. Were

1 y'all in charge of this sweep?

2 A. What do you mean?

3 Q. Well, you know, you've indicated on the

4 Facebook page that y'all conducted this and --

5 A. You mean the sheriff's office as a whole?

6 Q. I'm sorry, would you repeat that answer?

7 A. Do you mean the sheriff's office --

8 Q. Yes.

9 A. -- as a whole?

10 The sheriff's office is the one who is

11 responsible for this, yes.

12 Q. Okay. Now, are you familiar -- can you tell

13 me --

14 Let me start over.

15 I have been given an operations plan with a

16 designated -- designation of teams for this.

17 It indicates that you were in charge of Team

18 4; is that right?

19 A. Yes, sir.

20 Q. Okay. And was it Team 4 that responded to

21 the Lodestone Court address?

22 A. No, sir.

23 Q. And was the response to the Lodestone Court

24 address part of the two-day sweep?

25 A. I did not -- it was not on my, like -- my,

1 you know, the places I had to go, no.

2 Q. Okay. Did you go to Lodestone Court?

3 A. I did. Yes, sir.

4 Q. And, in fact, as I understand it, you're the
5 ones -- you're the ones who searched the couch and
6 found the drugs that were hidden away in the couch?

7 A. Yes, sir.

8 Q. Did you have any -- as part of that, did you
9 have any conversations with Stephanie Gardner?

10 A. No, sir.

11 Q. I mean, you went to Lodestone Court. Was it
12 Team 4 that was involved in that, or was it some
13 other team that actually responded, you just
14 happened to be at Lodestone Court or conveniently
15 located near that?

16 A. It was not a team. It was a mixture of team
17 members.

18 Q. Okay. So by late Friday night on the 27th, I
19 guess, it -- you didn't exactly stick to the teams
20 as you had hoped -- or was hoped when it was
21 organized?

22 A. No. This is like at the end of the night,
23 and we -- it was just people who were available.

24 Q. Okay. Because I have noticed that from your
25 information that Officer Barlow was on a different

1 team than yours?

2 A. Yes, sir.

3 Q. And as I understand it, that was part of the
4 warrant sweep looking for someone that there was an
5 outstanding family court warrant for?

6 A. Yes, sir.

7 Q. And is it the sheriff's department duty to
8 serve family court warrants?

9 A. Yes, sir.

10 Q. Okay. Can you tell me who -- who from the
11 sheriff's office responded to the Lodestone Court
12 address?

13 A. I think so. It was me, of course, Barlow,
14 Corporal Woods at the time, Frances, Kenny Harris,
15 Mike Gurrieri, and Corinthian Green, and there was
16 some -- a few Summerville people there I know of,
17 but I could not tell you their names.

18 Q. Do you know which of these people were
19 involved in searching the premises?

20 A. More than likely every one of them.

21 Q. And how about who was in charge of
22 interrogating or --

23 Let me ask you this. Can you tell me who was
24 involved in questioning the persons present at the
25 Lodestone Court address?

1 MS. JACKSON: Objection to the form.

2 THE WITNESS: Okay. You want me to
3 answer it?

4 MS. JACKSON: Yes.

5 THE WITNESS: I have really -- you said
6 who questioned the people?

7 BY MR. NETTLES:

8 Q. Yes.

9 A. I do not know, sir.

10 Q. Was everybody involved in asking these people
11 questions or --

12 A. No.

13 Q. -- was there just -- you just don't know?

14 A. No. I don't believe everyone was involved
15 with asking them questions because I was in, like, a
16 separate room.

17 Q. All right. There was a -- as I understand
18 it, there was a -- what appeared to be an add on
19 room at the back of the trailer, and that's where
20 most of the civilians that were there were located
21 when y'all were there?

22 A. Yes, sir. That's where I saw them.

23 Q. Okay. Did you ever see them in any other
24 location, other than there by the back door?

25 A. Mr. Gethers -- I think his name is Gethers.

1 He was like -- he was, like, kind of up the stairs.
2 He was at the top of the stairs of the room below.
3 That was about it, and Mr. Molyneaux was in a
4 bathroom.

5 Q. Okay. And I believe Mr. Molyneaux was
6 arrested and taken from the scene fairly quickly?

7 A. I'm assuming, or he was placed in one of the
8 vehicles outside. Yes, sir.

9 Q. So he might have just been handcuffed and put
10 outside in one of the vehicles?

11 A. Yes, sir.

12 Q. Okay. And did everyone, law enforcement,
13 obviously, pretty much show up together, or did
14 people come in and out?

15 A. The majority showed up at one time, and then
16 yes, sir, there was some -- the people come in and
17 out.

18 Q. The original team appearance at Lodestone
19 Court, how many people were involved in that?

20 A. My team, sir?

21 Q. Yes, sir.

22 A. Five of us, I think.

23 Q. And do you know who was first on the scene?

24 A. No. I really -- I don't know. Because we
25 were all in our own vehicles, so it was like a

1 train.

2 Q. Okay. Something about what Officer Barlow
3 told me suggested that he was first on the scene.
4 Could that be -- do you know if that's right or not?

5 A. I don't know. It's possible. Yes, sir.

6 Q. Do you know who the first person to come into
7 the residence was from the law enforcement
8 perspective?

9 A. No, sir. I do not.

10 Q. You were not the first one into the residence
11 from law enforcement?

12 A. No, sir.

13 Q. And since you're here and you can talk about
14 this. When you first looked at the couch where you
15 found the drugs, was anything visible to indicate
16 there was any drugs there on the couch?

17 A. No, sir. Not on the couch.

18 Q. Okay. And the drugs were in an envelope?

19 A. No, sir. I think in a bag.

20 Q. They were in -- they were in clear plastic
21 bags?

22 A. Yes, sir.

23 Q. And they were stuffed down in the sofa?

24 A. Yes, sir.

25 Q. Now, the final question I have, I want to

1 know what all the Berkeley County Sheriff's Office
2 had in prosecution of Ms. Gardner.

3 A. Well, we make the case, and then the
4 solicitor's office, they present it and do the
5 prosecution.

6 Q. Okay. So when you say you made the case, you
7 would have performed the arrest and obtained a
8 warrant?

9 A. Yes, sir.

10 Q. And after that, what participation did the
11 Berkeley County Sheriff's Office have in the
12 prosecution?

13 A. Unless something comes up, nothing else.

14 Q. Okay. Y'all -- who would -- other than
15 having the drugs tested, did the sheriff's
16 department do anything else as far as the
17 prosecution of the case against Ms. Gardner?

18 A. No, sir. Unless you fingerprinted the bags
19 and stuff like that, but the forensics would handle
20 that.

21 Q. Did the Berkeley County Sheriff's Office take
22 any steps -- further steps to identify who had put
23 the drugs in that couch?

24 A. Might have done a phone dump, that's about
25 it. I think maybe that's probably it, phone dumps,

1 maybe fingerprints.

2 Q. Okay. Anything else? Are you aware of
3 anything else?

4 A. No, sir.

5 MR. NETTLES: I think that's all the
6 questions I have. Thank you.

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

8 BY MR. BUTLER:

9 Q. Hold on just a second, Mr. Ham. I have a
10 couple questions for you.

11 A. I'm sorry.

12 Q. My name is Drew Butler. I'm an attorney with
13 Richardson Plowden Law Firm, and I've been retained
14 to represent and defend the Town of Moncks Corner.

15 A. Okay.

16 Q. I have a couple of follow-up questions. If
17 at any point you don't understand one of my
18 questions, please ask me to repeat it or rephrase
19 it, okay?

20 A. Yes, sir.

21 Q. All right. Am I clear that on the night of
22 the arrest at issue, Brooks Barlow was working in
23 conjunction with the Berkeley County Sheriff's
24 Office?

25 A. Yes, sir.

1 Q. All right. With that in mind, am I also
2 clear this joint task force was working together to
3 serve warrants on the night of the arrest?

4 A. Yes, sir.

5 Q. Okay. I want to talk about reasonable
6 suspicion and probable cause to make sure I'm clear
7 on that with respect to this arrest. Do you feel as
8 though you had reasonable suspicion to enter the
9 residence on the night of arrest?

10 A. Yes, sir.

11 Q. Can you articulate for me what your
12 reasonable suspicion was?

13 A. To enter the residence?

14 Q. Yes, sir.

15 A. We went there for Mr. Molyneaux. Upon
16 arrival, someone fled into the residence matching
17 his description. We made entry to the residence. A
18 female at the door said, you know, he's in my room
19 or whatever. I don't know exactly what happened
20 with that, because I was the last one, and then we
21 went up there, and he was in the bathroom.

22 Q. Just so I can state that again. You had an
23 arrest warrant for Mr. Molyneaux?

24 A. Yes, sir.

25 Q. You saw a man matching the description of Mr.

1 Molyneaux running into the residence?

2 A. Yes, sir.

3 Q. And then upon reaching the door of the
4 residence, you confirmed with an owner of the
5 residence, or at least an occupant that Mr.
6 Molyneaux was inside?

7 A. Yes.

8 Q. And, of course, you had an arrest warrant for
9 him in conjunction with all of that, right?

10 A. Yes, sir.

11 Q. And does that fairly summarize your
12 reasonable suspicion before entering the residence?

13 A. Yes, sir.

14 Q. Let's talk about the probable cause for the
15 arrest warrants issued for Ms. Gardner in this case.

16 You understand that she was arrested and
17 charged with constructive possession of those
18 narcotics; is that right?

19 A. Yes, sir.

20 Q. And do you believe that she had the ability
21 to have dominion and control over those narcotics
22 based on her location within the home prior to the
23 arrest?

24 A. Yes, sir.

25 Q. Is it pretty clear to you, based on your

1 personal observations, that Ms. Gardner was inside
2 the home where the drugs were found?

3 A. Yes, sir.

4 Q. She was located less than 12 feet way from
5 the couch where the drugs were found?

6 A. Yes, sir.

7 Q. Did you give -- by "you" I mean, did the
8 Berkeley County Sheriff's Office and the joint task
9 force give Ms. Gardner and others in the home an
10 opportunity to claim ownership of the -- of the
11 narcotics?

12 A. Yes, sir.

13 Q. And did anyone in the home claim ownership of
14 the narcotics?

15 A. No, sir.

16 Q. Am I clear that neither Mr. Barlow nor the
17 Berkeley County Sheriff's Office or even the Town of
18 Moncks Corner for that matter, had any control over
19 the prosecution of the case once it was turned over
20 to the solicitor's office?

21 A. Yes, sir.

22 Q. They did not have control?

23 A. Yes, sir. We didn't.

24 Q. The statements on the Facebook page that were
25 generated by the Berkeley County Sheriff's Office,

1 were those statements true to the best of your
2 knowledge?

3 A. I haven't read it, but I would assume so.

4 Q. Do you have any criticisms of the actions or
5 inactions performed by Brooks Barlow on that evening
6 of the arrest?

7 A. No, sir.

8 Q. Do you believe that the arrest warrants that
9 were signed by Mr. Barlow are true and accurate?

10 A. Yes, sir.

11 Q. And do you believe they are based on probable
12 cause?

13 A. Yes, sir.

14 MR. BUTLER: That's all the questions I
15 have for you, Mr. Ham. I appreciate your service.
16 Thanks for what you do out there.

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

18 BY MR. NETTLES:

19 Q. I have some follow-up questions.

20 Lieutenant Ham, what evidence do you have
21 that Ms. Gardner knew of the drugs?

22 A. None, sir.

23 Q. Was this Ms. Gardner's residence?

24 A. I have no idea.

25 Q. Did she have control of the residence?

1 A. I mean, I don't know.

2 Q. Okay. So you think she had constructive
3 possession of drugs that she was not aware of?

4 MS. JACKSON: Objection to the form.

5 MR. BUTLER: Same objection.

6 THE WITNESS: I -- no, sir. I did not
7 know.

8 BY MR. NETTLES:

9 Q. And did you think that Ms. Gardner had
10 control of the premises?

11 A. I mean, I don't -- I don't know what you mean
12 by "control."

13 Q. Well --

14 A. She was there.

15 Q. The fact that she was there, does that mean
16 that she was possessed of everything there?

17 MS. JACKSON: Objection to the form.

18 MR. BUTLER: Same objection.

19 THE WITNESS: I don't understand the
20 question.

21 MR. NETTLES: That's all the questions I
22 have.

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

24 BY MR. BUTLER:

25 Q. Mr. Ham, do you need specific knowledge of a

1 suspect knowing where the drugs are in the home in
2 order to charge them with constructive possession?

3 A. No, sir.

4 Q. Does the suspect have to have ownership and
5 control of the residence in order to charge a
6 suspect with constructive possession of narcotics?

7 A. No, sir.

8 Q. If she has the potential to have dominion and
9 control, that's enough, am I right?

10 A. Yes, sir.

11 Q. She doesn't have to know that they're there?
12 She doesn't have to be an owner of the house?

13 A. No, sir.

14 Q. One thing that I -- I don't think Mr. Nettles
15 and I brought up during our initial questions is
16 whether you observed any narcotics in clear plain
17 view upon entering the residence.

18 A. I did not. No, sir.

19 Q. Okay. Did you notice the smell of anything?

20 A. I think it was the smell of burnt marijuana.

21 Q. So based on your training and experience, you
22 smelled something that you believe to be pretty
23 clear was marijuana upon entering the home?

24 A. Yes, sir.

25 MR. BUTLER: That's all the questions I

1 have. Thank you, Mr. Ham.

2 MR. NETTLES: I have nothing further.

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1 STATE OF SOUTH CAROLINA)
)
2 COUNTY OF CHARLESTON)

3 I, Sarah Gacioch, Certified Shorthand Reporter and
Notary Public for the State of South Carolina at
4 Large, do hereby certify that the witness in the
foregoing deposition was by me duly sworn to testify
5 to the truth, the whole truth and nothing but the
truth in the within-entitled cause; that said
6 deposition was taken at the time and location
therein stated; that the testimony of the witness
7 and all objections made at the time of the
examination were recorded stenographically by me and
8 were thereafter transcribed by computer-aided
transcription; that the foregoing is a full,
9 complete and true record of the testimony of the
witness and of all objections made at the time of
10 the examination; and that the witness was given an
opportunity to read and correct said deposition and
11 to subscribe the same.

12 Should the signature of the witness not be affixed
to the deposition, the witness shall not have
13 availed himself/herself of the opportunity to sign
or the signature has been waived.

14
15 I further certify that I am neither related to nor
counsel for any party to the cause pending or
interested in the events thereof.

16 Witness my hand, I have hereunto affixed my
17 official seal this 25th day of February, 2021, at
Charleston, Charleston County, South Carolina.

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Sarah Gacioch
My Commission Expires:
October 15, 2025

1 E R R A T A S H E E T

2 RE: Stephanie Michelle Gardner v. Berkeley County
3 Sheriff's Office, and Town of Moncks Corner

4 DEPOSITION OF: LIEUTENANT KEVIN HAM

5 Please read this original deposition with
6 care, and if you find any corrections or changes you
7 wish made, list them by page and line number below.
8 DO NOT WRITE IN THE DEPOSITION ITSELF. Return the
9 deposition to this office after it is signed. We
10 would appreciate your prompt attention to this
11 matter.

12 To assist you in making any such corrections,
13 please use the form below. If supplemental or
14 additional pages are necessary, please furnish same
15 and attach them to this errata sheet.

16 Page ____ Line ____ should read: _____

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18 Page ____ Line ____ should read: _____

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20 Page ____ Line ____ should read: _____

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22 Page ____ Line ____ should read: _____

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SIGNATURE PAGE

Signature of Deponent

SUBSCRIBED and SWORN TO before me this
____ day of _____, 2021

Notary Public

My Commission expires: _____

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In the Matter of:

STEPHANIE MICHELLE GARDNER

vs.

**BERKELEY COUNTY SHERIFF'S OFFICE and
TOWN OF MONCK'S CORNER**

Brooks Matthew Barlow

January 25, 2021



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IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
BERKELEY COUNTY

DEPOSITION OF BROOKS MATTHEW BARLOW

STEPHANIE MICHELLE GARDNER,

Plaintiff,

vs. CASE NO. 2020-CP-08-00773

BERKELEY COUNTY SHERIFF'S OFFICE AND TOWN OF
MONCK'S CORNER,

Defendants.

DEPONENT: BROOKS MATTHEW BARLOW

DATE: January 25, 2021

TIME: 3:00 PM

LOCATION: REMOTE LOCATIONS

REPORTED BY: NANCY ENNIS TIERNEY, CSR (IL)

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A P P E A R A N C E S

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ALSO PRESENT: Johnny J. Evans - Thurmond Kirchner Law

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I N D E X

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E X H I B I T S

No exhibits were marked.

1 BROOKS MATTHEW BARLOW, having been first
2 duly sworn, testified as hereinafter set forth.

3 EXAMINATION

4 BY MR. NETTLES:

5 Q. Officer Barlow, my name is Louis Nettles. I'm
6 the attorney for Stephanie Gardner. I have some things
7 I need to talk to you about before we start the
8 deposition about procedure.

9 Have you had your deposition taken before?

10 A. I'm sorry. I didn't hear you. Can you speak a
11 little louder?

12 Q. Can you hear me okay?

13 THE WITNESS: Can we turn it up a little
14 bit?

15 MR. BUTLER: Sure. Go ahead.

16 Q. (BY MR. NETTLES): Okay. Can you hear me?

17 A. Yes, sir.

18 Q. Okay. As I was saying, my name is Louis Nettles.
19 I represent Ms. Gardner in this lawsuit. There are some
20 procedural things I need to talk to you about before we
21 start.

22 Have you had your deposition taken before?

23 A. No, sir.

24 Q. Okay. First of all, it's important that we
25 communicate, that we understand each other, so we need a

1 verbal response to questions.

2 If you will let me ask the questions and
3 answer them, and I will try to not interrupt your
4 answers. And we need a yes or no rather than uh-huh or
5 huh-huh.

6 If you don't understand a question I ask
7 you, if you will stop, tell me that you don't understand
8 and I will be glad to rephrase it. And if you don't do
9 that, you understand that everybody looking at this
10 deposition or reading it will assume that you did
11 understand the question and that your answer was
12 responsive to the question.

13 You understand that?

14 A. Yes, sir.

15 Q. And that would be fair, wouldn't it?

16 A. Yes, sir.

17 Q. If you need to take a break, just let us know and
18 we can do that. You are not allowed to discuss the
19 substance of your testimony during a break. Anything
20 that's discussed outside the actual deposition or off
21 the record is subject to examination and I can ask you
22 about that. So with the understanding of that, we will
23 proceed.

24 First thing I want to do is spend a little
25 time getting some identification, some information about

1 you and your background.

2 I notice that you're wearing a sweatshirt
3 that has some sort of insignia on it. Can you tell me
4 what that is?

5 A. Yes, sir. It's a badge for Berkeley County
6 Sheriff's Office.

7 Q. Where are you employed now?

8 A. Berkeley County Sheriff's Office.

9 Q. And how long have you been with the Berkeley
10 County Sheriff's Office.

11 A. Since May, I believe. May or -- yes, sir, May.

12 Q. And what is your position with the Berkeley
13 County Sheriff's Office?

14 A. I'm a deputy.

15 Q. Anything more specific about that as far as your
16 duties?

17 A. Patrol.

18 Q. And you have been doing that since May?

19 A. Yes, sir.

20 Q. Now, what sort of training have you had as a law
21 enforcement officer?

22 A. I have basic law, LE1 certification. I've got
23 LE2 certification. I've been through basic narcotics at
24 the South Carolina Criminal Justice Academy.

25 I also went through the narcotics

1 investigator course and RCTA, which is the Regional
2 Counterdrug Task Force, or Training Association,
3 Regional Counterdrug Training Association, I believe.
4 That's in Meridian, Mississippi.

5 I probably have over a thousand hours of
6 training hours easily. I would say around -- yeah,
7 easily over a thousand hours.

8 Q. All right. Are you a native of Berkeley County?

9 A. I am, yes, sir.

10 Q. Okay. And what is your age?

11 A. I'm 38 years old.

12 Q. Now, at the time of this incident in 2018, where
13 were you employed?

14 A. I was employed by the Moncks Corner Police
15 Department.

16 Q. How long had you been employed with them?

17 A. Started in '15. So, yeah, I guess three years at
18 the time, roughly.

19 Q. And what was your position with the Town of
20 Moncks Corner Police Department?

21 A. I was a narcotics detective assigned to the
22 Berkeley County Drug Enforcement Unit.

23 Q. Part of the Berkeley County Drug Enforcement
24 Unit?

25 A. Yes, sir.

1 Q. Can you tell me what the Berkeley County Drug
2 Enforcement is?

3 A. We had the Moncks Corner Police Department, the
4 Goose Creek Police Department, the Hanahan Police
5 Department and Berkeley County Sheriff's Office all in a
6 counterdrug task force where we did investigations
7 throughout Berkeley County in reference to drugs and
8 narcotics.

9 Q. Now, at the time of this incident, in your
10 employment with the Town of Moncks Corner Police
11 Department had you received any sort of commission to
12 perform arrests, anything like that?

13 A. Yes, sir.

14 Q. Tell me how you received that.

15 A. The Sheriff, I guess he swore us in as deputies,
16 special deputies. I'm not sure exactly what it's
17 called.

18 Q. And when you began your position as a law
19 enforcement officer, did you take any kind of oath of
20 office?

21 A. As a law enforcement officer, yes, sir.

22 Q. Tell me about that.

23 A. Well, I got sworn in. You know, I said I was
24 going to uphold the law of South Carolina.

25 Q. Would that also include the constitution of the

1 state of South Carolina?

2 A. Yes, sir.

3 Q. Now, I want to now switch from your background to
4 talking about the incident of April 27, 2018.

5 As I understand it, during that weekend
6 there was a task force organized by the Sheriff's Office
7 that weekend, is that correct?

8 A. It was a warrant sweep, yes, sir. If you want to
9 call it a task force, I can see that.

10 Q. Okay. And you were assigned to a team for the
11 warrant sweep for Friday, April 27, 2018, is that
12 correct?

13 A. I would have to look at my paperwork, but I
14 believe that was the case.

15 Q. I have some paperwork indicating that you were
16 part of Team 1 of that, and a Lieutenant Peters was the
17 team leader.

18 Can you tell me who Lieutenant Peters was?

19 A. He was a -- or he still is a lieutenant. I
20 believe he's over canine now. I'm not sure exactly what
21 his position was at the time. I think maybe patrol.

22 Q. And in which law enforcement organization was
23 he?

24 A. Berkeley County Sheriff's Office.

25 Q. And that's typically how you do these law

1 enforcement sweeps? There's a leader assigned to the
2 team and you follow their instructions? Is that how
3 that's done?

4 A. Yes, sir. May I clarify, though?

5 Q. Sure. Our team was already finished. And,
6 instead, I reported back to my narcotics supervisor,
7 which would have been Lieutenant Ham, and asked if there
8 were any other things he needed me to do, and he split
9 us up and put us on little other teams at that time.

10 So Lieutenant Peters was not actually over
11 the warrant sweep at the time for the team that I was
12 on.

13 Q. This particular arrest was appointed -- was
14 reported on social media as part of the drug enforcement
15 sweep for that weekend.

16 Are you saying that it was not part of that?

17 A. I believe it was a part of a warrant sweep. I
18 don't think we had specifically for drug enforcement,
19 no, sir. We were just going out looking for people for
20 warrants.

21 Q. All right. Now, you had an occasion to go to an
22 address on Lodestone Court in Moncks Corner, is that
23 correct?

24 A. Could you repeat that, sir?

25 Q. You had occasion to go to an address on Lodestone

1 Court?

2 A. Yes, sir.

3 Q. How did you end up going there? What brought you
4 to the Lodestone Court address?

5 A. We were looking for a Michael Molyneaux. He had
6 a warrant for family court, I believe. And we went
7 to -- or we got information that he was at that address.
8 I'm not sure how we got the information, but we got
9 information he was at that address, and we went there.

10 Q. Now, do you typically serve bench warrants in
11 family court?

12 A. I have before, yes, sir.

13 Q. What's that?

14 A. Yes, sir, I have.

15 Q. Okay. I mean, you have done it before. Is that
16 normally your responsibility with the Town of Moncks
17 Corner, or is that typically done by the Sheriff's
18 Department?

19 A. Well, when I was tasked to the drug unit I was,
20 you know, a special deputy. I'm not sure exactly what
21 it would be called, but I have served arrest warrants
22 and also family court bench warrants.

23 Like if I get someone on a traffic stop and
24 they have a family court bench warrant and I made the
25 arrest on them, I will take them back to the Sheriff's

1 Office and I would serve them up with the paperwork.

2 Q. Now, on this particular day, were you first on
3 the scene at Lodestone Court?

4 A. I believe I was. Yes, sir, I believe I was
5 first.

6 Q. Okay. Now, you prepared an incident report for
7 the incident at Lodestone Court, is that correct?

8 A. Yes, sir.

9 Q. I'm looking at a copy of this, and it indicates
10 at the top -- it says Agency ID, and it says SC-008000.
11 What agency is that?

12 A. Berkeley County Sheriff's Office.

13 Q. So you filled out the report for the Berkeley
14 County Sheriff's Department for this particular
15 incident?

16 A. As I did for all the incidents when I was
17 assigned to the Berkeley County Sheriff's Office Drug
18 Enforcement Unit.

19 Q. And I notice at the end that there is someone
20 indicating as an improving officer, a Hurshel Tanner.

21 A. Yes, sir.

22 Q. Who is Hurshel Tanner?

23 A. Hurshel Tanner was our sergeant over the Drug
24 Enforcement Unit at the time, and he approved probably
25 99 percent of the reports.

1 Q. And was he with the Berkeley County Sheriff's
2 Office?

3 A. Yes, sir.

4 Q. Okay. The incident report indicates that you
5 arrived on the scene and saw somebody -- (inaudible).

6 A. Say it one more time.

7 Q. Well, I'm looking at the incident report, and it
8 said that -- your first notes about what was happening
9 at the Lodestone address is that you arrived, you saw a
10 white male matching the description of Molyneaux run on
11 the front porch of the residence and enter through the
12 front door.

13 A. Yes, sir.

14 Q. Now, we have been given some photographs of the
15 scene, and I was trying to figure out what was the
16 front -- is one of those photographs of the front door
17 of this residence?

18 A. I will have to look at the photographs.

19 MR. BUTLER: I am putting them in front of
20 him now.

21 A. There is a photograph with a car, and there is a
22 lawn mower, a tractor and a go-kart in the photograph.
23 That would be the front door of the residence to the
24 porch, if we're looking at the same one.

25 Would you like for me to hold this up so you

1 can see it?

2 Q. (BY MR. NETTLES): Well, that has been identified
3 to us as Moncks Corner's document 0165.

4 Can you see that number on the photograph
5 that you're looking at?

6 A. 0159.

7 MR. BUTLER: Yeah, 159 through 180, and that
8 is the 7th -- you will see at the bottom corner, it's
9 hard to read, but it says 165.

10 THE WITNESS: Okay. Yes, sir, 165.

11 Q. (BY MR. NETTLES): Okay. And that's the front
12 door of the residence. All right.

13 A. Yes, sir. If I may?

14 Q. And then the next indication is you saw several
15 individuals that you identified as Samantha Eason,
16 Stephanie Gardner, Nathan Parker and Cory Gethers at the
17 back door of the residence, is that correct?

18 A. Yes, sir.

19 Q. Can you look at those photographs and tell us
20 what -- one of those shows the back door to the
21 residence?

22 A. 168. There was no door there, though, at the
23 time.

24 MR. BUTLER: Answer any questions he has.

25 Q. (BY MR. NETTLES): Okay. In the back of the

1 residence, were they inside the door shown in 168 or
2 were they outside?

3 A. Inside the door.

4 Q. And is there a photograph there that shows the
5 inside of the residence by the back door?

6 MR. BUTLER: So, Louis, you're asking him
7 for a picture of the inside of the back door?

8 MR. NETTLES: Yeah, yeah.

9 MR. BUTLER: That's 175. Do you see that?

10 THE WITNESS: Yes, 175.

11 Q. (BY MR. NETTLES): I'm sorry. What is that
12 number again?

13 A. 175.

14 Q. And that shows what looks like -- on the left
15 side of the photograph there is a cooler and then there
16 is, it looks like, a weight bench.

17 So we have identified the photograph, I
18 believe it's 175, as being the interior by the back
19 door.

20 Were they -- these people that you saw there
21 around that back door, would they have been visible in
22 the location that's shown in that photograph?

23 A. Yes, sir.

24 Q. Were they all around the back door at the time
25 that you saw them?

1 A. No, sir.

2 Q. Where were they when you first saw them?

3 A. If you go up to the next photograph, 176, where
4 there's a filing cabinet, and there's a desk there with
5 a fish tank on top of it, at the time that I went there
6 there was no back door and there was just -- there was a
7 couch -- where that filing cabinet and that desk with
8 the fish tank on top of it, there was a couch there, and
9 that's where everybody was, was either sitting on that
10 couch or just to the right where the couch was there is
11 like a step, and it looks like there is another entrance
12 to the residence, and that's where one other person was
13 standing at.

14 Q. Okay. In the photograph Number 176, in the
15 background there appears to be a doorway. Is that a
16 doorway in the center of that photograph?

17 A. No, sir. That is a doorway, but that's not the
18 doorway to where we were, or to the living room of the
19 residence. That led into another bedroom attached to
20 the house.

21 Q. Okay. Now, is there a doorway shown in
22 Photograph 176?

23 A. There is a doorway shown in 176.

24 Q. Is that on the extreme right of that photograph?

25 A. Oh, I'm sorry. I was looking at 177. I

1 apologize. So --

2 Q. 176 and 177 are pretty much the same photograph?

3 A. You're right, yes, sir. So to the left -- or
4 right in the center of the photograph, that's a doorway
5 to a bedroom there. And to the right, you can barely
6 see it, the right-hand side, right-hand corner, bottom
7 corner, there is like a blanket or something like that
8 clothespinned up, that is another entrance to the
9 residence, yes, sir, or another entrance inside of the
10 main trailer, I guess. This was an attached room to the
11 back of the trailer.

12 Q. So the room shown in 176 and 177 is an addition
13 to the mobile home?

14 A. Yes, sir. It was built onto the mobile home.

15 Q. And then to get into the main part of the mobile
16 home, you would have gone through that door shown on the
17 extreme right of that photograph?

18 A. Yes, sir.

19 Q. And then the other door leads to a bedroom in the
20 mobile home?

21 A. Yes, sir.

22 Q. When you saw the people around in this add-on
23 room, what were they doing?

24 A. Several individuals -- I can't tell you who they
25 were at this time. I don't remember. I remember

1 Samantha Eason met me at the door. And there was -- I'm
2 not sure who was standing in the doorway into the living
3 room of the home, but on the couch was Jennifer (sic)
4 Gardner and, I believe, the Resek guy.

5 Q. Okay. Did you enter through the front door to
6 follow Molyneaux?

7 A. No, sir.

8 Q. So you had come in the front door and you at some
9 point ended up in this back room?

10 A. No, sir.

11 Q. Okay. And when you went in the back room, that's
12 where these other people --

13 A. I said no. Did you get that I said no? I did
14 not come in through the front door. And, no, I did not
15 go through the front door to get to that sunroom, what
16 was attached to their house.

17 Q. Okay, I'm confused. Did you enter the residence
18 from the front door or the back door?

19 A. I entered the residence through -- the door was
20 identified as photograph Number 175. I entered through
21 that door.

22 Q. Okay. That's the one we described as the back
23 door?

24 A. Yes, sir, back door to the sunroom, or whatever
25 you want to call that, the attachment, the extra room on

1 the house.

2 Q. Did someone else enter through the front door?

3 A. I have no clue, sir. I don't know.

4 Q. I mean, but Molyneaux had gone in the front door?

5 A. He went in the front door, yes, sir.

6 Q. And then when you entered, you came around to the
7 back of the unit and then you saw these people inside?

8 A. Yes, sir.

9 Q. And I believe you indicated that when you came
10 into this add-on room -- we have the photograph of where
11 the fish tank is there was a sofa of some kind that some
12 of the people were sitting on?

13 A. Yes, sir.

14 Q. Now, when you got back there to the room, did you
15 ask those people to identify themselves?

16 A. Not initially, no, sir.

17 Q. Okay. Well, why don't you take us through what
18 you did once you entered the residence.

19 A. Well, before I entered I asked if Michael
20 Molyneaux was inside the residence, and that's where --
21 forgive me with the names -- Samantha Eason, I believe
22 was her name, she said, yeah, he's here, he's in our
23 bedroom. And I said, okay.

24 And I don't recall if I asked her for
25 permission. I mean, she told me that there was somebody

1 inside the house that had an active warrant. So I
2 entered the residence and went into the bedroom. Did
3 not see him in the bedroom where she indicated.

4 I knocked on the door to the bathroom. He
5 said he was in there using the bathroom. I didn't give
6 him any time. I just opened up the bathroom and went in
7 there and handcuffed him.

8 Q. All right. And I believe you indicated Ms. Eason
9 said that Molyneaux was in our bedroom, is the way she
10 put it?

11 A. Yes, sir.

12 Q. That indicated to you that Mr. Molyneaux was
13 living there with Ms. Eason?

14 A. If I may, just to make sure I confirm that, let
15 me see if I put that in the report, because I don't
16 remember if she said our bedroom or not.

17 Q. All right. So once you located Mr. Molyneaux,
18 you put him in handcuffs, is that right?

19 A. Yes, sir. Yep, she said their bedroom. That's
20 what she told me.

21 Q. Okay. You had come for Mr. Molyneaux, you found
22 him, but you didn't leave immediately.

23 Tell us why you didn't leave once you had
24 Molyneaux in your custody.

25 A. I didn't leave because while I was entering the

1 residence -- or entering the residence -- I'm reading
2 this from the incident report.

3 It says, "The officer then entered the room,
4 and upon walking into the room I observed a hand-rolled
5 cigarette containing a green plant-like material on the
6 night stand next to the bed and on the dresser in the
7 bedroom."

8 Q. And that is the room that Ms. Eason had indicated
9 was where she and Molyneaux were staying?

10 A. Yes, sir.

11 Q. What did you do next?

12 A. I asked her for consent -- or I told her what I
13 observed, and I inquired about it, and she said it was
14 hers, it was marijuana. And I asked her consent. She
15 gave me verbal and written consent to search the
16 residence.

17 Q. Okay. And why did you ask for the consent from
18 Ms. Eason?

19 A. Because she was the homeowner, I guess. Or not
20 really homeowner, but the leaseholder, I guess.

21 Q. She identified herself as the homeowner of the
22 residence, so you asked her for the consent to search?

23 A. Yes, sir.

24 Q. And I was looking at the -- and you didn't ask
25 anybody else for the consent to search?

1 A. Correct.

2 Q. And did you have -- did you then conduct a search
3 of the residence?

4 A. Yes, sir, after getting verbal and written
5 consent from Samantha Eason, yes, sir.

6 Q. And where were the other people, other than
7 Molyneaux and Eason, while you were conducting the
8 search?

9 A. Everybody except for Cory Gethers was sitting in
10 that sunroom attachment to the house. Cory Gethers was
11 standing in the doorway, or he walked up behind us, you
12 know, while we were searching it.

13 Q. Did that make you a little bit concerned about
14 your safety with him --

15 A. Yes, sir.

16 Q. -- behind you?

17 So Ms. Gardner was in this sunroom or add-on
18 room the entire time that you were there?

19 A. I don't know, but I assume so, because I was
20 searching.

21 Q. You don't have any recollection of her leaving
22 that add-on or sunroom area while you were there?

23 A. No, sir, I do not know.

24 Q. So then you did the search. What did you
25 discover during your search?

1 A. In that bedroom there was green plant-like
2 material, and then under one couch cushion for a couch
3 that was on the -- in the living room area of the
4 residence -- do you want me to try to find a photograph
5 here?

6 Q. Okay. So you indicated that there was a couch or
7 sofa in the add-on area, and now you have talked about a
8 couch or sofa in the main area of the mobile home, the
9 original mobile home area?

10 A. Yes, sir.

11 Q. So there was a living room in there and --

12 A. There was a living room, yes, sir.

13 Q. And it had a couch?

14 A. It had a couch in there, too, yes, sir.

15 Q. And you discovered some items that you thought
16 might be drugs in that couch?

17 A. I discovered some items that were thought may be
18 drugs, and then they tested for what thought may be
19 drugs, and then they later were confirmed drugs, yes,
20 sir.

21 Q. And they were between the -- were they visible
22 when you first looked at the couch, or did you have to
23 search inside the couch to find these items?

24 A. You had to physically lift up on the couch
25 cushions to find the drugs laying under the couch

1 cushion.

2 Q. And they were stuck between the couch cushions?

3 A. Can I demonstrate? Lift up, here is drugs.

4 Q. And at that time there was also a cellular
5 telephone on that couch?

6 A. Yes, sir.

7 Q. Did you ever determine who that cell phone
8 belonged to?

9 A. Cory Gethers claimed it to be his cell phone,
10 yes, sir.

11 Q. Did you then identify the other folks that were
12 there?

13 A. At that point, yes, sir, I believe they were
14 identified, but I did not run their information through
15 our central dispatch.

16 Q. Did you talk with Stephanie Gardner there at the
17 scene?

18 A. I talked with everybody at the scene, yes, sir.

19 Q. And you were able to get Ms. Gardner's address
20 and State ID number?

21 A. She told me she lived -- she told me she lived
22 in -- where was it? It was somewhere upstate and she
23 was visiting. I can't remember exactly where it was
24 upstate.

25 Q. You determined it was not her residence?

1 A. Yes, sir, it was not her residence, or from what
2 she says it's not her residence.

3 Q. You didn't have any information other than the
4 fact that -- other than that? This was not her
5 residence, that she gave another address for her home?

6 A. I do not remember if I asked her what her address
7 was. I would think whoever was booking her in the jail
8 probably asked her that information.

9 I just remember asking her for -- I don't
10 remember asking her specific questions at all. I just
11 remember the gist of the conversation. I remember she
12 said she was from somewhere upstate, that she was
13 visiting Samantha Eason, and that she has known Samantha
14 Eason for a long time, and that she was down here for
15 work, but she couldn't go to work because she didn't
16 have her ID with her, or she didn't have her driver's
17 license or something.

18 I don't remember exactly what was said, but
19 that was the gist of it, that she couldn't go to work at
20 the club because she did not have an ID or her driver's
21 license with her.

22 Q. But you were able to obtain her information from
23 her State ID?

24 A. I do not recall if she had a State ID on her,
25 sir. I did not book her into the jail.

1 Q. Did you have the capability to check the state
2 database and get a copy, I mean see a copy of her State
3 ID available to you? Does law enforcement have access
4 to that information?

5 A. If I looked it up, yes, sir. I do have access to
6 the South Carolina Department of Motor Vehicles' files,
7 yes, sir.

8 Q. Do you recall checking under her name and address
9 and finding out that she did, in fact, have an ID?

10 A. I don't recall doing that, but I possibly could
11 have, yes, sir. I'm not saying I didn't and I'm not
12 saying I did.

13 Q. Now, did you ever see any drugs or illegal
14 substances in Ms. Gardner's possession?

15 A. No, sir.

16 Q. I'm sorry. I didn't catch that.

17 A. No, sir, I do not recall seeing any drugs on her
18 possession.

19 Q. Did you ever see any drugs in the possession of
20 any of the people there?

21 A. Only in constructive possession, sir.

22 Q. I'm sorry?

23 A. Only in constructive possession.

24 Q. Okay. And who did you believe had constructive
25 possession of these drugs?

1 A. Everybody was in constructive possession.

2 Q. And how did you come to that conclusion?

3 A. Well, state law allows us to do that, State vs.
4 Muhammad, if you have ability to have dominion and
5 control over the substance.

6 And, I mean, they were only ten feet away.
7 I could easily argue that it could have been anybody in
8 that house. Nobody claimed it.

9 Q. What were the facts that you relied on to
10 determine that Stephanie Gardner had dominion or control
11 of these drugs?

12 A. They were less than five -- probably less than
13 12 feet away, I would say, from her. She could have
14 easily had access to it, as well as everyone else in the
15 residence could have.

16 Q. And you had no idea how long those drugs had been
17 there?

18 A. No, sir. I wouldn't know how long they were put
19 there.

20 Q. Is there anything else that you thought of that
21 would indicate to you that Ms. Gardner might have
22 dominion or control over these drugs other than finding
23 drugs hidden in a couch in Mrs. Eason's residence?

24 A. They were easily accessible to her, as well as
25 everyone else. That's why everybody was arrested.

1 That's all I needed, was probable cause, to make an
2 arrest.

3 Q. These drugs were not visible to somebody walking
4 by this couch?

5 A. No, sir.

6 Q. They weren't open?

7 A. They were placed there. They were hidden there.

8 Q. And you asked Ms. Gardner if those were her drugs
9 and she said they were not hers?

10 A. As everyone else said, too, yes, sir. Everyone
11 said they were not their drugs and they didn't know
12 whose drugs they were.

13 Q. Did Ms. Gardner ever indicate to you that she had
14 knowledge of those drugs?

15 A. No, sir, she never indicated she had knowledge of
16 them.

17 Q. In fact, nobody there indicated that they had
18 knowledge of the drugs?

19 A. No, sir.

20 Q. And you had no indication of anything to suggest
21 that Ms. Gardner did have knowledge of those drugs, did
22 you?

23 A. No, sir, not at that time.

24 Q. Okay. Now, you then had -- you then arrested
25 Mr. Gethers, Mr. Resek, Ms. Gardner, Ms. Eason and

1 Michael Molyneaux for possession of these drugs?

2 A. Yes, sir.

3 Q. All based on the fact that you found these drugs
4 in the sofa in a room that they were not in?

5 A. Yes, sir.

6 Q. And, in particular, you then prepared an arrest
7 warrant, is that correct?

8 A. That is correct, yes, sir.

9 Q. And do you have a copy of that, the arrest
10 warrant for Ms. Gardner there in front of you?

11 A. Yes, sir. Give me a second to find it. Okay.
12 Thank you.

13 Q. Okay. And how many warrants did you fill out?

14 A. I have four arrest warrants here in my hand.

15 Q. Now, looking at that warrant, you said that your
16 probable cause is based on that on 4-27-2018, while
17 located at Lodestone Court, Moncks Corner -- well, the
18 first one says Samantha Eason did violate 44-53-375(a),
19 possession of cocaine base. While located at the search
20 of the said residence, defendant was an occupant.

21 Law enforcement officers located 13 grams of
22 presumptive methamphetamine, 4 grams of presumptive
23 heroin, .3 grams of presumptive cocaine base under the
24 couch cushion in the living room residence, all which
25 was done within the laws of the state of South Carolina.

1 Is that the information you gave to the
2 Court?

3 A. Yes, sir. There was a clerical issue -- or a
4 clerical error on here for Samantha Eason. If you look
5 at the top of the arrest warrant it says Stephanie
6 Michelle Gardner. So it was a clerical issue.

7 Obviously, you can tell it was a clerical
8 issue because I crossed out trafficking methamphetamine
9 and hand wrote possession of cocaine base, and initialed
10 it and sent it to the judge.

11 Q. But did you use the same language on all the
12 warrants?

13 A. Yes, sir. It was a template, yes, sir, for
14 everybody.

15 Q. And in the first warrant ending in 351 with
16 respect to Gardner, you just copied that warrant that
17 you prepared for Samantha Eason, and that's why Samantha
18 Eason's name appears on that arrest warrant of Stephanie
19 Gardner?

20 A. Yes, sir. I overlooked it, and so did the judge.

21 Q. Did you give any other information under oath to
22 the Court in obtaining these warrants?

23 A. Just was sworn in by a judge, and I swore that
24 all the information on this warrant is correct. And,
25 like I said, you've got a clerical issue there.

1 Q. I'm sorry. Will you repeat that?

2 A. I said I was sworn that all information on this
3 warrant is correct; however, there is a clerical issue
4 in there because, like you said, I used it as -- or I
5 used a template for multiple warrants, used it all as a
6 template.

7 If you look at the top of the warrant where
8 it says personally appeared before me, the Affiant,
9 Brooks Barlow, being duly sworn, deposes and says that
10 Defendant, Stephanie Michelle Gardner, did in this
11 county and state, on or about 4-27-2018, violate the
12 criminal laws of the state of South Carolina or
13 ordinance of County, Berkeley, in the following
14 particulars; description of offense, possession of less
15 than one gram of meth or cocaine base, first offense.

16 Q. Now, so that's the totality of the information
17 you gave to the Court that day to get these warrants?

18 A. Yes, sir.

19 Q. You did not give any information, any testimony
20 under oath other than what's in this affidavit?

21 A. I don't know. I don't know if I did or not.
22 They may have asked like a little bit more detail on it
23 or may not have.

24 Q. Do you have any recollection today of giving any
25 other information to the Court?

1 A. I do not know if I gave any more information to
2 the Court or not. I don't know. It's been almost three
3 years ago.

4 Q. Now, I also want to ask you, if you look at the
5 arrest warrant, on the left-hand side of that paper
6 there is a line for filling out the prosecuting agency,
7 and you filled that out as Berkeley County Sheriff?

8 A. Yes, sir.

9 Q. And the prosecuting officer was you?

10 A. Uh-huh.

11 Q. And the S0027, what is that?

12 A. Where are we at now?

13 Q. Well, by your name you have got S0027. What does
14 that mean?

15 A. I don't know, sir.

16 Q. So the whole gist of this arrest warrant is that
17 Ms. Gardner was present in a house where drugs were
18 located?

19 A. Yes, sir. I mean --

20 Q. And you had no indication that Ms. Gardner was
21 aware of those drugs?

22 A. Nobody was aware of those drugs, but somebody had
23 to put them there.

24 Q. Did they have to put them there that day?

25 A. No.

1 Q. Do you have any idea how long the drugs had been
2 there?

3 A. I don't, but there was other drugs inside the
4 house. And based on odor and visual, you could visually
5 observe marijuana in the house and also an odor of
6 marijuana in the house, and that's not a defense for
7 you, to stay there when you know there is drugs in the
8 house.

9 Q. And you had no evidence that Ms. Gardner was
10 aware of those drugs?

11 A. I mean, visual and odor of it. I mean -- and she
12 didn't leave. Then she's complicit.

13 Q. Were the drugs visible to somebody walking by the
14 couch?

15 A. Not those drugs, but you could still smell the
16 odor of marijuana. And then later on -- or while we
17 were also doing the search warrant, there was an ashtray
18 which was maybe a foot away from the inside of the
19 living room of the mobile home; that there was
20 marijuana -- a burnt cigarette laying in the ashtray,
21 and that's visible if you were standing in the doorway.
22 And, again, you can smell the odor of marijuana.

23 Q. You knew who the marijuana was possessed by,
24 didn't you?

25 A. I knew who the marijuana in the bedroom was

1 possessed by, yes, sir, not in the living room.

2 Everybody denied everything at that point.

3 Q. And did you arrest Ms. Gardner for possession of
4 marijuana?

5 A. I don't believe so. I would have to look back in
6 my records.

7 Q. Did you arrest Ms. Eason for possession of
8 marijuana?

9 A. For marijuana? Are you saying marijuana?

10 Q. Yeah. Did you arrest Ms. Eason for possession of
11 marijuana.

12 A. I don't believe I arrested anyone for possession
13 of marijuana, but I would have to look back at my record
14 to confirm that.

15 Q. Was it in the warrants?

16 A. Or it could have been a simple blue ticket, a
17 uniform traffic ticket, because it was a minor amount of
18 marijuana. And that was probably not charged because of
19 the fact that it was a minor amount of marijuana. There
20 were other serious drugs there.

21 Q. And in the charges you instituted with Ms.
22 Gardner was in trafficking these illegal drugs?

23 A. Let me look at the warrants real quick. It says
24 she was arrested for, as well as everyone else, was
25 arrested for trafficking cocaine and trafficking

1 methamphetamine.

2 Q. And those are much more serious charges than
3 possession of marijuana?

4 A. Yes, sir.

5 Q. And do you know what sort of bond was set for
6 Ms. Gardner?

7 A. I don't know, sir. I don't know what kind of
8 bond she was given.

9 Q. Would it surprise you if it was more than a
10 \$200,000 bond?

11 A. It wouldn't surprise me at all with, you know,
12 the seriousness of the charges.

13 Q. These were very serious charges?

14 A. I mean, you have trafficking methamphetamine. I
15 think that carries 25 years. And trafficking cocaine,
16 I'm not sure what that carries, but it probably carries
17 25 years. You have heroin, which carries about 10 to 15
18 years, and you've got possession of cocaine base. I
19 mean, you've got less than a year on that one.

20 But, you know, you have a lot of time which
21 you could possibly go to prison for on those charges,
22 yes, sir. I don't see any issue why a judge would set a
23 bond that high.

24 Q. Did you have any reservations in your mind as to
25 whether or not Stephanie Gardner possessed these drugs?

1 A. Nobody claimed them. I mean, I had to go with
2 what I had at that time. I had probable cause to arrest
3 all of them.

4 Q. And you had taken an oath to uphold the
5 constitution of the state of South Carolina?

6 A. Yes, sir.

7 Q. And one of those things is that South Carolina
8 protects people from arrest without probable cause?

9 A. Yes, sir.

10 Q. But your conscience is clear on that?

11 A. Absolutely.

12 Q. Now, did you have to arrest Ms. Gardner that
13 evening?

14 A. If I arrest one, I have to arrest all of them.
15 So, yes, sir, I had to arrest all of them.

16 Q. Why did you have to arrest all of them?

17 A. Because they were under constructive possession
18 of illegal narcotics.

19 Q. And you were not able to connect these drugs to
20 any of those individuals?

21 A. Not at the time.

22 Q. Did you check the packages for fingerprints?

23 A. I mean, that would take, you know, months maybe
24 or weeks to get back fingerprints. I mean, that would
25 take some time to get back.

1 Q. Well, there was no reason you couldn't arrest
2 them later, is there?

3 A. Yeah, good luck finding them.

4 Q. What's that?

5 A. Good luck finding them. I mean, if you don't
6 arrest them, it's going to take awhile to find them, if
7 you can find them at all.

8 Q. Well, you could collect evidence and arrest them
9 later, couldn't you?

10 A. Yeah, but that's not typically what you do
11 whenever you have several people inside the house that
12 are in constructive possession of drugs. I mean,
13 typically you would arrest everyone.

14 Q. But there was that -- if you couldn't connect
15 those drugs to them, you were violating their
16 constitutional rights?

17 MR. BUTLER: Object to the form. Answer if
18 you can.

19 MS. JACKSON: Same objection.

20 A. I'm sorry. Repeat that question, because I feel
21 like I'm answering --

22 Q. (BY MR. NETTLES): If you were arresting them
23 without probable cause, you were violating their
24 constitutional rights that you promised to -- swore to
25 uphold?

1 MR. BUTLER: Same objection.

2 A. Yes, but I had probable cause to make an arrest.
3 But if I did not have probable cause, then, yes, I would
4 violate the constitutional rights. However, in this
5 case, I had probable cause, State v. Muhammad.

6 Q. (BY MR. NETTLES): And you indicated the reason
7 you didn't wait until you had more evidence to actually
8 connect any of those people to the drugs is that it was
9 just easier for you to do that way, or that's just your
10 standard procedure?

11 MR. BUTLER: Object to the form.

12 A. I had probable cause to make an arrest on
13 everyone that day. That doesn't mean the investigation
14 stopped there. It just means I had probable cause to
15 make an arrest on everyone that night.

16 Q. (BY MR. NETTLES): So after you arrested Ms.
17 Gardner, what's the next step you took in the
18 investigation of this charge?

19 A. It's easy. I listened to the jail phone calls,
20 which there was a plethora of information on those jail
21 phone calls from your client.

22 Q. Say that again.

23 A. I said there was a plethora of information on the
24 jail phone calls, and especially from your client
25 indicating that she had information that those drugs may

1 have belonged to someone there, so she knew about them.

2 Q. Was there any indication in those phone calls
3 that she was aware of those drugs prior to you finding
4 them in the couch?

5 A. I would have to listen to the jail phone calls
6 again, but I remember she referenced, you know,
7 believing that she knew who the drugs belonged to.

8 Q. And I believe while you were doing your
9 investigation Mr. Gethers offered to do a drug buy
10 (phonetic)?

11 A. He did.

12 Q. Did that suggest to you that Mr. Gethers might
13 have been aware of those drugs?

14 A. Yes, but at that time everybody was already under
15 arrest.

16 Q. So did you put Ms. Gardner in jail so that you
17 could monitor her phone calls?

18 MR. BUTLER: Object to the form.

19 A. No. I put her in jail because there was probable
20 cause to make the arrest on everyone inside that
21 residence.

22 Q. (BY MR. NETTLES): What steps did you take to
23 further the investigation after arresting Ms. Gardner
24 other than listening to her jail phone calls?

25 A. I did a search warrant on Cory Gethers' phone,

1 which I never seen the search warrant. It took so long
2 to get back.

3 Q. Did you do a search warrant on Stephanie
4 Gardner's cell phone?

5 A. I don't believe she had a phone. I don't recall
6 if she had one or not, but I -- if I knew that she had
7 one, I would have done a search warrant on everybody's
8 cell phones.

9 Q. Didn't she, in fact, have a cell phone?

10 A. I don't know. I didn't book her in the jail.

11 Q. I'm sorry. You said you didn't book her in the
12 jail?

13 A. I didn't book her in the jail, so I don't know
14 what personal property she had. But if I knew that she
15 had a cell phone, I would have done a search warrant on
16 her cell phone.

17 Q. Did you ask her if she had a cell phone?

18 A. Not at that time. It wasn't pertinent to the
19 crime at the time. There were drugs in close proximity
20 to all of them.

21 MR. BUTLER: Louis, we have been going for
22 about an hour. Is this a good time for a short break or
23 are you --

24 MR. NETTLES: Okay, let's take a break. Why
25 don't we take ten minutes.

1 MR. BUTLER: Ten is fine, or five is fine
2 with me.

3 MS. JACKSON: How about five?

4 MR. BUTLER: Okay. We'll go off the video
5 for just a second, Madam Court Reporter.

6 And, Louis, I will instruct him that we
7 can't have discussion about this case. I'll make sure
8 that he knows that he can't talk to me about it.

9 (A recess was taken.)

10 Q. (BY MR. NETTLES): All right. Officer Barlow,
11 you arrested Ms. Gardner on the basis that she was found
12 in a structure where you were able to locate drugs
13 hidden away in a couch?

14 A. Yes, sir, and they were located inside of the
15 residence.

16 Q. And it was not Ms. Gardner's residence?

17 A. No, sir, it was not Ms. Gardner's residence.

18 Q. And you had no knowledge that Ms. Gardner was
19 aware of those drugs?

20 A. No, sir, I don't know if she knew about the drugs
21 or not.

22 Q. Say that again. I'm sorry, will you repeat that?

23 A. I said I don't know if she knew about the drugs
24 or not.

25 MR. NETTLES: I think that's all the

1 questions I have. Thank you.

2 MR. BUTLER: Robin?

3 MS. JACKSON: I'm sorry. I didn't hear --
4 it was garbled on the last question and answer.

5 Madam Court Reporter, can you read it
6 back?

7 (Question and answer read back.)

8 MS. JACKSON: No questions.

9 MR. BUTLER: Madam Court Reporter, give me
10 just one second to confer and then we'll be right back
11 on. Let's just take a few seconds and then we'll likely
12 be done.

13 (Brief pause.)

14 EXAMINATION

15 BY MR. BUTLER:

16 Q. Mr. Barlow, my name is Drew Butler I'm an
17 attorney with the Richardson Plowden firm, and I've been
18 retained to represent and defend the Town of Moncks
19 Corner.

20 If at any point you don't understand one
21 of my questions, just have me repeat or rephrase, all
22 right?

23 A. Yes, sir.

24 Q. On the night of the arrest, before entering the
25 home, did you feel that you had reasonable suspicions to

1 enter the home?

2 A. Yes, sir.

3 Q. What was that reasonable suspicion based upon?

4 A. Based upon I saw Michael Molyneaux. I've dealt
5 with him on a couple of other occasions prior to this.

6 Q. And so you recognized him?

7 A. I recognized him. The silhouette of him was
8 about the same size that I've seen him before. The same
9 description of -- or, yeah, same description, size,
10 weight, hair, as he's running into the residence.

11 Q. He was running into the residence that you
12 eventually found Ms. Gardner in, is that right?

13 A. Yes, sir.

14 Q. Before you entered into the home, did you have a
15 chance to speak with anyone?

16 A. Ms. Eason, I believe. I am getting the names
17 mixed up.

18 Q. And did Ms. Eason make any reference to you that
19 Mr. Molyneaux was in the home?

20 A. Yes, sir.

21 Q. So at that point you saw him run in, you
22 recognized him running in, and you confirmed it with
23 someone that was there at the door?

24 A. Yes.

25 Q. And you also had an arrest warrant for Mr.

1 Molyneaux?

2 A. We did, yes, sir.

3 Q. Okay. And so based on those three items, seeing
4 him, recognizing him, confirming it and having an arrest
5 warrant, is that your reasonable suspicion for any
6 arrest?

7 A. Yes.

8 Q. And upon entering the residence, did you find
9 Mr. Molyneaux?

10 A. Yes, sir.

11 Q. And am I hearing from your testimony with
12 Mr. Nettles that you also in clear, plain view saw
13 illegal narcotics?

14 A. Yes, sir.

15 Q. At that point, did you have another conversation
16 with Ms. Eason?

17 A. I did.

18 Q. And did she give you consent to search the
19 residence?

20 A. She gave me written and verbal consent, yes, sir.

21 Q. After that written and verbal consent, were you
22 able to find narcotics?

23 A. Yes, sir.

24 Q. And was Ms. Gardner in the residence where the
25 narcotics were found?

1 A. Yes, sir.

2 Q. Was she in a situation or a position where she
3 could have dominion and control over them?

4 A. Yes, sir.

5 Q. She was in the very residence in which they were
6 found, is that right?

7 A. Yes, sir.

8 Q. Ms. Gardner has represented in her deposition
9 that she was on the porch. The photographs today
10 indicate that it was an enclosed structure attached to
11 the home?

12 A. I thought it was a sunroom.

13 Q. Right.

14 A. Yes, sir.

15 Q. But it's by no means an exterior porch, right?

16 A. No, sir, it's not.

17 Q. It's an interior attachment to the residence?

18 A. Yes, sir.

19 Q. And then did you have an opportunity to question
20 everyone in the residence, including Ms. Gardner, as to
21 whether the drugs were there and who they belonged to?

22 A. Yes, sir, I did question everyone.

23 Q. And did anyone admit to having possession of the
24 drugs?

25 A. No, sir, no one admitted to --

1 Q. Right. And Ms. Gardner, she didn't tell you who
2 the drugs belonged to, right?

3 A. No, sir, she didn't.

4 Q. And she certainly didn't leave the residence when
5 she saw illegal narcotics in clear, plain view, right?

6 A. Correct. It made her complicit.

7 Q. It made her what?

8 A. It made her complicit.

9 Q. Oh, with the illegal narcotics?

10 A. With the illegal narcotics, yes, sir.

11 Q. So based on her location in the home where the
12 narcotics were found, where no one claimed possession of
13 them, is that where your probable cause came from?

14 A. Yes, sir.

15 Q. At that point you don't have to have proof of
16 guilt, is that right?

17 A. No. All you need is probable cause for the
18 arrest.

19 Q. Fair enough.

20 A. It's up to a judge and jury to determine guilt
21 beyond a reasonable doubt.

22 MR. BUTLER: Understood.

23 Mr. Barlow, that's all the questions I
24 have for you. Thank you for coming in today. Please
25 answer any other questions these attorneys may have.

1 MS. JACKSON: I don't have any other
2 questions.

3 MR. BUTLER: You don't have any more
4 questions, Robin?

5 MS. JACKSON: I don't.

6 MR. BUTLER: Mr. Nettles, any from you, sir?

7 MR. NETTLES: No.

8 MR. BUTLER: All right. Madam Court
9 Reporter, I would like for him to read and sign. Can
10 you send that to me?

11 COURT REPORTER: I sure can. Are you
12 ordering a copy?

13 MR. BUTLER: Yes, ma'am. I would like a
14 condensed Etran. We didn't mark any exhibits today, so
15 a condensed Etran is fine. I will be happy to take the
16 errata sheet and give that to him.

17 MS. JACKSON: I also want Etran.

18 (The deposition was concluded at 4:25 p.m.)

19 - - -

20

21

22

23

24

25

1 STATE OF SOUTH CAROLINA)
)
 2)
 COUNTY OF CHARLESTON)

3
 4 I, Nancy Ennis Tierney, Certified Shorthand Reporter
 and Notary Public for the State of South Carolina at
 5 Large, do hereby certify that the witness in the
 foregoing deposition was by me duly sworn to testify to
 6 the truth, the whole truth and nothing but the truth in
 the within-entitled cause; that said deposition was
 taken at the time and location therein stated; that the
 7 testimony of the witness and all objections made at the
 time of the examination were recorded stenographically
 8 by me and were thereafter transcribed by computer-aided
 transcription; that the foregoing is a full, complete
 9 and true record of the testimony of the witness and of
 all objections made at the time of the examination; and
 10 that the witness was given an opportunity to read and
 correct said deposition and to subscribe the same.

11
 12 Should the signature of the witness not be affixed to
 the deposition, the witness shall not have availed
 13 himself/herself of the opportunity to sign or the
 signature has been waived.

14 I further certify that I am neither related to nor
 15 counsel for any party to the cause pending or interested
 in the events thereof.

16 Witness my hand, I have hereunto affixed my official
 seal this 29th day of January, 2021, at Charleston,
 17 Charleston County, South Carolina.

18
 19
 20
 21
 22
 23
 24 Nancy Ennis Tierney, CSR (IL)
 My Commission Expires:
 25 June 12, 2024

1 ATTESTATION

2 In Re: Stephanie Michelle Gardner v. Berkeley
County Sheriff's Office, et al.
3 Case No.: 2008-CP-08-00773
Deposition of: Brooks Matthew Barlow
4 Date Taken: January 25, 2021
Taken Before: Nancy Ennis Tierney, CSR (IL)

5 I have read the transcript of my deposition and find
6 that no changes are necessary.

7 _____
Brooks Matthew Barlow

8 Having read the transcript of my deposition, I wish
9 to make the following corrections:

10 Page Line:
11 Page Line:
12 Page Line:
13 Page Line:
14 Page Line:
15 Page Line:
16 Page Line:
17 Page Line:
18 Page Line:
19 Page Line:
20 Page Line:

21 _____
Brooks Matthew Barlow
22 Sworn to and subscribed before me this ____ day of
_____, 2021, in _____ County, South
23 Carolina.

24 _____
Notary Public
State of South Carolina
25 My Commission Expires: _____

In the Matter of:

STEPHANIE MICHELLE GARDNER

vs.

**BERKELEY COUNTY SHERIFF'S OFFICE AND
TOWN OF MONCK'S CORNER**

Stephanie Michelle Gardner

September 25, 2020



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IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
BERKELEY COUNTY

DEPOSITION OF STEPHANIE MICHELLE GARDNER

STEPHANIE MICHELLE GARDNER,

Plaintiff,

vs. CASE NO. 2020-CP-08-00773

BERKELEY COUNTY SHERIFF'S OFFICE AND TOWN OF
MONCK'S CORNER,

Defendants.

DEPONENT: STEPHANIE MICHELLE GARDNER

DATE: September 25, 2020

TIME: 10:33 AM

LOCATION: SENN LEGAL, LLC
3 Wesley Drive
Charleston, SC 29407

REPORTED BY: NANCY ENNIS TIERNEY, CSR (IL)

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1 STEPHANIE MICHELLE GARDNER, having been
2 first duly sworn, testified as hereinafter set forth.

3 EXAMINATION

4 BY MS. JACKSON:

5 Q. Would you please state your full name for the
6 record?

7 A. Stephanie Michelle Gardner.

8 Q. Ms. Gardner, my name is Robin Jackson, and I
9 represent the Berkeley County Sheriff's Office in a
10 lawsuit you have filed against them.

11 Have you ever given a deposition before?

12 A. No.

13 Q. Okay. There are a few basic ground rules for a
14 deposition. The first one is that we take turns
15 talking, that we don't talk at the same time, and there
16 is two reasons for it now.

17 The first one is that the court reporter can
18 only take down one of us at a time. The second one is
19 that counsel, who is on the Zoom, will have a hard time
20 hearing and understanding us, okay?

21 A. Okay.

22 Q. The second is that you talk very softly, so if
23 you can talk up. The court reporter is close, but we
24 want to make sure that Mr. Butler can hear you as well,
25 okay?

1 A. Okay.

2 Q. If you give me a yes or no answer, if you will
3 try to make sure that you say yes or no and not uh-huh
4 or huh-huh or nod your head. If you do one of those,
5 then I will prompt you for a yes or a no, and that's
6 just so we can make sure the record is clear.

7 A. Okay.

8 Q. If at any time you don't understand one of my
9 questions -- sometimes we get into things and my
10 question may be confusing -- please let me know, and I
11 will be happy to clarify the question so that when you
12 answer it you understand it. Is that fair?

13 A. Yes.

14 Q. And, on the flipside, if you answer my question I
15 will presume that you understood it. Is that fair?

16 A. Yes.

17 Q. Is there any reason that you cannot give a
18 truthful deposition here today?

19 A. No.

20 Q. Okay. Are you taking any medications today?

21 A. No.

22 Q. Do you have any social media accounts?

23 A. Yes, ma'am.

24 Q. What social media accounts do you have?

25 A. Facebook and Instagram.

1 Q. And what is your Facebook handle, your name on
2 the Facebook account?

3 A. It's my name.

4 Q. Does it include your middle name?

5 A. I don't think it shows my middle name.

6 Q. And what is your Instagram name?

7 A. I'm not sure. I don't use it.

8 Q. Okay. I'm going to ask you for your Social
9 Security number, and the court reporter is only going to
10 take down the last four digits.

11 A. XXX-XX-8189.

12 Q. And your date of birth?

13 A. It's March 2nd, 1986.

14 Q. And do you have a valid driver's license?

15 A. Just the identification card.

16 Q. When did you get the identification card?

17 A. The new one? May I look?

18 Q. Sure.

19 MR. NETTLES: I think we have already
20 produced that.

21 MS. JACKSON: Well, I had it down as a
22 driver's license, so that's why I just wanted to
23 double-check.

24 MR. NETTLES: The thing we produced was an
25 ID card.

1 A. It was issued 8-23-2019.

2 Q. (BY MS. JACKSON): Have you ever had a driver's
3 license?

4 A. Only a permit.

5 Q. And did you just not apply for the driver's
6 license?

7 A. Well, after I got my permit I got a DUI, and then
8 after that I didn't have a car, so I just didn't.

9 MR. BUTLER: Hello?

10 MS. JACKSON: Yes? Drew, can you hear us?
11 Drew? Drew?

12 MR. BUTLER: Hey.

13 MS. JACKSON: Have you been able to hear us
14 this whole time?

15 MR. BUTLER: I have not. I just now got on.
16 No problem. I can hear you now. Everything's fine.
17 Honestly, the only thing I heard was can you swear the
18 witness and it went dark.

19 MS. JACKSON: Okay. Well, I just got her
20 Social Security number and date of birth, that kind of
21 thing.

22 MR. BUTLER: I already have all that, so
23 that's fine. Continue on. I appreciate everyone's
24 indulgence.

25 Q. (BY MS. JACKSON): What is your current address?

1 A. 40 Sunrise Court in St. Matthews, South Carolina.
2 Q. How long have you lived there?
3 A. Since March.
4 Q. And who lives there with you?
5 A. My boyfriend and my stepchildren.
6 Q. What is your boyfriend's name?
7 A. Ronald Hildebrand.
8 Q. And where did you live before that?
9 A. With my grandmother in Sumter.
10 Q. And what is that address?
11 A. Wingate Court, 11 Wingate Court.
12 Q. And what is your grandmother's name?
13 A. Jacquelin Gardner.
14 Q. How long did you live with your grandmother?
15 A. From August of last year until March of this
16 year.
17 Q. And where did you live before that?
18 A. I stayed in Charleston, actually in a motel.
19 Q. Which motel?
20 A. Whichever one was cheaper that week.
21 Q. Did anyone stay with you?
22 A. No, just my dog.
23 Q. And what was the time frame for that?
24 A. From June to August of last year.
25 Q. And where did you live before that?

1 A. With my mother and father.

2 Q. And where is that?

3 A. In Dillon.

4 Q. Is that Lester Road?

5 A. Yes.

6 Q. What are your parents' names?

7 A. Becky and Curt Cederleaf.

8 Q. Is Curt with a C or a K?

9 A. It's with a C. I'm glad he's not here to hear
10 that.

11 Q. He gets upset about that?

12 A. Yeah.

13 Q. And how long did you live with your parents?

14 A. On and off, really, because I was going back and
15 forth to take care of my grandmother. So I think that
16 February really is when I came back home from staying in
17 Moncks Corner.

18 Q. February of 2019?

19 A. Yes.

20 Q. So February to June?

21 A. Yes.

22 Q. And before that where were you staying in Moncks
23 Corner?

24 A. I can't remember the address. It was with my
25 ex-boyfriend.

1 Q. And what is his name?

2 A. Richard Velazquez.

3 Q. Does he still live in Moncks Corner?

4 A. I have no idea.

5 Q. When did you end that relationship?

6 A. In February.

7 Q. So when you moved out?

8 A. Yes.

9 Q. And did you move in with him when you got out of
10 jail?

11 A. I went to my grandmother's house, and I moved
12 down with him three months later.

13 Q. So when you got out of jail you went to 11
14 Wingate Court?

15 A. Well, when I got out of jail I first had to go to
16 a motel and stay because I couldn't get anyone to come
17 get me. Richard actually helped me get the room. The
18 day I got out, I went.

19 Q. And how long did you stay in a hotel?

20 A. I believe it was three days, until my uncle came
21 and got me.

22 Q. And what is your uncle's name?

23 A. Kenneth Gardner.

24 Q. And so when your uncle came and got you, then you
25 went to your grandmother's?

1 A. Yes.

2 Q. And then how long did you stay at your
3 grandmother's until you went back to Moncks Corner to
4 stay with Richard?

5 A. Two to three months.

6 Q. All right. Before you were arrested, where were
7 you living?

8 A. At my mother and father's house in Dillon

9 Q. And how long did you live there before the
10 arrest?

11 A. A year and a half.

12 Q. And who else lives there besides your mom and
13 dad?

14 A. My little brother and I.

15 Q. And what is his name?

16 A. His name is Allen Gardner.

17 Q. A-l-a-n or A-l-l-e-n?

18 A. A-l-l-e-n.

19 Q. Okay. At what point did you live at Paces
20 Landing Avenue in Rock Hill?

21 A. I was 23, so about 11 years ago.

22 Q. Did you ever live at 9 Wingate Lane?

23 A. That's my grandmother's house, but the address is
24 wrong. That's 11 Wingate, not 9.

25 Q. I had both, so I wasn't sure if maybe --

1 A. No, I never did live at 9.
2 Q. And what about 3211 Balkan Drive in York?
3 A. Unfortunately.
4 Q. Who did you live there with?
5 A. An ex-boyfriend of mine.
6 Q. And what was his name?
7 A. Richard Bond.
8 Q. How long did you live there?
9 A. Approximately seven years.
10 Q. And then Galway Lane in Clover?
11 A. Galway Lane, yes. I lived there with my parents.
12 Q. And I found it on a document that was dated 2007.
13 Does that sound right?
14 A. I was probably still using her address, but I
15 wasn't technically living there.
16 Q. But that was your parents' house?
17 A. Yes.
18 Q. And then what about Garvin Road in York, 1698
19 Garvin Road?
20 A. I do not recall living there.
21 Q. Okay. And 307 Flatrock Street in Clover?
22 A. Yes.
23 Q. Who lived there with you?
24 A. Only myself and my little brother.
25 Q. How long did you live there?

1 A. Six to eight months.

2 Q. All right. The hotel you stayed in the day you
3 got out of jail, do you know where that was or what the
4 name of it is?

5 A. I'm not a hundred percent sure.

6 Q. Was it in Moncks Corner?

7 A. I'm not a hundred percent sure.

8 Q. How did you get to your deposition today?

9 A. My fiance drove me.

10 Q. And that is Ronald?

11 A. Yes.

12 Q. And you mentioned stepchildren, or his children?

13 A. Yes.

14 Q. And are either one of them close to the age of
15 18?

16 A. No.

17 Q. For my next question, I just want to preface it
18 with I don't want to know any conversations that you and
19 your attorney had, okay, but I do want to know what you
20 did to prepare for your deposition.

21 Did you review any documents?

22 A. No.

23 Q. Did you watch any videos or listen to any
24 recordings?

25 A. No.

1 Q. Did you speak with anyone?

2 A. No.

3 Q. Are you a member of any churches or civic
4 organizations in South Carolina?

5 A. I'm a member of two churches.

6 Q. What churches?

7 A. Second Baptist Church of Dillon and the Church of
8 God in St. Matthews where I live now.

9 Q. And you said you're engaged, correct?

10 A. Yes.

11 Q. Do you have a date set?

12 A. No, not with this COVID.

13 Q. Have you ever been married before?

14 A. No.

15 Q. Do you have any children?

16 A. No.

17 Q. Do you have -- is St. Matthews in Berkeley
18 County?

19 A. No, Calhoun County.

20 Q. Do you have any family members living in Berkeley
21 County?

22 A. No.

23 Q. Does your fiance have any family members who live
24 in Berkeley County?

25 A. No.

1 Q. Are you currently employed?

2 A. No.

3 Q. When was the last time you were employed?

4 A. The week of COVID when they shut all the jobs
5 down. I'm thinking that was March, the middle of March.

6 Q. Middle of March. Okay. And where were you
7 working?

8 A. At Applebee's.

9 Q. In what capacity? What were you doing?

10 A. I was a server.

11 Q. And which Applebee's?

12 A. The one in Sumter.

13 Q. How long did you work for them?

14 A. I had just started. A month I think I worked for
15 them.

16 Q. And then were you laid off because of COVID?

17 A. Yes.

18 Q. Where did you work before that?

19 A. IHOP.

20 Q. Where?

21 A. In Sumter.

22 Q. How long did you work for them?

23 A. From August to the end of November, I believe.

24 Q. Of 2019?

25 A. Yes.

1 Q. And why did you leave?

2 A. I just wanted to go next door and work,
3 basically.

4 Q. What was next door?

5 A. Applebee's.

6 Q. But you didn't start there until March?

7 A. No. I started Applebee's --

8 Q. February?

9 A. Well, January.

10 Q. Okay. So you were out of work between November
11 and January?

12 A. No. I was at the IHOP. Uhm, yeah, I was out of
13 work, yes.

14 Q. And were you a server at the IHOP?

15 A. Yes.

16 Q. And where did you work before that?

17 A. IHOP in North Charleston.

18 Q. The one by the Tanger Outlet?

19 A. No, the one on Ashley Phosphate, unfortunately.

20 Q. Okay. How long did you work there?

21 A. I started in -- from June to August, I believe.

22 Q. Of 2019?

23 A. Yes.

24 Q. And you were a server?

25 A. Yes.

1 Q. And where did you work before that?

2 A. Well, while I was working at IHOP I also worked
3 at Comfort Suites. I only worked there for a month
4 because I couldn't handle both jobs after awhile.

5 Q. Okay. What month?

6 A. June and July -- well, June into July.

7 Q. And where did you work before that?

8 A. I didn't, other than cleaning houses and stuff,
9 but --

10 Q. So between the time that you got out of jail
11 in --

12 A. Oh, no. I'm sorry. I worked at Econo Lodge.

13 Q. Okay.

14 A. I started there in May, from May to June, and
15 then before that I wasn't working.

16 Q. So from the time you got out of jail until May of
17 2019 you were not working?

18 A. Correct.

19 Q. Okay. Then before you were arrested, where was
20 the last place you worked?

21 A. I worked at the Trophy Club for like two days in
22 Florence, and then that was literally two days before
23 the incident with Berkeley County. And before that was
24 Huddle House, and that was like December, January.

25 Q. And December-January of -- into 2018, like

1 December 2017 into January 2018?

2 A. Yes.

3 Q. And why did you leave Huddle House?

4 A. Dispute with the manager.

5 Q. Over what?

6 A. He had told me to cash out in this other girl's
7 drawer because they were fixing mine. So \$38 got put in
8 the other girl's drawer, and they wondered why my drawer
9 came up short.

10 And I tried to explain to him it was his
11 fault to count the girl's register, that she would have
12 38 -- well, they put tips in there, too, so it kind of
13 confused us.

14 But I got fired over a manager's mistake for
15 telling me to put money in the drawer. So we got into
16 an argument and he told me to leave, and so I left.

17 Q. Okay. Where did you work before that?

18 A. I didn't, really, other than clubs.

19 Q. So I saw in I think some of your medical records,
20 it said you had about ten years of waitressing and
21 stripping or working in clubs?

22 A. Yes.

23 Q. Okay. So how many clubs do you think you have
24 worked in?

25 A. That's hard to say.

1 Q. Okay.

2 A. Probably about 10 to 14.

3 Q. Okay. And when you are working at a club, are
4 you an independent contractor or an employee?

5 A. An independent contractor.

6 Q. And was that the situation with the Trophy Club
7 as well?

8 A. Yes.

9 Q. Because what I was trying to figure out was when
10 you were coming to Charleston, if those were owned by
11 the same company.

12 A. I came to Charleston because the manager they
13 were hiring at the Trophy Club seen how much money I was
14 making, and he said he needed girls at his other club in
15 Charleston.

16 Q. So the manager worked at both clubs?

17 A. Yes.

18 Q. But that was the only connection?

19 A. Right.

20 Q. And what was the manager's name?

21 A. I can only remember his first name. His name was
22 Joey.

23 Q. He was also listed as Jeff at one point, and
24 that's why I wanted to make sure.

25 A. Yeah.

1 Q. Are there any jobs that you have applied for that
2 you didn't get because of this arrest?

3 A. Yes.

4 Q. Where?

5 A. A couple of hotels that I had tried, and a
6 barbecue place near -- I want to say it was near Moncks
7 Corner, Goose Creek area.

8 Q. And did they give you any documentation of why
9 they didn't hire you?

10 A. They said that they didn't hire people that had
11 drug records. That was the first thing that popped up
12 on my arrest record.

13 Q. And they just told you that? They didn't --

14 A. Yes.

15 Q. Okay. What is your highest level of education?

16 A. Eleventh grade.

17 Q. And did you complete the 11th grade?

18 A. No, ma'am.

19 Q. Did you complete the 10th grade?

20 A. Yes, ma'am.

21 Q. Why did you not complete the 11th grade?

22 A. I was a troubled teen. My mother moved me here,
23 to North Charleston, when my grandmother resided here.
24 They messed my credits up.

25 Actually, Charleston didn't have me in any

1 academic classes when they transferred me halfway
2 through the year. So when I came back, my credits were
3 all messed up, and my guidance counselor said I would
4 just be better off if I did adult ed, and they took me
5 out of school.

6 Q. Okay. So you said when your mother moved you
7 here to -- and you said North Charleston?

8 A. Yes.

9 Q. From where?

10 A. From Clover, Galway Lane.

11 Q. And your credits just weren't transferring
12 correctly?

13 A. No. I was behind because -- I think they had me
14 in English class, but not even a math, so --

15 Q. And did you get your G.E.D.?

16 A. I did not.

17 Q. Do you have any plans to?

18 A. Yes.

19 Q. Are you currently enrolled in classes?

20 A. Not with this COVID.

21 MS. JACKSON: Drew, are you still with us?

22 MR. BUTLER: I sure am. Thank you.

23 MS. JACKSON: Okay.

24 Q. (BY MS. JACKSON): All right. Do you have any
25 subject matters or topics that you consider yourself to

1 be maybe not an expert in, but very knowledgeable in?

2 A. Floral work.

3 Q. And by that do you mean like floral arrangements?

4 A. Yes, all kinds of stuff. I make boxes,
5 arrangements.

6 Q. So like fresh flowers, silk flowers, both?

7 A. Both.

8 Q. Okay. And do you raise flowers?

9 A. Yes, but not for that, just for me.

10 Q. Anything else? Any other topics?

11 A. Not really.

12 Q. Okay. Sometimes people maybe do computer repair
13 in their personal time, and that's just something they
14 really know about, and so I've learned that --

15 A. I just clean houses.

16 Q. All right. Do you have any tattoos?

17 A. I do.

18 Q. Okay. Let's start with the top of your head and
19 work down.

20 A. I have a flower where my pants line is.

21 Q. In the front?

22 A. Yes.

23 Q. Like at your belly?

24 A. Yes.

25 Q. Does it have any words?

1 A. No.

2 Q. Anything else?

3 A. I have my name on my left leg.

4 Q. Does it have any picture with it?

5 A. No.

6 Q. Is it your full name or just Stephanie?

7 A. Just Stephanie. I have beautiful disaster on my

8 left foot.

9 Q. Does it have a picture with it or anything?

10 A. There's just a heart beside it.

11 Q. Okay. Anything else?

12 A. I have a dolphin and Ricky tattooed on my right

13 ankle.

14 Q. Anything else?

15 A. That's it.

16 Q. Have you ever been treated for any kind of

17 alcohol abuse?

18 A. No.

19 Q. Have you ever been treated for drug addiction or

20 drug abuse?

21 A. No.

22 Q. Have you ever had any alcohol or drug abuse

23 treatment recommended to you?

24 A. No.

25 Q. Have you ever been treated for any mental health

1 issues, including but not limited to anxiety and
2 depression?

3 A. Yes.

4 Q. And what have you been treated for?

5 A. Bipolar disorder.

6 Q. When did you start treating for that?

7 A. 1998 or '99.

8 Q. Are you still treating for it?

9 A. Not currently at the moment.

10 Q. All right. Let me stop for just one second. I
11 can see that you're starting to fidget with your nails,
12 and I can see that you're getting uncomfortable, and I
13 want to just make something very clear.

14 I am not judging you at all, okay? My
15 job -- my only job here today is to ask you some
16 questions and get information.

17 Normally, in the course of a lawsuit, if I
18 have questions for you I would ask your attorney, he
19 would get it from you, he would then give it back to me.

20 In a deposition, it's my one opportunity to
21 talk directly to you, okay? So all I am doing is asking
22 questions. And if you were to sit through a hundred
23 depositions, you would see that these questions get
24 asked to every single person, okay?

25 So I'm not targeting you for anything. I'm

1 just trying to get a better picture of who you are, your
2 background, what happened in this case and what your
3 damages are in the case, okay?

4 So I don't want you to feel that I'm asking
5 you these questions for any specific reason other than
6 I've received records, I've gone through them. And so
7 some of these questions may be more pertinent to you
8 than they might be to somebody else, but I still ask the
9 same questions of everybody.

10 And I did not tell you this earlier, and I
11 should have. If at any time you feel like you need to
12 take a break from the deposition, if you would let me
13 know, I will be happy to take a break. You don't have
14 to give me a reason why. Just tell me you need to take
15 a break.

16 We have another room over there, and we also
17 have two covered porches, since it's raining. If you
18 need to just take a minute to yourself and just have a
19 break from being under oath and answering questions,
20 okay?

21 A. I'm fine.

22 MR. NETTLES: She didn't make these
23 checklists up for you.

24 THE WITNESS: I told her I wanted to be
25 special.

1 Q. (MS. JACKSON): When was the last time that you
2 treated for bipolar?

3 A. Right before the Berkeley County incident.

4 Q. All right. Have you also been diagnosed as
5 depressed?

6 A. Well, with bipolar it's manic depressive, so --

7 Q. Okay. Have you ever been hospitalized?

8 A. Yes.

9 Q. How many times?

10 A. For?

11 Q. For mental health.

12 A. Okay, once.

13 Q. And how old were you?

14 A. I think I was 20.

15 Q. And was that for bipolar?

16 A. Yes.

17 Q. Was there an incident that resulted in the
18 hospitalization?

19 A. Yes.

20 Q. What happened?

21 A. I told my mother that I ate all my pills and she
22 called the ambulance. But when the ambulance got there,
23 I had more pills than I was supposed to, because I
24 wasn't really taking them like I was supposed to, but
25 they took me to get regulated on my medicine.

1 Q. And do you remember where you went, what
2 hospital?

3 A. I went to Piedmont Medical Center in Rock Hill,
4 South Carolina.

5 Q. How many times have you been arrested?

6 A. I'm not sure, a few.

7 Q. What types of things have you been arrested for?

8 A. Assaults, mostly.

9 Q. Okay. And what kind of circumstances?

10 A. Fighting with my brother twice.

11 Q. And did he press charges?

12 A. No, the cop did. The cop took us both.

13 Q. It looks like you were convicted of assault and
14 battery in 2004. Was that with your brother?

15 A. That was with my ex-boyfriend's mom, but we
16 weren't really even the ones fighting. We just were the
17 only ones that had marks on us. We were trying to break
18 up a fight.

19 Q. But you ended up convicted?

20 A. Yes.

21 Q. And then in 2006 you were arrested for
22 harassment. It looks like you were found not guilty.

23 What did that have to do with?

24 A. Somebody said I called them, but I didn't.

25 Q. And then in 2006, again simple assault and

1 criminal domestic violence? No. I'm sorry.

2 2006 and 2007 are two charges for assault.

3 Were those with your brother?

4 A. 2007?

5 Q. They were both in York County. One was New
6 Year's Eve, 2006.

7 A. Oh, that was my roommate, yeah. I was not guilty
8 of that charge.

9 Q. And the next one was June 5th of 2007.

10 A. I'm not for sure which one that was.

11 Q. And then February 19th of 2010, assault and
12 criminal domestic violence.

13 A. I took a charge for my ex-boyfriend. The judge
14 said that since I was dumb enough to take the charge,
15 and he felt safer if I was in jail away from him anyway,
16 and gave it to me.

17 Q. You were convicted of that?

18 A. I pled guilty just so I could go ahead and get
19 out.

20 Q. Who was that boyfriend?

21 A. Richard Taylor.

22 Q. In 2014 there is a petty larceny and a disorderly
23 conduct.

24 A. Yes. The cop told me that if I didn't settle
25 down before my sister got to the hospital he would find

1 something to charge me with.

2 The hospital gave me a mask and -- because
3 they always do, because they just throw them away
4 anyway. But because of my mouth, he decided to charge
5 me for that.

6 Q. Why was your sister going to the hospital?

7 A. To pick me up. I was in the hospital.

8 Q. Okay. So your sister came to pick you up and you
9 got into an argument with her?

10 A. I got into an argument with the cop that works at
11 the --

12 Q. Oh, that works at the hospital?

13 A. Yeah.

14 Q. Okay. And then in July of 2016, disorderly
15 conduct, York County.

16 A. I was picking up napkins out of the street and
17 the cop took me to jail.

18 Q. Okay. And that is a not guilty?

19 A. Right. The judge laughed at that one.

20 Q. October 21st of 2016, disorderly conduct. This
21 one shows convicted.

22 A. That's when I dumped my purse on the back of a
23 police car, and just because I had a beer in my hand
24 they took me -- they asked to search me, and I just
25 tipped my purse over on top of his car and they took me.

1 I knew the cops, so I just took the charge.
2 We made a deal. I wouldn't have to pay the fine if I
3 just took the charge.

4 Q. And have you been arrested since the Berkeley
5 County arrest?

6 A. No.

7 Q. So for how many of these arrests did you actually
8 get taken to jail?

9 A. All of them.

10 Q. Okay. And for how many of them did you spend a
11 night in jail?

12 A. All of them except for the one on New Year's.
13 The cop made sure I got out. He was sweet.

14 Q. How many of them did you spend more than one
15 night in jail?

16 A. I don't think any of them other than the larceny
17 charge.

18 Q. Okay. How many days?

19 A. I just pled guilty to that because I was not
20 paying for something I didn't do, and I did 15 days
21 instead of paying the fine.

22 Q. And what about the disorderly conduct with the
23 beer and the purse on the cop car?

24 A. They gave me time served.

25 Q. Right. But how much time did you spend --

1 A. Only a day.

2 Q. All right. Are you still treating for Hep C?

3 A. No, I'm done.

4 Q. You're done? Okay. When did you finish?

5 A. My certificate date I think says August of 2019.

6 So my final blood work was done, but it's been gone

7 since March of 2018.

8 Q. All right. Let's talk about -- if we were to go
9 to trial tomorrow, who would you expect to come and
10 testify on your behalf besides yourself?

11 A. No one.

12 Q. Okay. Who is Samantha Eason?

13 A. A girl I used to know.

14 Q. And Michael Molyneaux?

15 A. That's her boyfriend. I didn't really know him.

16 Q. Okay. And Nathan Resek?

17 A. I do not know him.

18 Q. Did you meet him that night?

19 A. We never still even met yet, except for sitting
20 on the couch, but --

21 Q. And Corey Gethers?

22 A. I don't know him.

23 Q. What is your understanding of why Corey Gethers
24 was at the house that night?

25 A. The way it was put to me after we were

1 incarcerated was that he was there to either get his car
2 fixed or help Molyneaux, Michael, work on a car. It was
3 something about cars.

4 Q. And what was your understanding of why Nathan
5 Resek was there?

6 A. I have no idea. The poor boy was asleep when all
7 that happened. I don't know what he was doing there. I
8 don't know if he lived there, if he was staying there

9 Q. What do you mean he was asleep?

10 A. When the cops came in, we were all -- we were
11 both on the back porch, and a little head just popped
12 up, and he came out of nowhere. I guess when the cops
13 ran in, like he woke up.

14 Q. So did he tell you he was asleep?

15 A. I just assumed, because he was underneath the
16 covers.

17 Q. Okay. Oh, so where was the bed?

18 A. It wasn't a bed. It was a couch on the back
19 porch.

20 Q. All right. What I want you to do now is tell me
21 about the day of the arrest starting with when you got
22 up that morning.

23 A. Well, I didn't get up that morning. I had been
24 up all that night. You see, Joey, the manager from the
25 club, and I left Florence right after work and we came

1 straight here.

2 Q. And what time would that be?

3 A. We left about two, I think. Well, roughly two.
4 We had to clean up and stuff, so maybe three. We got
5 here about six something in the morning.

6 Q. Why did you come down in the middle of the night?

7 A. My boss lives here, and I just rode to his house
8 with him.

9 Q. Joey?

10 A. Yes.

11 Q. Where did he live?

12 A. Summerville, I believe.

13 Q. And you had worked at the Trophy Club --

14 A. That night.

15 Q. -- that night and the night before?

16 A. Yes.

17 Q. And how did you come to work there?

18 A. I just went up there and showed them my ID and I
19 got the job.

20 Q. How does it work as an independent contractor?
21 Is there some kind of an arrangement where you share
22 certain monies?

23 A. Yes.

24 Q. How does that work?

25 A. You have to pay a house fee, and tip your

1 bouncers and DJs.

2 Q. Okay. And that all comes out of the money that
3 you earn?

4 A. Yes.

5 Q. And how do you earn your money there?

6 A. Dancing and stage performance.

7 Q. Okay. And so are those tips?

8 A. Yes, but also you can go do private dances, which
9 is -- they charge you about \$25 a dance.

10 Q. So if you do a private dance, is it your rate for
11 the dance or the club's rate?

12 A. The club has a rate.

13 Q. And then do they take a percentage of that?

14 A. They do.

15 Q. And is that just something that they make you
16 aware of when you are --

17 A. Yeah.

18 Q. They don't call it hired, but when they let you
19 come in and work there?

20 A. Yeah. They go over all of that with you.

21 Q. And then how many hours would you work there, or
22 how many hours did you work there each night that you
23 were there?

24 A. About eight.

25 Q. And do you recall how much you made the first

1 night?

2 A. About \$300.

3 Q. And what about the second night?

4 A. Five hundred.

5 Q. Now, the 300 and the 500, is that how much you
6 made before you tipped out everybody or is that how much
7 you took home?

8 A. How much I took home.

9 Q. And how many dancers would be in the club at a
10 time?

11 A. Anywhere from 5 to 25.

12 Q. Now, would they set a schedule for you, or how
13 did that work?

14 A. You set your own schedules, but you are required
15 to work certain days in order to work the weekends, and
16 some clubs make you work a minimum of three days.

17 Q. Three days other than the weekend or three days
18 including the weekend?

19 A. You have to at least work three days. But if you
20 don't work a slow night, you can't work --

21 Q. A weekend?

22 A. Right.

23 Q. So in this case you had worked Wednesday and
24 Thursday?

25 A. Yes.

1 Q. But you decided to come to Charleston for Friday?

2 A. Right.

3 Q. Did you and Joey discuss the fact that switching
4 clubs might not be in your best interest?

5 A. It was his idea to bring me along. So we talked
6 about it, and he thought that he could talk the owner
7 into letting me work. But then I didn't have my ID when
8 I got here, so that was no longer even an option. I was
9 just --

10 Q. You couldn't have gotten your ID from the Trophy
11 Club?

12 A. No. The guy that was driving me to work stole my
13 money bag with my ID in it the night before -- I mean
14 that night that I actually left. It was in his car, and
15 I left with Joey.

16 Q. Right, but didn't you have to provide your ID to
17 the Trophy Club?

18 A. They already had my information on file from the
19 night before.

20 Q. Right. But I guess that's what I'm asking you.
21 Joey couldn't get it from the Trophy Club?

22 A. The clubs were not affiliated.

23 Q. Was there also an issue of not being able to
24 dance on a good night because you hadn't been there on a
25 bad night?

1 A. Yeah, but Joey said since he was the manager he
2 would be able to bypass that, because we knew that when
3 we took off.

4 Q. Did you know that you didn't have your ID when
5 you left?

6 A. I was not aware, no.

7 Q. So you had -- you called it a money bag, but a
8 bag that had your ID and your \$300 from the night
9 before?

10 A. Yes.

11 Q. And it was left in somebody's car?

12 A. The guy that took me to work and dropped me off.

13 Q. And did you ever try to call him and get the bag
14 back?

15 A. I tried. He did eventually mail my ID to my
16 grandmother's house after I got out of Berkeley County.

17 Q. Who is he?

18 A. His name was Christopher.

19 Q. Christopher what?

20 A. I'm not sure.

21 Q. Why was he taking you to work that day?

22 A. I didn't know anyone in Dillon, and I had just
23 met him and he needed to make some extra cash, and I
24 paid good money.

25 Q. Okay. So you offered to pay him to take you to

1 work?

2 A. Yes.

3 Q. How far was it from Dillon to the club in
4 Florence?

5 A. About 30 to 40 minutes.

6 Q. Why did you decide to work at a club in Florence
7 that was that far away?

8 A. It was the only club around, and I had been in
9 Dillon for a year and a half trying to get things
10 straight, trying to find work. There wasn't very many
11 jobs there, so I begged my mom to let me go back to the
12 club.

13 Q. How long had it been since you had worked at a
14 club when you went back to the Trophy Club?

15 A. Three years.

16 Q. All right. When you got to Summerville, or to
17 Joey's house, wherever it was, what happened?

18 A. We started talking about how -- well, I took a
19 nap, first of all. Then when I woke up, we didn't have
20 my ID. So he sent me with his girlfriend to her house
21 to go get me some clothes, because I obviously had none.
22 And when I found out I couldn't work, I thought I'd try
23 to find somewhere to sit until he got off.

24 Q. You couldn't stay at his house?

25 A. I kind of really didn't want to.

1 Q. So what time was it when you realized you didn't
2 have your ID?

3 A. Between lunch and 2:00.

4 Q. Did you try to get ahold of Christopher?

5 A. I was not aware at the time that he was the one
6 that had it.

7 Q. Did you contact the Trophy Club to see if it was
8 there?

9 A. Yes, we did try to call them.

10 Q. So sometime between lunch and two you realized
11 you didn't have your ID, and then you went with Joey's
12 girlfriend to get clothes. Where was her house?

13 A. It was just around the corner in Summerville.

14 Q. Okay. And so you wore work clothes down here?

15 A. I had clothes that I wore to work that day, but I
16 needed fresh clothes, you know. I didn't bring an extra
17 change of clothes. I only had my dance stuff with me.

18 Q. And so you were just going to wear that for that
19 night?

20 A. Yes.

21 Q. So she just got you regular clothes?

22 A. Yes.

23 Q. And then what did you do?

24 A. Well, I found out that I couldn't go to work, so
25 I asked the girl -- I knew I had a friend here,

1 Samantha. I didn't know where she stayed. I had never
2 been to her house before. I know her from Charlotte.
3 I hadn't seen her in three years at this point.

4 But I called her dad up, because I didn't
5 even know her phone number. I called her dad. Her dad
6 was able to get in touch with her. She was able to call
7 me from her number.

8 Q. How did you have her dad's number?

9 A. Facebook Messenger. And we were close, her dad
10 and I. When she moved away, and he still lived where we
11 lived, I kind of kept an eye on him for her.

12 Q. Okay. So then what did you do?

13 A. I asked Samantha could I come over and sit until
14 2:00. She was hesitant, but she said okay, and ended up
15 giving me her address.

16 Q. Why was she hesitant?

17 A. Well, I didn't know at the time, until later, but
18 when you walked in that place it was a mess and had no
19 electricity. She didn't want me to see how she was
20 living.

21 Q. So she had no power and no running water?

22 A. And she was being evicted that day. She asked
23 could I help her move while I was there, and I agreed.

24 Q. What time did you get to her house?

25 A. I'm not really sure of the time. I don't know.

1 Q. How did you get to her house?

2 A. Joey's girlfriend brought me.

3 Q. Okay. So it was between twelve and two that you
4 realized you didn't have your ID, and then you reached
5 out to Samantha.

6 So how long do you think it took?

7 A. I don't know, because Joey's girlfriend had us
8 all riding around doing stuff for a few hours before she
9 was even able to drop me off, so --

10 Q. Like doing what?

11 A. She picked up some guy. I don't know his name.
12 We weren't really even introduced. And then he had her
13 go a couple of places and get his check or something.
14 I'm not sure.

15 Q. And when you got to Samantha's, was it still
16 daylight?

17 A. Yes.

18 Q. And what was going on at the house when you got
19 there?

20 A. A couple guys were in the yard. Samantha and --
21 I want to say that it was her nephew, but I'm not
22 sure -- oh, no, it was Michael's nephew. Samantha and
23 Michael's nephew were in the house when I walked in.

24 Q. Okay. What was the nephew's name?

25 A. I don't know.

1 Q. Was he a child or an adult?

2 A. He was a child.

3 Q. Where did the child go?

4 A. I don't know.

5 Q. Okay.

6 A. I guess -- Samantha said he was outside, but none
7 of that was talked about until later. So I don't know
8 where he went. I know he wasn't in the house anymore.

9 Samantha and I, we went, when I got there --
10 I always wear dresses. Samantha, even though I wasn't
11 wearing a dress that day, Samantha wanted to get dressed
12 up with me. She hadn't seen me in awhile, you know.
13 We put on a dress. We went to the store. After that I
14 didn't see the kid anymore.

15 Q. And how did you get to the store?

16 A. The Corey guy drove us.

17 Q. Oh, he drove you. And what store did you go to?

18 A. I don't recall the name, but it was the one just
19 right at the corner of the street that they lived on.

20 Q. Was it a gas station or a grocery store?

21 A. It was a gas station.

22 (Defendants' Exhibit No. 1 was marked for
23 identification.)

24 Q. (BY MS. JACKSON): I'm going to show you what I
25 have marked as Exhibit 1 to your deposition, which is

1 Google Maps, and I will assert to you that I pulled it
2 this morning and that I marked the address of 112
3 Lodestone Court in Moncks Corner.

4 Can you show me where the store is that you
5 went to?

6 A. It's not on here.

7 Q. Okay. I thought you said it was at the corner.

8 A. It was at the intersection where the light is.

9 Q. Okay. If we go off this map, which direction
10 would we go off?

11 A. This way.

12 Q. So if I draw an arrow on the white part, is that
13 the correct direction?

14 A. Yes.

15 Q. Okay. And would it be down this Farrell Street?

16 A. It was all the way at the end, and then we took a
17 slight turn to the right and it was that big gas
18 station. I think it was on Murphy. I'm not a hundred
19 percent sure, but I think it was on Murphy.

20 Q. Okay. And what did you do while you were there?

21 A. Got some snacks, because Samantha said she hadn't
22 eaten in five days, and got a couple beers each. That's
23 it, and we left.

24 Q. So who had money?

25 A. I did.

1 Q. So you had left your money from the night -- oh,
2 so you had the money from working the second night?

3 A. Yes.

4 Q. And how did you buy the beers if you didn't have
5 your ID?

6 A. Samantha's ID. I gave her the cash. We were
7 together, though. They already knew who she was. She
8 said she had worked there before.

9 Q. Okay. And then -- about how long did you stay
10 there?

11 A. Just a few minutes. We were in and out.

12 Q. Did Corey come in with you?

13 A. I don't remember.

14 Q. And did he drive you back to the house?

15 A. Yes.

16 Q. Did you go anywhere else in the meantime?

17 A. No.

18 Q. So you got back to the house. How long do you
19 think you were gone?

20 A. Ten minutes, 15 at the most, but it wasn't long.

21 Q. After you arrived at Samantha's in the beginning,
22 how long was it before you-all got dressed up?

23 A. Immediately.

24 Q. And --

25 A. That was the first thing that came out of her

1 mouth.

2 Q. And then you got dressed up, and how long was it
3 after that that you went to get beers?

4 A. Immediately.

5 Q. So you were wearing her clothes, or did you have
6 your dress with you?

7 A. When I got to her house I was wearing a romper
8 that Joey's girlfriend let me borrow. But then when I
9 got there, Samantha had -- oh, no. I had another dress,
10 that Joey's girlfriend also let me borrow, in my bag. I
11 put that dress on and she put her dress on.

12 Q. Did you get your nails done somewhere that day?

13 A. No.

14 Q. Were you still at Joey's house when you found out
15 you weren't going to be able to work or did he call you?

16 A. He called me.

17 Q. Okay. And he called you on your cell phone?

18 A. Yes.

19 Q. And where were you when he called you?

20 A. Somewhere riding -- I don't know if we were
21 riding around or if I was still at her house.

22 Q. But you were with his girlfriend?

23 A. Yes.

24 Q. And do you remember anything about her?

25 A. Only that she drove a red Mustang.

1 Q. Okay. Did she work at the club?

2 A. I'm not sure.

3 Q. Do you remember Joey's number?

4 A. No.

5 Q. At the time of this incident, would you have had
6 him programed into your phone?

7 A. Possibly. I did meet him the night -- Wednesday
8 night. He talked me into staying because I was going to
9 leave.

10 Q. Okay. Would you still have it in your phone?

11 A. Not now, not since then.

12 Q. Do you have a different phone number now?

13 A. I do.

14 Q. What was your phone number then?

15 A. I think it was a 207 number, but I can't remember
16 the last four digits right off the top of my head. It's
17 been a long time.

18 Q. 207-1895?

19 A. Yes, that's it. That's it.

20 Q. And you provided that in discovery, but since you
21 said your number had changed, I wanted to make sure that
22 was the 2018 phone number.

23 A. That was it.

24 Q. Okay. What is your current number?

25 A. 843-506-2324.

1 Q. And when did you switch numbers, approximately?

2 A. I switched from that number awhile ago to another
3 number. I just recently got this other number when me
4 and my fiance moved in together.

5 Q. Why did you change numbers?

6 A. I changed phone carriers, and they wouldn't let
7 me transfer the number I had because it was Straight
8 Talk Verizon, which doesn't make sense because Straight
9 Talk is powered through Verizon, but they wouldn't let
10 me do it.

11 Q. Okay.

12 A. Because I was on his plan now. He already had
13 this plan. And I still had my phone turned on with
14 another company, so --

15 Q. Got you. Okay. If you had not come to
16 Charleston to work Friday night, would you have worked
17 in Florence?

18 A. Yes.

19 Q. Were you upset with Joey that he brought you all
20 the way down here and wouldn't let you work?

21 A. Yes.

22 Q. Did you have a discussion with him about that?

23 A. No. He said we were going to talk after work on
24 his way home, on my way home. He was going to take me
25 back to Florence that night, he said. He was supposed

1 to pick me up from Samantha's at 2:00, and that never
2 happened.

3 Q. So he was supposed to pick you up and drive you
4 back to Florence?

5 A. After work.

6 Q. Even though he lived in Summerville?

7 A. Right.

8 Q. Okay. So you went and got the drinks and the
9 snacks and you came back. And where did Corey park?

10 A. In the driveway. That's kind of a complicated
11 question to ask, because the whole front was a car
12 junkyard kind of thing.

13 Q. Okay. So he pulled in the front?

14 A. Yes.

15 Q. And was Michael still working on the vehicle?

16 A. I think so.

17 Q. So he wasn't working on Corey's vehicle?

18 A. He was also working on his and Samantha's
19 vehicle.

20 Q. And so when you got back, where did you go?

21 A. I asked Michael -- well, Samantha -- me and
22 Samantha came in. Michael followed us. I asked to use
23 the phone charger. They didn't have any power, so I had
24 went to the -- Michael walked me to the back porch where
25 he had a phone charger connected to a cord that was

1 connected to his car battery.

2 Q. Well, that's creative.

3 A. I've never seen such a thing before.

4 Q. Okay. Then what happened?

5 A. Michael goes outside. I continue to plug up my
6 phone. Samantha was at the fridge. Michael runs
7 inside.

8 Q. Samantha, what was she doing at the fridge?

9 A. Putting our other two beers up. We took one out
10 each and put the other two in the refrigerator.

11 Q. I thought they didn't have power.

12 A. She was just keeping them cold.

13 Q. So Michael went -- Michael showed you where the
14 charging cord was on the back porch, and then where did
15 he go?

16 A. Outside.

17 Q. Out through the porch or back in through the
18 house?

19 A. I think he went from the back side of the porch.
20 But he run immediately back into the house from the
21 front door.

22 Q. So he went off the porch outside, and you went
23 back into the kitchen?

24 A. No. I stayed on the front porch to try and get
25 my phone to turn on because it was completely dead.

1 Q. Were you on the front porch or the back porch?

2 A. The back porch.

3 Q. Because you just said front porch. I just wanted
4 to make sure.

5 A. Well, he went around --

6 Q. To the front porch?

7 A. -- off the back porch and immediately come back
8 inside from the front porch. He did, not me. I stayed
9 on the back porch.

10 Q. How did you know that he came in through the
11 front porch?

12 A. Because he stormed through, and you can see --
13 there is a big opening to the house and the back porch.
14 It's just open.

15 Q. Windows?

16 A. No, it's not a door, but --

17 Q. A hole?

18 A. -- a hole.

19 Q. So you could see into the house and hear what was
20 going on?

21 A. Yes.

22 Q. And what did Michael say?

23 A. Cops got us surrounded.

24 Q. From the back porch -- was the back porch
25 screened in, glassed in, any kind of a door to the

1 outside?

2 A. It was kind of built up around it, like a
3 built-in porch with two doors open.

4 Q. To the outside or to the house?

5 A. To the outside. And then there was like a little
6 side porch on this side, but there wasn't anything on
7 this side, from what I seen.

8 Q. From where you were standing, could you see both
9 inside the house and outside to the yard?

10 A. I couldn't see into the yard other than on the
11 side doors.

12 Q. So what was -- if the house is on one side, what
13 was on the other side?

14 A. What do you mean?

15 Q. So if this is the house and this is -- I'm going
16 to put an F for where the front is and an R for the
17 rear. Can you draw the porch, the back porch?

18 A. The back porch is -- if you walk in the middle of
19 the house there was two steps, one or two, I can't
20 remember, a couple of steps to step down into the back
21 porch which had the hole that was open.

22 So there was a back door and a porch right
23 here and a back door right here, and I was standing
24 right here, right past the opening.

25 Q. And so was there more house back here?

1 A. There was car parts and a couch. So there was
2 like a motor to a car.

3 Q. Was it under the roof?

4 A. Yes.

5 Q. Okay. And so could you actually see out here if
6 somebody was standing there?

7 A. They had the windows -- they had windows there
8 that had been busted out. And they had plywood over, so
9 you couldn't see anything.

10 Q. Okay. That's what I was trying to get to.
11 So do you know how many windows were along
12 the back that had plywood over them?

13 A. One small and one huge on the same side.

14 Q. Were they back here?

15 A. From here and over.

16 Q. So these two rectangles that you put on the R
17 side are the windows that were boarded over?

18 A. Yes. And there may have been one here, but I do
19 not recall it.

20 Q. Okay. Fair enough.

21 MS. JACKSON: We will mark this as
22 Exhibit 2.

23 (Defendants' Exhibit No. 2 was marked for
24 identification.)

25 Q. (BY MS. JACKSON): And would you please just sign

1 it and date it? Today is the 25th. And not on the
2 sticker, just on the yellow paper. There you go.

3 A. (Witness complying.)

4 Q. So what happened when he said the cops got us
5 surrounded?

6 A. He slammed the door and ran to the bathroom. He
7 went in the room behind him.

8 Q. Okay. And where was Corey?

9 A. I don't know. He scattered.

10 Q. When you came --

11 A. I don't even know if he came running in when
12 Michael did. I didn't see him until later.

13 Q. Okay. When you got out of his car when you got
14 back, did you see where he went at that point?

15 A. I don't know if he went to go mess with the cars.
16 I didn't --

17 Q. You didn't see him. He didn't call you into the
18 house?

19 A. Not that I remember, but --

20 Q. Did he also buy beers?

21 A. No.

22 Q. And then Nathan, when did you first see him pop
23 up from the couch?

24 A. After the cops walked in the door and announced
25 themselves -- well, one was talking to Samantha. They

1 were telling her Michael had a warrant for child
2 support.

3 Q. Okay. Let me back up. I'm going to give you a
4 chance to tell me everything, but I want to make sure we
5 have it in order.

6 So Michael runs through the front door and
7 says the cops got us surrounded, and then disappears
8 into the bathroom, and you said Samantha followed him,
9 is that right?

10 A. Yes.

11 Q. Okay. Did she also shut the door behind her?

12 A. I don't know. I couldn't see that far because I
13 was on the back porch. I couldn't see that far into the
14 house.

15 Q. All right. And when did you first see a police
16 officer?

17 A. Literally --

18 Q. Right then?

19 A. -- right then when Samantha -- they had already
20 came in the back where I was and Nathan was.

21 Q. How many officers came in the back?

22 A. Two, I believe. I think one came in, but the
23 other one wasn't quite in, but I could see him at the
24 door.

25 Q. And is that these two squares on either side of

1 this drawing, Exhibit 2, that say BD for back door?

2 A. Yes. But by the time I seen the cop, he was
3 already right here.

4 Q. I'm going to give you this pen. If you would put
5 an X where you first saw the police officer.

6 A. (Witness complying.)

7 Q. Okay. And then where was the other one when you
8 first saw him? You say you saw two. One was
9 standing --

10 A. I didn't see him come in because I was out here,
11 but he was talking to Samantha. They were up here like.

12 Q. Towards the front of the house?

13 A. Yeah.

14 A. Somewhere in here.

15 Q. And so can you put a 1 by this X, and that's the
16 first officer, and then a 2 for the officer that was
17 talking to Samantha?

18 A. (Witness complying.)

19 Q. All right. You didn't see officer number two
20 come in, is that right? You just --

21 A. Right after I seen him is when --

22 Q. The first officer on the back porch?

23 A. Samantha, at that point, had let him in the same
24 time. They kind of came in the same time.

25 Q. Okay. So when Michael came in, did he shut the

1 door behind him?

2 A. He took off to the back of the house, but I --

3 Q. You didn't see the front door?

4 A. I didn't see.

5 Q. So how many officers total came into the house?

6 A. I'm not for sure, but I'm guessing -- I think
7 three at first.

8 Q. No, not at first. I'm talking about total.

9 A. Oh, total? I can't tell you that. I was not in
10 the front side of the house, so I don't know who all --
11 I know that they came back there to get Michael out of
12 the bathroom where he was hiding.

13 Q. All right. So --

14 A. But I don't know how many cops were in there at
15 all. I can't tell you that.

16 Q. All right. So the cops start coming in.

17 Samantha is talking to the second officer. What happens
18 next?

19 A. They are asking her to -- they seen a bowl in her
20 hand of marijuana, and they asked her what is that, and
21 she looked at him and said it's a bowl, and she hit it,
22 and he took it from her, and he said I need you to sign
23 this saying I can search your house.

24 They had a search warrant -- I mean, they
25 had a warrant for Michael, but they were trying to get

1 her to sign so they wouldn't have to go get a warrant,
2 and Samantha signed the paper. Well, they seen like
3 bowls, marijuana pipes. Samantha had a personal
4 collection for viewing.

5 Q. Where were they?

6 A. They were -- can I show you right here?

7 Q. Sure.

8 A. In her house there is a built-in shelf that was
9 right there, and that's where.

10 Q. Put S for shelf.

11 A. (Witness complying.)

12 Q. Okay. And she just had them sitting there?

13 A. Yes. They were just out.

14 Q. Okay. What happened --

15 A. Just like in a display, like a display
16 collection.

17 She signed the warrant, and they told her
18 to -- well, they had already told me and Nathan to sit
19 down because we were back there.

20 Q. So you sat on the couch that Nathan had already
21 been on?

22 A. Yeah. Right after, he popped up. Poor Nath. I
23 don't know that kid, but I feel bad for him, too.

24 Q. So you sat on the couch and then what?

25 A. Samantha was talking with the officer. Shortly

1 after, he made her sit down with us.

2 Q. Okay. And did they take Michael out and put him
3 in the police car?

4 A. Yes.

5 Q. Then what happened after Samantha came to sit
6 with you on the couch?

7 A. We were sitting there. They searched the house.
8 They found something.

9 At that point I heard Gethers -- I couldn't
10 see him because we were facing -- we were on the couch
11 facing out. And, like I said, Corey and the officers
12 were in the front, other than the officer that was still
13 standing here.

14 Q. The officer who was still standing there --

15 A. He stood there like the whole time watching.

16 Q. Do you know who he was?

17 A. All I know is he was a black man. They never
18 told me their names. They never talked to me, really,
19 except just to get -- because I didn't have my ID, they
20 wrote down my information, and that's the only time they
21 talked to me.

22 Q. Did you notice that they were wearing different
23 uniforms? What were they wearing?

24 A. Barlow, the white cop, was wearing just regular
25 clothes, I think. And the other cop was wearing like a

1 collared shirt with like dress pants, like khaki pants,
2 I think. I think it was khaki.

3 Q. You said the black male --

4 A. Yes.

5 Q. -- he was wearing a -- you said a dress shirt
6 with khaki pants?

7 A. It was a collared shirt with a badge on it, you
8 know.

9 Q. Could you tell where the badge was from?

10 A. No.

11 Q. No. Then what happened?

12 A. Then I heard him -- the cop screamed that they
13 found something. I didn't know what. And I heard Corey
14 say you can't pin that on me. And then I heard the
15 officer say, man, you're not gonna let your friends go
16 down, are you? And he was laughing.

17 And he said to Gethers that his phone had
18 rang six times, that he knew that it was Corey's stuff
19 because the phone had gone off, or whatever. And I
20 looked at Samantha. I told Samantha that we're going to
21 jail, because I heard like Corey denying whatever they
22 found. Still, at this point, I had no clue what they
23 even found. And that was basically about it.

24 They kept going through the house until they
25 got ready to put handcuffs on us and take us to jail.

1 Samantha was trying to plead with Barlow and tell her
2 that I had nothing to do with it, I just walked in the
3 door, but he just told her to chill, to sit back down.

4 Q. Did any officer ask you and Nathan and Samantha
5 if the drugs were yours?

6 A. Not me, but they asked Samantha -- they actually
7 called Samantha after the drugs were found, but I don't
8 know what they said to her. I guess they may have said
9 something to her, but they never asked me and Nathan.

10 Q. Excluding the time that you were at the grocery
11 store, how long do you think you were at Samantha's
12 house before and after going to the grocery store?

13 A. Totally?

14 Q. Yes.

15 A. Not even 30 minutes altogether.

16 Q. Okay. Did you hear Corey deny that the drugs
17 were his?

18 A. I did.

19 Q. But you did not hear what Samantha was asked or
20 what she said to officers?

21 A. No.

22 Q. And then what conversation or what did you say to
23 officers while they were at the house?

24 A. Other than giving them my information, they
25 didn't ask me anything.

1 Q. Did you say anything to them?

2 A. I did not. Yes, I tried to tell them -- I did
3 tell Barlow that please don't do this to me, I go to
4 church every Sunday, and I'm not from here, and that's
5 the only thing I said, period, to him.

6 Q. Did you have any conversations with Michael at
7 any point when you were at Samantha's?

8 A. Samantha's introduced him when I first got there.
9 He said, hi, I'm Michael, nice to finally meet you.
10 That was it. He went back outside while we were
11 dressing, changing.

12 Q. And when you got back to the house, you said you
13 walked into the house and --

14 A. I asked for a phone charger and Michael showed me
15 where it was. We didn't really talk, though. He just
16 showed me where it was.

17 Q. Do you know if that house is still there?

18 A. I have no idea.

19 Q. Do you know where Samantha lives now?

20 A. I have no idea.

21 Q. Have you talked to her since you got out of jail?

22 A. No. One time I took her to the beach and --
23 right after she got out, and then that was it. We
24 didn't even call each other on the phone after that.

25 Q. Why not?

1 A. I was mad at her. I was mad at her for putting
2 me in that situation. She knew everything I have been
3 through.

4 Q. What does that mean, everything you have been
5 through?

6 A. Well, I had been staying at my mom's house. I
7 hadn't seen her in a year. I was trying to get clean,
8 clean my life up. So for her to get me in that kind of
9 situation --

10 Q. You were trying to get clean from what?

11 A. I was a year and a half clean already.

12 Q. A year and a half clean from what?

13 A. Heroin and pain pills.

14 Q. Did you also use cocaine?

15 A. Occasionally, but I never had -- only like at
16 work, but not really -- I didn't really use that except
17 for to stay awake if I got too drunk at work.

18 Q. What about meth?

19 A. Never had a problem with meth, never touched the
20 stuff.

21 Q. Did you ever take amphetamines?

22 A. Yeah, probably. I mean, I did a lot of stuff
23 back then.

24 Q. I saw in one of your medical records that you
25 used -- had you listed as using nasal cocaine. Is that

1 different, I guess, than crack? Did you ever use crack
2 cocaine?

3 A. No.

4 Q. And then it talks about injected drugs. Is that
5 heroin?

6 A. Or -- and pain pills.

7 Q. So you would inject both heroin and pain pills?

8 A. Yes.

9 Q. Anything else that you used.

10 A. No. Like I said, I would do cocaine every once
11 in awhile, or pop an Adderall maybe, but it was mostly
12 just pills and heroin is where I had the problem.

13 Q. Did you ever tell your doctor that you used meth?

14 A. No. I only told him about the pills.

15 Q. Did you know that your medical records say that
16 you used -- you abused heroin for seven years and
17 cocaine for four years?

18 A. Yes.

19 Q. Is that true?

20 A. Yes.

21 Q. Did you attempt suicide in 2004?

22 A. Yes.

23 Q. Have you attempted suicide more than once?

24 A. Yes.

25 Q. When was the most recent time that you attempted

1 suicide?

2 A. About six months after I got sober, December --
3 April 2017.

4 Q. Did you have to be hospitalized for that?

5 A. No.

6 Q. Did you see the officer -- do you need to take a
7 break?

8 A. No, ma'am.

9 Q. Are you sure?

10 A. Yes, ma'am.

11 Q. Okay. How did you find out where drugs were
12 found in the house?

13 A. I never did. I just found that there were drugs.
14 That's all they told me.

15 Q. As you sit here today, do you know where the
16 drugs were found?

17 A. They said that, in the report, it was found on
18 the couch. But I didn't even learn that until I got out
19 of Berkeley County and got my initial discovery, I guess
20 is what you call it. All I heard them say is that it
21 was found with Corey's phone.

22 COURT REPORTER: I'm sorry. I didn't hear
23 you.

24 A. All I heard them say is that it was found with
25 Gethers' phone.

1 MR. BUTLER: I didn't hear that either.

2 MS. JACKSON: It was found with Gethers'
3 phone.

4 MR. BUTLER: Thank you.

5 Q. (BY MS. JACKSON): All right. Tell me what
6 happened after you were placed under arrest.

7 A. They put us in a van and they took us to jail.

8 Q. So you went straight to the Berkeley County
9 Detention Center?

10 A. Yes.

11 Q. And what happened when you got there?

12 A. They took our mugshots. They took our clothes.
13 They put us on a floor on a mat and they --

14 MR. NETTLES: We've been going for awhile.
15 This is probably a good time to take a break. Why don't
16 we take about a 10-minute break.

17 MS. JACKSON: Okay. Drew, do you want us to
18 call you back or do you just want us to hang on the
19 line?

20 MR. BUTLER: Just call me back. We'll
21 figure it out. Actually, I will stay on the line. What
22 time are we coming back?

23 MS. JACKSON: We're just going to take a few
24 minutes just to give her a chance to catch her breath
25 and get some fresh air.

1 MR. NETTLES: Okay. I'll just remain on the
2 line. That's no problem.

3 MS. JACKSON: Okay.

4 Q. (BY MS. JACKSON): Just so that you're aware,
5 during any break you can talk to anybody about anything
6 you want except your testimony. If you talk to somebody
7 about your testimony, then that is something that I can
8 ask you about when you come back, okay?

9 A. Okay.

10 MS. JACKSON: All right. We are off the
11 record.

12 (A recess was taken.)

13 MS. JACKSON: Back on the record.

14 Q. (BY MS. JACKSON): Are you ready to go back on
15 the record?

16 A. Yes.

17 Q. All right. When we broke I had asked you about
18 what happened when you got to the jail, and I believe
19 your answer -- what I'm going to ask you to do is be a
20 little more specific, and let's start with when you came
21 in and went through the booking process.

22 Did you have your photo taken?

23 A. Yes.

24 Q. And your fingerprints?

25 A. Yes.

1 Q. And did you go through a series of questionnaires
2 where they asked you a bunch of questions?

3 A. Yes.

4 Q. And then were you put up front in a jail area
5 right near booking in the beginning?

6 A. We were sitting on a bench where they take the
7 photos because they had to separate the guys and the
8 girls.

9 Q. When you got to the jail -- well, let me back up.
10 When you left the house under arrest, was it
11 dark outside?

12 A. Yes.

13 Q. The incident report shows that the incident
14 occurred at about 2144, which is about 9:44 p.m. Does
15 that seem correct to you?

16 A. It happened before that, but about 9:44 is when
17 they were arresting us.

18 Q. Okay. About how long do you think they were at
19 the house before they arrested you?

20 A. It was awhile. I'm not certain how long. My
21 phone was dead.

22 Q. Okay. I'm going to show you the incident report
23 that was produced to me by your attorney, and I'm not
24 going to mark it, but we will refer to it by the Bates
25 pages.

1 Right now I'm just going to show you Page 1,
2 which is your attorney's Bates page 026, and about
3 halfway down do you see where it says date and time of
4 offense?

5 A. Yes.

6 Q. And what is the time listed there?

7 A. 2144.

8 Q. Okay. And date and time of arrest, what is
9 listed there?

10 A. 22.

11 Q. 2200?

12 A. Yes.

13 Q. And then if you look up towards the top, do you
14 see a column that says depart time?

15 A. 2350.

16 Q. Okay. And would that be your understanding that
17 that would be about 11:50 at night?

18 A. Yes.

19 Q. And is it your understanding that 2200 would be
20 about 10:00 p.m.?

21 A. Yes.

22 Q. Do you remember what time you arrived at the
23 detention center?

24 A. No, I have no idea.

25 Q. Did everyone go in the same van?

1 A. Yes.

2 Q. When were you served with your warrants? Was it
3 the next day?

4 A. I believe so.

5 Q. Do you remember how you were served with the
6 warrants?

7 A. They brought the paperwork in to us.

8 Q. In to you in the cell?

9 A. Yes.

10 Q. By the time they brought you that paperwork, had
11 you been moved to the back or were you still upfront?

12 A. We were still in a cell behind booking.

13 Q. Okay. At what point did you get moved to the
14 back?

15 A. A couple of days later.

16 Q. When did you have your initial bond hearing?

17 A. A couple of days later.

18 Q. And did you have an attorney at that time?

19 A. No.

20 Q. Did you apply for a court-appointed attorney?

21 A. I did.

22 Q. Okay. And were you assigned a court-appointed
23 attorney?

24 A. I was.

25 Q. And do you remember his name or her name?

1 A. Mr. Goodwin, Goodwin.

2 Q. And did he represent you throughout the entire
3 criminal case?

4 A. Yes.

5 Q. Do you agree with the statement that your -- or
6 would you agree with me that your warrants were not with
7 you when you were booked into the Detention Center?

8 A. They were not.

9 Q. Did you make any statements at your bond hearing?

10 A. No.

11 Q. Do you know how your bond was set, why it was set
12 at the amount that it was set at?

13 A. I don't know.

14 Q. What was it set at?

15 A. \$210,000.

16 Q. And it looks like it was set on April 29th. So
17 you were arrested on the 27th, correct?

18 A. Yes.

19 Q. Around 10:00 p.m.?

20 A. Yes.

21 Q. And were you going to be required to put up that
22 entire amount, \$210,000 or some percentage?

23 A. Ten percent, I think.

24 Q. Okay. And how long was it before you spoke to
25 your attorney? And I don't want to know what you talked

1 about. I'm just trying to get a timeline.

2 A. It had been a couple of weeks before I even got
3 an attorney.

4 Q. All right. And do you know when the request for
5 bond reduction was filed?

6 A. Not after 30 days.

7 Q. I'm sorry, not after --

8 A. They couldn't do it until I was in jail for
9 30 days.

10 Q. And do you know if it was filed like on the 31st
11 day?

12 A. I'm not sure.

13 Q. And you did eventually get a bond reduction,
14 correct?

15 A. Yes.

16 Q. And what was your bond reduced to?

17 A. I believe it was 38,000.

18 Q. And was that also with a ten percent required?

19 A. I was able to get out on \$500 down.

20 Q. And that was after -- it looks like maybe
21 June 15th you had a hearing. Does that sound right?

22 A. I don't know. My lawyer went to them for me. I
23 got out on June 11th.

24 Q. Did you ever retain a private lawyer for the
25 criminal charges?

1 A. No.

2 Q. While you were in the Berkeley County Detention
3 Center, did you ever suffer any physical injuries?

4 A. Only emotional.

5 Q. Did you ever get into any fights, physical
6 fights?

7 A. There were a couple heated arguments verbally,
8 but --

9 Q. But nothing where anybody was injured?

10 A. No.

11 Q. Were you taking any medications as of the day you
12 were arrested?

13 A. No.

14 Q. I saw in your jail file that your property was
15 released to somebody named Jerry Bitzell. Who is that?

16 A. Samantha's father.

17 Q. Why did you release your property to him?

18 A. I needed him to get the numbers out of my phone
19 and call my family and let them know where I was.

20 Q. It looks like it was released to him on May 10th.
21 You hadn't notified your family of where you were before
22 May 10th?

23 A. I had, but I was trying to get someone to get me
24 out.

25 Q. Okay. I'm not understanding.

1 A. I had like my mother's and my brother's numbers,
2 but there was numbers in my phone of other family
3 members that --

4 Q. So he would provide you those numbers once he got
5 them from your phone?

6 A. Right.

7 Q. All right. While you were in the jail, did you
8 seek any medical treatment?

9 A. I tried.

10 Q. For what?

11 A. I had a sharp pain in my side. I thought it was
12 the hepatitis.

13 Q. Okay.

14 A. I had asked to go again, but they never did come
15 back to get me.

16 Q. How did you ask?

17 A. You have to ask one of the guards or either fill
18 out a slip.

19 Q. Is there a kiosk?

20 A. Yes.

21 Q. And were you supposed to use the kiosk to request
22 medical?

23 A. Yes.

24 Q. And did you use the kiosk?

25 A. Yes.

1 Q. And nobody responded to your kiosk request?

2 A. Not about that.

3 Q. Not about going to see medical?

4 A. No. After the one time -- they took me the one
5 time, but they never responded the second.

6 Q. Did you have an issue with a nurse giving you a
7 shot or drawing blood or something? Were you asked to
8 go back to your cell because she kept sticking you? Do
9 you remember telling somebody about that on the phone?

10 A. That was not a nurse at the --

11 Q. It was not at the Detention Center?

12 A. They didn't give me any shot at the Detention
13 Center.

14 Q. Okay. So what happened when you did go to get
15 medical treatment the one time?

16 A. They rubbed on my side, and asked me where it
17 hurt and sent me back to my cell. Nothing was sent.

18 Q. Did the pain resolve?

19 A. It was on and off the whole time I was in there.

20 Q. Did you get treatment for it when you got out?

21 A. I did.

22 Q. Where?

23 A. Hope Health.

24 Q. With who?

25 A. Dr. Motiani. It was something I was already

1 going through, but this stopped it, stopped the whole
2 process, so I had to basically finish it when I got out.

3 Q. It looks like you saw Dr. Barrett in January of
4 2018?

5 A. Yes.

6 Q. And then, again, you saw Dr. James in January of
7 2018, is that correct?

8 A. Uh-huh.

9 Q. Dr. Barrett in February of 2018?

10 A. Yes.

11 Q. And then Dr. Barrett again in August of 2018?

12 A. Yes.

13 Q. Okay. August would be when -- would that be --
14 August 20th of 2018, would that be when you first --
15 your first visit after you were released from jail, I
16 mean first visit to the doctor?

17 A. I'm not sure what day. I would have to go
18 through my medical bills.

19 Q. If there is no medical record between
20 February 8th and August 20th, do you have reason to
21 believe that you saw him between those dates?

22 A. I think I was already working with Tamra
23 (phonetic) and going through Dr. Motiani. We were
24 trying to get my paperwork set up, and it wasn't going
25 through in order for me to -- it took awhile for me to

1 get the information saying I lived with my mother. They
2 had to turn in her W-2s, and so it put a hold on things
3 a little bit.

4 Q. But I'm just talking about -- you said you went
5 to have your stomach pain treated when you got out of
6 jail. Would that have been --

7 A. Oh, no. They were already doing that before I
8 went into jail.

9 Q. Okay. But then you said during jail --

10 A. But when I got out, I completed it.

11 Q. But I don't have any visit between when you got
12 out of jail on June 11th and this visit of August 20th.

13 A. Well, I couldn't go back right away. I was stuck
14 here. I couldn't leave.

15 Q. Okay. Did you see any other doctors between
16 June 11th and August 20th for your stomach pain?

17 A. No.

18 Q. And then Rishika Motiani, is that the doctor that
19 you were just telling me about?

20 A. Yes.

21 Q. And it looks like the first visit with her is
22 December of 2018. Does that seem right, on Irby?

23 A. Yes.

24 Q. Okay. And so you think that the pain you were
25 having when you were in jail was related to the

1 hepatitis?

2 A. I'm not sure. I just -- that's what I thought.

3 Q. And were you still having the pain off and on
4 when you got out of jail?

5 A. Yes.

6 Q. And when did you stop having the pain?

7 A. Probably about February.

8 Q. 2019?

9 A. Yeah.

10 Q. All right. Do you remember making a number of
11 phone calls from the Detention Center?

12 A. Yes.

13 Q. And did you ever allow another inmate to use your
14 inmate code to make phone calls?

15 A. If I did, it was Samantha.

16 Q. And would she have ever identified herself as you
17 if she used your code to make a phone call?

18 A. No. Uhm, I mean, I have to say my name in the
19 phone because it was voice activated. It goes by your
20 voice. I would have had to have said my name, but she
21 would have not said, hey, it's Stephanie, when she got
22 on the phone.

23 Q. So if I've listened to phone calls and I've heard
24 you say, hey, it's Stephanie, or if I heard a voice say,
25 hey, it's Stephanie, would that be you?

1 A. Yes.

2 Q. Do you have any reason to believe anybody else
3 would have used your phone code and identified
4 themselves as you?

5 A. No.

6 Q. And I will assert to you that I have listened to
7 not all, but a lot of the phone calls, and so I want to
8 find out a little bit more about some of these people.
9 There was a Bill.

10 A. He's an old boss of mine.

11 Q. Do you know his last name?

12 A. Hunter.

13 Q. Okay. And then Richard?

14 A. Taylor (phonetic). He's the one that got me out.

15 Q. Is he the one that offered to get you out under
16 your original bond?

17 A. He actually was trying to get me a lawyer, but
18 last minute we decided not to get him. And then he was
19 able -- and then right after that I got my bond
20 reduction and he was able to talk to the bondsman.

21 Q. Okay. Jay Wardy, who is he?

22 A. A friend of mine.

23 Q. All right. Who is Nina?

24 A. My sister.

25 Q. Is her last name Gardner?

1 A. Yes.

2 Q. Jordan?

3 A. That's Jay Wardy.

4 Q. George?

5 A. (Shakes head.)

6 Q. You don't know anybody named George?

7 A. I don't know anyone named George.

8 Q. Is there more than one Richard that you talked to

9 when you were in the jail?

10 A. No.

11 Q. Curt?

12 A. My father.

13 Q. Bubba?

14 A. My brother.

15 Q. Allen?

16 A. Yeah.

17 Q. That's what I thought, but I was making sure.

18 Rabbit (phonetic)?

19 A. That's the guy that stole my ID.

20 Q. Okay. Did you ever use any illegal substances,

21 including alcohol, while you were in the jail?

22 A. No.

23 Q. Do you remember telling someone on the phone that

24 Mexicans who were being deported would bring in dope?

25 A. I remember telling them that I seen more drugs in

1 jail than I seen on the streets the whole time I was in
2 there, or the whole time I was getting sober. I seen
3 more drugs in the Detention Center.

4 Q. Do you remember telling your brother that you had
5 a hangover but you couldn't talk about it on the phone
6 so you would write him a letter about it?

7 A. That was just a joke. I was trying to make him
8 laugh, because he said my street credit went up. He was
9 just joking with me.

10 Q. Do you remember talking to your mother about a
11 customer that you had who had come to visit you?

12 A. I don't remember.

13 Q. You said he was a customer, who was a lawyer, and
14 he got in touch with you and drove three hours to meet
15 you and help you out.

16 A. I don't remember talking to her about it, but --

17 Q. Do you remember who you were talking about?

18 A. Yeah.

19 Q. Who?

20 A. He's sitting next to me.

21 Q. Okay. Do you remember telling family members on
22 the phone that you did not want them to bond you out
23 because it was too expensive and you had been told that
24 you could get paid for being in jail?

25 A. Yes.

1 (Defendants' Exhibit No. 3 was marked for
2 identification.)

3 Q. (BY MS. JACKSON): I'm going to show you what I
4 have marked as Exhibit 3, which I will assert to you is
5 the copy of the two warrants, and I will let you take a
6 look at them.

7 Are these the two warrants that you were
8 served with?

9 A. I was served with four.

10 Q. You were served with four warrants?

11 A. Yes. These are not even the trafficking ones.
12 These are just the possession ones. There was two
13 trafficking.

14 MR. BUTLER: That's incorrect. There was
15 only one.

16 MS. JACKSON: All right.

17 Q. (BY MS. JACKSON): But are those two of the
18 warrants that you were served with?

19 A. Yes. One of them has --

20 Q. Can you -- if you want that in the record, you
21 need to repeat it for the court reporter.

22 A. I said I think one of them even had my name in
23 it, but it had Samantha's -- it had mine and Samantha's
24 name both on it. They had a typo. It was a typo.

25 Q. And the other two warrants were for trafficking?

1 A. Possession -- yes, the other two were
2 trafficking.

3 Q. Let me show you these four pages, and I will
4 assert to you that these were produced by your attorney,
5 Pages 62 through 65. Are those the four warrants?

6 A. This is them.

7 Q. Okay.. And do you see towards the bottom in this
8 area that they are each signed by a judge?

9 A. I do.

10 Q. Okay. And do you have any evidence that the
11 signatures on those warrants are not a judge's
12 signature?

13 A. I have no clue.

14 Q. What is the date on the warrants that were
15 signed, right above the signature?

16 A. 4-28-2018.

17 Q. And all four of them were signed on that date?

18 A. Yes.

19 Q. Did you meet anyone at the jail who was staff who
20 told you or gave you any indication that they were a
21 judge?

22 A. While I was in there?

23 Q. At the Detention Center, yes.

24 A. Other than the bond hearing, no.

25 Q. And that person was sitting on the bench,

1 correct, like a judge?

2 A. Yes.

3 Q. Do you know whether the jail has the authority to
4 overrule a judge?

5 A. I wouldn't think so.

6 Q. Okay. And who set your bond? Was it the judge?

7 A. Yes.

8 Q. It was not a member of the Sheriff's Office,
9 correct?

10 A. No.

11 Q. Do you know who Randy Demory is?

12 A. The name is familiar.

13 Q. Do you know whether that person is a male or a
14 female?

15 A. I assume male.

16 Q. And do you know whether that person is black or
17 white?

18 A. I don't know.

19 Q. Have you ever met Randy Demory?

20 A. I don't know.

21 Q. If I brought in five people into this room right
22 now, would you be able to identify Randy Demory?

23 A. I don't know.

24 Q. Do you know who Randy Demory works for?

25 A. I'm not sure which agency; Berkeley County, I

1 assume.

2 Q. Do you know what Randy Demory's job is for
3 Berkeley County if, in fact, Randy Demory works for
4 Berkeley County?

5 A. No.

6 Q. All right. One of the allegations in the
7 complaint is that -- let me get it so I don't misstate
8 it -- is that you were misrepresented as being an
9 occupant of the residence.

10 A. Yes. I was not an occupant of that residence,
11 nor had I ever been there a day in my life before that.

12 Q. What is your definition of occupant?

13 A. I didn't live there. I didn't hang out there,
14 like --

15 Q. Had you been present in the residence? Were you
16 present on the property?

17 A. For that short time I was there.

18 Q. Do you know what the phrase probable cause means?

19 A. Yes.

20 Q. What does it mean?

21 A. Could I give you an example?

22 Q. Well, if you can give me your definition.

23 A. I could just give you an example. I don't know
24 the exact definition.

25 Q. Okay.

1 A. Like a reason, a reason to -- like Samantha had
2 the bowl. That was reason for them to want to search
3 the house.

4 Q. In the complaint, in two different places it says
5 that Berkeley County was trying to coerce you to give
6 false testimony. And I will -- did you ever testify
7 against Corey Gethers?

8 A. How could I? No.

9 Q. What false testimony are we talking about?

10 A. I got a phone call, them wanting me to testify
11 that it was Corey's drugs, but I couldn't go and lie. I
12 did not know whose drugs they were, nor have I even
13 still to this day seen any drugs.

14 Q. And who called you?

15 A. Someone from Berkeley County and my lawyer. We
16 were on a conference call.

17 Q. Your criminal defense lawyer? You pointed to --

18 A. This lawyer, Mr. Nettles.

19 Q. So you had a conference call with Mr. Nettles and
20 someone from -- you're sure it's the Berkeley County
21 Sheriff's Office?

22 A. I believe so.

23 Q. Okay. How sure are you?

24 A. It was Moncks Corner or Berkeley County. I'm not
25 sure which exact office, but it was --

1 Q. And did you get a name?

2 A. I don't remember her name.

3 Q. It was a female?

4 A. Yes.

5 Q. And she wanted to know if you would testify that
6 the drugs were Corey's?

7 A. Yes.

8 Q. And your answer was no, is that correct?

9 A. My answer was I can't, I didn't see anything.

10 Q. Did you have any further discussions with her?

11 A. I don't really remember the whole conversation.

12 MR. NETTLES: Can we go off the record for a
13 minute?

14 (Off-the-record discussion.)

15 MS. JACKSON: Back on the record.

16 Q. (BY MS. JACKSON): Before your charges were
17 dismissed, did anyone try to coerce you to give false
18 testimony about somebody else?

19 A. I was just asked to testify by them, but --

20 Q. And you said you couldn't?

21 A. Right.

22 Q. Did anyone ever threaten you?

23 A. No, I never got a threat.

24 (Defendants' Exhibit No. 4 was marked for
25 identification.)

1 Q. (BY MS. JACKSON): All right. Let me show you
2 what we are going to mark as Exhibit 4.

3 And I will assert to you that this was
4 pulled from Facebook, and it was lengthy, and I have the
5 entire thing in your discovery, but these two pages are
6 Pages 102 and 105. 102 is the beginning of the post and
7 105 is where your information is, okay? So what I want
8 you to do first is look at it.

9 A. I don't want to look at it. I have seen it a
10 million times.

11 Q. Well, can you tell me what the date is on it?

12 A. May 1st.

13 Q. And then -- actually, I do need you to read the
14 first paragraph. If you will look at the first
15 sentence, and can you read it out loud slowly?

16 A. "The Berkeley County Sheriff's Office conducted a
17 two-day crime & drug sweep on Thursday the 26th and
18 Friday the 27th."

19 Q. And to your knowledge is that statement, that
20 sentence, true?

21 A. Yeah.

22 Q. The second sentence says, "The sweep included law
23 enforcement officers from the Hanahan PD, Goose Creek
24 PD, Bonneau PD, Summerville PD, the SCHP, SC Constables,
25 SC Probation & Parole, SLED and Dorchester County

1 Sheriff's Office, as well as members of the Berkeley
2 County Sheriff's Office."

3 To the best of your knowledge, is that
4 statement true?

5 A. Yeah.

6 Q. And the next sentence says, "The initiative
7 resulted in 59 in-custody arrests for a wide range of
8 charges."

9 Based on your previous review of this post,
10 is that also true?

11 A. Yes.

12 Q. The next sentence says, "This was a lot of work
13 but it was needed. The areas we worked during this
14 crime sweep continue to have high call volumes and
15 problems related to drugs, Sheriff Duane Lewis stated."

16 Do you have any reason to believe that that
17 is not a true statement?

18 A. I do not know.

19 Q. Okay. And then on the second page it has, about
20 halfway down, Gardner, comma, Stephanie, colon, Lester
21 Road, comma, Dillon, comma, 32-year-old.

22 Is that true, or was it true as of May 1 of
23 2018?

24 A. It was.

25 Q. And were you charged with trafficking and

1 cocaine, 10 grams or more but less than 28 grams, 1st
2 offense?

3 A. Yeah. My family saw this.

4 Q. And were you charged with trafficking in meth or
5 cocaine base, 10 grams or more but less than 28 grams,
6 1st offense?

7 A. I was.

8 Q. And were you charged with possession of less than
9 one gram of meth or cocaine base, 1st offense?

10 A. I was.

11 Q. And were you charged with MDP, narcotic drugs in
12 Schedule I, LSD, and Schedule II, 1st offense?

13 A. I was.

14 Q. So those are all true statements?

15 A. Yes.

16 (Defendants' Exhibit No. 5 was marked for
17 identification.)

18 Q. (BY MS. JACKSON): I'm going to show you what I
19 have marked as Exhibit 5 to your deposition. This is
20 also from the Berkeley County Sheriff's Office Facebook
21 page. You can see that it has the same handle, for lack
22 of a better term, as the previous post.

23 Do you see where it says "business info"?

24 A. Yes.

25 Q. And then under that it says "mission", and there

1 is a paragraph there.

2 And then the last sentence, would you agree
3 with me it says, "All suspects posted on our Facebook
4 page are innocent until proven guilty in a court of
5 law"?

6 A. That's what it says.

7 Q. And then down further under "general
8 information", does it say the same thing, "All suspects
9 posted on our Facebook page are innocent until proven
10 guilty in a court of law"?

11 A. That's what it says.

12 Q. And would you agree with me that the Facebook
13 post on May 1st came after the warrants were issued on
14 April 28th?

15 A. That's what it says.

16 Q. Who said -- who told you that they saw this post?

17 A. My mother and brother had told me that my grandma
18 seen it, they seen it, that everybody seen it.

19 Q. Who is everybody?

20 A. Everyone in my family.

21 Q. Okay. And of all of those people in your family
22 who saw it, who believed that you were a drug trafficker
23 after seeing it?

24 A. My grandma almost did, but my mother knew better
25 because I had been with her every day. I had never even

1 left her house, not once.

2 Q. And did your brother know better?

3 A. My brother was there with me every day. He knew
4 better.

5 Q. And did your family provide information to your
6 grandmother so that she did not believe the statement
7 either?

8 A. They tried.

9 Q. And you have lived with her since then, correct?

10 A. Yes.

11 Q. Okay. And would she have allowed you to live
12 with her if she thought you were a drug trafficker?

13 A. No.

14 Q. How did this Facebook post damage your
15 reputation?

16 A. It was really hard for some people to not believe
17 it at first, because I used to deal with drugs around
18 me, so some of them's first thought was that I had
19 relapsed. After all the hard work I put in to get my
20 family back, this almost destroyed it.

21 Q. Are there any family members who don't talk to
22 you any more because of this?

23 A. My Uncle Kenneth.

24 Q. And why doesn't he speak to you anymore?

25 A. Because he doesn't believe it.

1 Q. Did you have problems with your Uncle Kenneth
2 before this?

3 A. Ever since the day he came to pick me up from
4 here and took me to my grandmother's.

5 Q. Did he have problems with you when you were using
6 drugs?

7 A. No.

8 Q. So he was fine with you using?

9 A. He used to use, too.

10 Q. Let me finish my question. He was fine with you
11 using, but he wasn't fine with you selling?

12 A. When everybody found out, it made him look bad.

13 Q. What made him look bad?

14 A. People don't know what he does, or what he did.
15 Supposedly he doesn't anymore. I don't know. I haven't
16 talked to him.

17 But this started making people look at him,
18 because him and I used to be so close. After this he
19 didn't want to talk to me. He didn't want to be
20 associated with a drug trafficker.

21 Q. Even after the charges were dismissed?

22 A. Even after the charges were dismissed.

23 Q. Okay. So he was concerned about his own
24 reputation?

25 A. Right.

1 Q. All right. Anyone else?

2 A. I don't talk to anybody but family, so --

3 Q. What about your fiance? I presume he didn't
4 believe it?

5 A. I was not with him at the time.

6 Q. Did you know him at the time?

7 A. No.

8 Q. Did you know that Samantha had marijuana in the
9 house when you went there?

10 A. No, but I did know that she did smoke marijuana,
11 but I never knew her to do anything else even when she
12 lived with me up in Charlotte before she moved here, I
13 never seen her with anything other than a beer or a bowl
14 of marijuana.

15 Q. Why was she living with you in Charlotte?

16 A. She wasn't -- we weren't living together in the
17 same house. We just grew up together. We went to
18 school together. I knew her dad. We had been friends
19 on and off for years.

20 Q. But now you haven't spoken to her since the
21 summer you got out of jail?

22 A. No.

23 Q. Did you know that she just had a baby?

24 A. I heard. Her dad told me.

25 Q. Tell me about your damages. And when I ask you

1 about your damages, I'm really focused the most on the
2 Berkeley County Sheriff's Office.

3 But to the extent that your damages may
4 overlap, then that's fine. Just let me know. Like I
5 understand that there were Berkeley County Sheriff's
6 officers along with other officers from other agencies
7 that made the arrest.

8 A. Yeah. I don't really know with who, but -- I
9 don't know what you mean, damages, like --

10 Q. Okay. Do you understand that in a civil suit the
11 only thing that you can sue for is money?

12 A. Okay.

13 Q. So do you have any hard damages, meaning money
14 that you spent or that was taken from you?

15 A. Yes. I had -- when I went to Sumter after
16 leaving Charleston, I couldn't get to court. I had to
17 move here. I had to work with this guy pressure washing
18 just to rent a house and have power and water.

19 Q. Who is that?

20 A. Richard Velazquez.

21 Q. And did you live with him?

22 A. No. He lived in a -- he lived in a shop, but he
23 let me stay in his shop floor until I was able to find
24 someone to rent me a house, and then he moved in with me
25 in there.

1 Q. How did you meet Richard Velazquez?

2 A. He was someone that I had gotten a name from. He
3 needed some help doing some stuff online. I never met
4 him until the day I got out of Berkeley County. I
5 didn't know where to go. I returned to the scene of the
6 crime at Lodestone.

7 Q. How did you get there?

8 A. I hitchhiked and walked.

9 Q. Did you get out of jail before or after Samantha?

10 A. Before.

11 Q. And you knew that she was being evicted, right?

12 A. Yes.

13 Q. So why would you go back to Lodestone?

14 A. She said that I could find Richard there, maybe,
15 and I did.

16 Q. So she knew Richard?

17 A. Yes. Richard was a friend of the people
18 renting -- that she was renting the house from.

19 Q. Okay. So is he the one you stayed with for a few
20 days before your uncle came to get you?

21 A. Yes. Well, he bought me the room. He wasn't
22 there the whole time, but he stayed there at night with
23 me.

24 Q. And did you start a relationship with him?

25 A. Yes.

1 Q. During those days?

2 A. Not until after.

3 Q. Why did your Uncle Kenneth come to get you?

4 A. My grandma made him. She wanted me home and not
5 in a motel.

6 Q. And then you came back to the Charleston area in
7 February. That's what I have written down here for
8 Richard Velazquez, is February.

9 A. No. June, July -- no. It was two months after I
10 got out of jail --

11 Q. So August?

12 A. -- that I had to move back down here because I
13 couldn't get back and forth for all the court
14 appearances and meetings and the lawyer, public
15 defender.

16 Q. Okay. So then was he taking you back up there to
17 go to your doctors' appointments?

18 A. Yeah. I had to pay him gas money because he had
19 an oversized van. Sometimes I would just work it off.
20 I would go to work with him and he would pay me \$10 an
21 hour.

22 Q. All right. So when you came back in August, that
23 is when you started to have a relationship with him,
24 Richard Velazquez?

25 A. Yes.

1 Q. And then you stayed with him -- was it that you
2 stayed with him until February?

3 A. From June to August, when we started dating, he
4 would come to my grandmother's to see me. I knew
5 eventually I had to talk him into letting me stay with
6 him for -- to court. He wanted to help me out, and then
7 we ended up dating in the process.

8 Q. Okay. So what money do you have out of pocket
9 for those moves?

10 A. I had to pay \$500 a month rent, and I got lucky
11 with that because everybody else wanted 800. Richard
12 helped me with the other bills, though. He even did the
13 cable. He paid for the cable. I just had to pay for
14 rent and he paid for everything else.

15 Q. And who were you paying rent to? Do you have
16 records of the rent?

17 A. No. We never took records because it was a
18 friend of -- it was like his best friend, so it was like
19 a trust thing.

20 Q. Okay. So how long did you live there?

21 A. Until March or April. I'm not sure of the exact
22 date.

23 Q. Of 2019?

24 A. Uh-huh.

25 Q. But your charges were dismissed in October,

1 correct?

2 A. Oh, I thought it was November.

3 Q. I show October 24th.

4 A. Okay. Well, yeah, end of October.

5 Q. So you're claiming rent for August, September and
6 October?

7 A. And gas money back and forth to the doctors, and
8 back and forth up here when I was staying at my
9 granny's. I had to pay for that, too. I still owe
10 people for some of it. I'm still paying people off
11 because they helped me when I wasn't able to get
12 everything. You know, it was really hard.

13 Q. What else? What other aspects of damages are you
14 claiming?

15 A. I missed work for 45 days. I couldn't work while
16 I was in there. I know my job wasn't much of a job, but
17 I could have found a better job had I had the chance to
18 be free. I was already building my life up. That put a
19 big stop to my life. I couldn't do anything after that.

20 Q. So in 2018, before this, you had worked at Huddle
21 House and been fired, and you had worked at a strip club
22 for two days?

23 A. Yes.

24 Q. What other job prospects did you have before you
25 got arrested?

1 A. I had some applications in at some other
2 restaurants.

3 Q. Which ones?

4 A. I can't tell you all of them, but there was a
5 Taco Bell, one, and then a couple of server positions in
6 Florence, but I can't remember all the places I went.
7 And when I went, I just filled out applications. I just
8 went down the street.

9 Q. Did you get any calls?

10 A. I did get a call from the Japanese restaurant in
11 Dillon. They brought me in for an interview, and they
12 were supposed to be calling me back and letting me know
13 when to start, but --

14 Q. When was that?

15 A. Right before I got locked up.

16 Q. If you were going to be working at the Japanese
17 restaurant, why did you beg your mom to let you go back
18 to stripping?

19 A. I needed money to get me back and forth to work
20 because my mom couldn't take me. She had a job. So I
21 would have had to pay people to get me there, and then I
22 had to buy my uniforms. That had to come out of my
23 pocket, because they were actually wanting me to be the
24 manager up there because I had had previous experience
25 with dealing with sushi. It was sushi and hibachi. I

1 forgot they did hibachi.

2 Q. What was the name of it?

3 A. I do not recall off the top of my head.

4 Q. You told several people that you were -- that you
5 thought you were going to get paid for each day that you
6 spent in the jail?

7 A. That's what a girl told me in jail.

8 Q. Do you remember telling your family that a lawyer
9 told you that, too?

10 A. I might have. I don't remember all of our
11 conversations. I called them every day.

12 Q. Okay. If you listen to the telephone calls and
13 you hear yourself say that a lawyer told you that, would
14 that be a true statement?

15 A. If I heard myself say it, yes.

16 Q. Okay. So what was your idea or what did people
17 tell you about how much? And when I'm asking you this
18 question, I don't want to know anything any of your
19 retained lawyers said.

20 But if somebody said something to you when
21 they were not representing you, or if it was just a
22 lawyer friend, that's what I'm asking you about, about
23 how much you had been told you could get.

24 A. A girl in jail told me that cases varied, but
25 that she knew a girl who got \$2,000 a day. But she

1 was -- it was a different circumstance than mine. I
2 guess the girl had been touched inappropriately by the
3 staff up there.

4 Q. All right. Well, if you were to testify to a
5 jury tomorrow, and you're asking them to award you
6 money, what is it that you want?

7 A. I would say at least a hundred thousand, plus my
8 lawyer fees.

9 Q. And what is the basis for that?

10 A. All the suffering that I had to do in there while
11 I was asking God every day why am I in here.

12 Q. What is it that you think that the jail did wrong
13 with regard to your charges?

14 A. I don't think the jail did anything wrong. I
15 think the cops did. It's not the jail's fault I was in
16 there, but I don't think the jail should have kept me in
17 there.

18 Q. Why?

19 A. I was innocent. I think they should have figured
20 it out a whole lot quicker than they did. I don't feel
21 like they should have left me in there for 45 days.

22 Q. You think who should have figured it out a whole
23 lot quicker?

24 A. The judges, the lawyers, the cops should have
25 been on my side. They don't even know who they

1 arrested.

2 Q. What does that have to do with the jail?

3 A. The jail is the one that kept me there for no
4 reason.

5 Q. Do you know whether the incident reports from
6 this arrest are even at the jail?

7 A. I don't know how it works internally.

8 Q. Do you know if any employee of the Detention
9 Center has any information about the facts relating to
10 your arrest?

11 A. I'm not sure.

12 Q. And do you know if anyone at the jail has any
13 authority to release an inmate without an order of the
14 Court?

15 A. I assumed that the Sheriff could.

16 Q. And why do you think that the Sheriff can
17 overrule a judge?

18 A. I just think the Sheriff's recommendation would
19 have -- he could have talked to a judge and asked a
20 judge, you know, if he really reviewed my case and seen
21 what was going on. You know, if he really did his job,
22 they wouldn't have even put me in that place to begin
23 with, I feel.

24 Q. And why do you think that the Sheriff has a duty
25 to review your case?

1 A. It's his county. It's his inmates.

2 Q. Was the Sheriff present at your arrest?

3 A. I don't know. There were so many cops there. I
4 don't know.

5 Q. But no one came up and introduced themselves to you
6 as Sheriff Lewis?

7 A. None of them introduced themselves to me.

8 Q. And do you have any evidence that Sheriff Lewis
9 was present?

10 A. I don't know if he was there or not.

11 Q. Have you ever worked, volunteered or interned
12 with any law enforcement agency?

13 A. Yeah.

14 Q. Which one?

15 A. York County.

16 Q. What did you do for them?

17 A. I told on my piece of crap ex-boyfriend.

18 Q. So you acted as an informant?

19 A. Not really. I just told a police officer friend
20 of mine that -- what to look for.

21 Q. But you didn't actually work for the Department?

22 A. No.

23 Q. And you didn't have any kind of position with the
24 Department?

25 A. No.

1 Q. So it's my understanding that you think the
2 Sheriff should have reviewed your case and made a
3 recommendation to the judge?

4 A. I think if he would have looked at everything and
5 talked to me and got -- if any of them, period, would
6 have got my story, if they would have talked to me and
7 asked me questions, where I'm from, what am I doing
8 there, they didn't do any of that.

9 And, if they would have, I possibly could
10 have been set free once they heard my story, but they
11 didn't even ask me a thing.

12 Q. And if we assume that the Sheriff wasn't there to
13 ask you any questions, then what is it that you think
14 the Sheriff should have done differently?

15 A. I think he should have picked one out of the five
16 to charge and not all five of us. I think he should
17 have figured out what was really going on instead of all
18 of us getting arrested for something that none of us
19 did.

20 Q. Who did it?

21 A. I can't tell you.

22 Q. So how do you know that none of us did it?

23 A. We all got a job eventually, so --

24 Q. Do you acknowledge that there were drugs there?

25 A. I didn't see any.

1 Q. You said that you got your discovery?

2 A. The only thing I know is that Samantha
3 afterwards, when we got locked up, said that it was
4 Corey's. But as far as seeing Corey with them, I
5 didn't. As far as even seeing the actual drugs, I
6 didn't.

7 Q. Have you ever seen the testing results of the
8 drugs?

9 A. I did not.

10 Q. Do you have any reason to doubt the lab results?

11 A. I don't know. I don't even know what the lab
12 results really were.

13 Q. All right. I am going to look through my notes
14 to see if I have any additional questions for you.

15 But in order to keep this moving, I'm going
16 to give you a choice. If you would like to take a
17 break, we can take a break. If you are hungry -- it's
18 1:45, so people might be getting hungry -- we can take
19 like a 30-minute break to go get food, or we can keep
20 going, and I can turn it over to Mr. Butler and he can
21 question you while I look through my notes and we can
22 keep going.

23 But I know that this is a lot of pressure on
24 a person. So if you need a break, we'll be happy to
25 take a break.

1 A. I'm fine with a cigarette break.

2 MR. NETTLES: Yeah, let's just take a short
3 break.

4 MS. JACKSON: Okay. Drew, we are going to
5 take a short break again, and I'm going to look through
6 my notes. And when we come back, if I'm still looking
7 through my notes, I will let you go ahead and then I
8 will just finish up at the end. Does that work?

9 MR. BUTLER: That works.

10 MS. JACKSON: All right. We are off the
11 record.

12 (A recess was taken.)

13 MS. JACKSON: I will have a few more
14 questions, but I will just let you go while I find
15 those.

16 MR. BUTLER: That works.

17 MS. JACKSON: All right. We are back on.

18 EXAMINATION

19 BY MR. BUTLER:

20 Q. Ms. Gardner, my name is Drew Butler. I'm an
21 attorney with the Richardson Plowden law firm in
22 Charleston. I've been retained to represent and defend
23 the Town of Moncks Corner in this case.

24 Can you hear me okay?

25 A. I can.

1 Q. If at any point you don't understand one of my
2 questions, just have me repeat it or rephrase it and I
3 will be happy to do that for you, okay?

4 A. Okay.

5 Q. All right. Please don't read anything into these
6 questions. I ask them of everyone.

7 Are you under the influence of anything
8 today that would affect your testimony one way or
9 another?

10 A. No, sir.

11 Q. All right. You understand that you are under
12 oath?

13 A. Yes, sir.

14 Q. And everything you have testified to today has
15 been, to the best of your knowledge, truthful and
16 accurate, is that right?

17 A. Yes.

18 Q. Have you ever met Officer Barlow before the
19 incident at issue in this case?

20 A. No, I have not.

21 Q. Have you ever had any other instances with the
22 Moncks Corner Police Department?

23 A. I have not.

24 Q. I want to make sure I understand what brought you
25 to the house where this incident took place, and there

1 were a series of rides that I want to make sure I have
2 accurate.

3 How did you get to the Trophy Club the night
4 before the incident?

5 A. This guy, Chris, brought me and dropped me off.

6 Q. You said his name was Christopher. How did you
7 know Christopher?

8 A. I met him on Facebook when I was trying to find
9 people around town, because I had just moved to my mom's
10 and I didn't know anyone. I met him on Facebook, and
11 then we started hanging out a little bit. He would give
12 me rides.

13 Q. Were you dating him at the time?

14 A. No.

15 Q. Were you just seeing him socially?

16 A. Yeah, we were just friends.

17 Q. All right. And how long had you known him before
18 you took the ride with him from Dillon to Florence to
19 the Trophy Club?

20 A. A couple of months, I believe.

21 Q. Do you know his last name?

22 A. I can't remember it off the top of my head.

23 Q. All right. Do you have Facebook connections with
24 him still so we might be able to find him later off the
25 record?

1 A. I do not. After he stole my ID, I took him off
2 my page.

3 Q. You said he stole your ID?

4 A. Yeah. Well, my money was missing. I didn't know
5 if I had left it in his car. But apparently he, as
6 brought to my knowledge later, that he stole the whole
7 bag, and he just didn't realize that my ID was in the
8 money bag when he took it.

9 Q. Let me clarify that. As I understood it -- well,
10 let me ask it this way. How long is the drive from
11 Dillon to Florence?

12 A. 30 to 40 minutes.

13 Q. And in that 30 to 40 minutes, do you keep your
14 money bag in your possession or near you?

15 A. I try to.

16 Q. How did you become separated from it?

17 A. I had it on my arm, and I went in the store, and
18 that's the last time I remember seeing it. I must have
19 laid it down after I brought it in the store.

20 Q. And you believe he picked it up?

21 A. I know he did. He told my brother that he did.

22 Q. And what did he tell your brother?

23 A. He told my brother that I left the bag in his car
24 with the ID in it but there was no money.

25 Q. I see. So at that point you were in Florence

1 stripping at the Trophy Club with no ID and no money?

2 A. Correct.

3 Q. And then at some point a fellow named Joey took
4 you from Florence to North Charleston, is that right?

5 A. Correct.

6 Q. And what is Joey's last name?

7 A. I do not know.

8 Q. How long had you known Joey at the time you
9 accepted the ride from Florence to North Charleston?

10 A. Him and I started working at Trophy Club on the
11 same day. That's the day that we met. So I had known
12 him --

13 Q. So how long had you known him?

14 A. For two days.

15 Q. Thank you. I'm sorry. I didn't mean to
16 interrupt you. Sometimes that happens on the phone.

17 You said you had only met him for two days?

18 A. Yes.

19 Q. Ma'am, I'm just curious, why did you accept a
20 ride from a man you had only known two days driving over
21 three hours with no ID and no money.

22 A. He said he was the club manager, and I had a
23 chance to make a whole lot more money than what I had
24 been making at the Trophy Club.

25 A. And you believed him and rode in the car with him

1 for three hours?

2 A. Yes.

3 Q. Okay. And so when you got to North Charleston,
4 did he make true on his promise?

5 A. No.

6 Q. And so you were eventually dropped off at a house
7 you had never been to that had no power and no water?

8 A. Yes. I was not aware at the time that they were
9 living like that.

10 Q. I guess what I'm getting at, is at the time of
11 the arrest you were in a house with no power, no water,
12 with no ID, wearing someone else's clothes, and you had
13 never been there before that particular day, is that
14 right?

15 A. Yes.

16 Q. And you had mentioned I think through earlier
17 testimony that you had seen your friend, I believe her
18 name is Samantha, smoking marijuana in the past, is that
19 right?

20 A. Yes.

21 Q. And did you see the bowl of marijuana that she
22 had sitting on the table when you came into the house
23 with no power and no water?

24 A. I didn't see it sitting on the table, but right
25 before -- when the police got there, she had had it in

1 her hand when they come in the house, but I did not see
2 it until the officer engaged her and asked her what it
3 was.

4 Q. Was she planning to share the marijuana with you?

5 A. No, I didn't ask for any.

6 Q. I see. But she was planning to smoke it right
7 there in front of you when the police came in?

8 A. She wasn't really in front of me until the cops
9 came in and she came out with the bowl. She was in the
10 back of the house with it. When the cops came out, she
11 just still had it in her hand.

12 Q. Did you know that she had drugs in her
13 possession --

14 A. No.

15 Q. -- when you came into the house?

16 A. No.

17 Q. You do know that marijuana is an illegal
18 narcotic, right?

19 A. Yes.

20 Q. You mentioned that you came to the house and you
21 stayed there for about 30 minutes before police arrived,
22 is that right?

23 A. It wasn't even that long before they arrived. We
24 were there for about ten minutes, then left, and then
25 for about like 10, 15 more, like --

1 Q. During that 10 or 15 minutes before and 10 or
2 15 minutes after going to the store, you spent some time
3 with Corey Gethers where you two were together in the
4 car, right?

5 A. I was in the back seat. Samantha was in the
6 front seat. He never even spoke to me.

7 Q. But you were in the car with him?

8 A. Yes.

9 Q. In the ten minutes before or 15 minutes before
10 you went to the store and 10 or 15 minutes after you
11 went to the store, you were in the house where the drugs
12 were actually recovered, right?

13 A. I was on the back porch. I was not in the house.

14 Q. Yes, ma'am. You certainly didn't get changed
15 into the dress on the back porch?

16 A. No. When I first got there, I was in her bedroom
17 changing, but we left right after that.

18 Q. Right. And then when you came back, you at least
19 walked through the living room at some point, right?

20 A. Yes, straight to the back porch.

21 Q. Let's talk about the back porch. Is it a covered
22 back porch?

23 A. Yes.

24 Q. Yes, and it's connected to the home?

25 A. Yes.

1 Q. It's enclosed with windows of some kind, some of
2 them being wood, boarded up?

3 A. Yes. It's kind of like down stairs a little bit.

4 Q. Right. And is that porch connected to the living
5 room --

6 A. Yes.

7 Q. -- inside the house?

8 A. Yes.

9 Q. And the door between the porch and the living
10 room was open?

11 A. There was no door. They had some kind of --
12 something over it. They had to remove it before I was
13 able to walk down in there.

14 Q. Was there a door on the outside of the porch
15 leading from the porch to the yard?

16 A. Yes, a small one, just steps. It wasn't really a
17 porch. It was just steps.

18 Q. Understood. You were on the porch in such a way
19 that you were standing so that you could see Michael run
20 into the home? Is that what I heard you say earlier?

21 A. No. I just heard him run in and scream. I never
22 seen him, he ran so fast. Like -- he just ran to the
23 back. I didn't see him. I only heard him.

24 Q. Okay. When the officer came in from the back
25 porch area, do you know which officer that was?

1 A. No.

2 Q. Did any of the officers identify themselves one
3 way or another as to which unit they were working for or
4 which police department they were working for?

5 A. They told Samantha, but they did not let me and
6 Nathan know.

7 Q. When the officer came into the house, you were on
8 the back porch, is that right, the one we have just been
9 describing?

10 A. Yes.

11 Q. And that's the same one that covered -- that has
12 the doorway right next to the living room, is that
13 right?

14 A. Yes.

15 Q. So when the officer saw you, you were standing --
16 were you standing in a doorway? Were you standing on
17 the porch? Were you standing in the living room? Where
18 were you?

19 A. I was standing right below the steps towards the
20 right-hand side where the couch was. I was standing
21 like right beside the end of the couch.

22 Q. How many couches were inside the living room?

23 A. I only seen one, but it was -- the place was
24 really trashed. I can't tell you if there was another
25 one.

1 Q. That's fair. I'm not trying to trick you. I'm
2 just trying to decipher. I don't know the house, so I'm
3 just asking.

4 So when Corey's phone was vibrating, right,
5 while they were doing interviews, was that sitting on
6 the same couch that you were standing next to, that
7 phone?

8 A. No. It was coming from behind me.

9 Q. Help me understand that. I thought you testified
10 that Corey's phone was sitting on the arm of the couch.

11 A. I didn't say it was on the arm of the couch. I
12 just said it was on the couch. And the only reason I
13 know it was on the couch is because the officer said it
14 out loud and I overheard.

15 Q. I see. So just so I'm clear -- again, I'm not in
16 the room. But you're on the porch, the porch is
17 adjacent to the living room, you're standing near the
18 couch, and the couch is the same couch where Corey's
19 phone was vibrating that day?

20 A. No. I'm sitting on the couch that was in the
21 opposite room.

22 Q. Help me explain that. I thought you said there
23 was only one couch.

24 A. No. On the outside there was a couch, and there
25 was a white couch on the inside. And I don't even know

1 what color the couch was that I was sitting -- I think
2 gray. I'm not sure. But the other couch was on the
3 back porch on the right-hand side of the doorway where
4 you walk down the steps.

5 Q. Thank you. That helps. The couch where Corey's
6 phone was vibrating, where was that in relation to the
7 porch?

8 A. In the living room on the top part of the house,
9 all the way against the wall in like the front room.

10 Q. How big is this room?

11 A. It's a pretty decent size, I think.

12 Q. That doesn't help us.

13 A. I can't tell you feet.

14 Q. Let's do it this way. Was it about the typical
15 size of an apartment living room?

16 A. I'd say it was a little bigger than that.

17 Q. You said that it was junked up, right?

18 A. Yes.

19 Q. Was there much room to move around in this
20 junked-up living room?

21 A. From the couch to the walkway was the only clear
22 path. But once you got to the door, you had to walk
23 around some stuff that was sitting there. Like they had
24 stuff blocking the door. Like I had to walk around just
25 to go down, if that makes any sense.

1 Q. How many feet away was the porch entryway door to
2 the couch where Corey's phone was vibrating?

3 A. I'm not sure.

4 Q. Let's do it this way, car lengths, people
5 sometimes can do car lengths pretty well.

6 How many car lengths away was the couch from
7 the doorway of the porch where you were standing?

8 A. At least a car length.

9 Q. The drugs that Samantha had, that we now believe
10 is marijuana, are you pretty sure it was marijuana that
11 was recovered from Samantha that evening?

12 A. That is what she told the cops, but I didn't --

13 Q. Okay. Fair enough. You don't have any reason to
14 doubt that it was marijuana in her possession, right?

15 A. If she said it, it must have been true. I don't
16 know.

17 Q. And then after the marijuana was found, Samantha
18 gave her consent to the officers to come in and search
19 the property, is that right?

20 A. Yes.

21 Q. And it was after that consent that drugs were
22 found in the home?

23 A. Yes.

24 Q. And I know I'm couching it as drugs. I'm not
25 going to go through the same inquiry that Robin went

1 through, but do you have any reason to believe that the
2 drugs that were found that day were any different from
3 the illegal narcotics that are listed on the warrant?

4 A. I have no clue.

5 Q. Okay. And I don't expect you to have independent
6 testing. I'm wanting to know whether you believe they
7 were anything other than what they were represented to
8 be?

9 A. I can't answer that because I didn't see
10 anything.

11 Q. Yes, ma'am. When the drugs were recovered, were
12 you made aware by officers that drugs had been recovered
13 in the residence?

14 A. I heard the cop say -- he didn't actually say the
15 words that there were drugs. He just said -- they got
16 all excited, and they were happy, and then I heard --
17 the next thing I heard was don't -- Corey said you can't
18 pin that on me, and then the cop said don't let your
19 friends go down for this, your phone has rang six times.
20 Are you going to let your friends go down for this? And
21 that's all I heard.

22 Q. Did the officer give -- did an officer give the
23 occupants in the home an opportunity to confess whose
24 drugs those were?

25 A. They asked Samantha, but they never asked me and

1 Nathan.

2 Q. But they asked Samantha in your presence?

3 A. No, they called her off to the side.

4 Q. Did you hear them ask Samantha?

5 A. I did not hear what they were talking about, no.

6 Q. How do you know they asked Samantha about that?

7 A. She told me later when we got together sitting
8 down.

9 Q. I see. Are you -- obviously, today, are you
10 pretty clear those drugs were not yours and they did not
11 belong to you?

12 A. I know they weren't mine.

13 Q. Do you know whether Corey ever confessed to the
14 drugs being his?

15 A. I have no idea.

16 Q. Do you know what constructive possession of
17 narcotics means?

18 A. I did, but I can't really remember off the top of
19 my head.

20 Q. I just was curious if you knew what it meant.

21 Do you believe that you were in constructive
22 possession of narcotics that evening because no one
23 would admit to the drugs being theirs?

24 A. No. I wasn't anywhere near them, nor did I see
25 them.

1 Q. You said you weren't anywhere near them. Is that
2 what you said?

3 A. Right, from where they said --

4 Q. Do you agree --

5 A. -- they were anyway.

6 Q. Do you agree with me then, ma'am -- I'm sorry. I
7 didn't mean to talk over you.

8 You will agree with me, ma'am, that you were
9 in the home in which they were found, is that right?

10 A. I was on the porch in the home.

11 Q. Right. And that porch is connected to the home,
12 right?

13 A. Yes.

14 Q. Okay. What is it you believe the officer should
15 have done if he has recovered narcotics and no one
16 within the home admits to the narcotics being theirs?
17 How is that officer supposed to act?

18 A. I think they should have questioned us all and
19 asked us what we were doing there, where we lived, you
20 know. I think they could have just at least asked us,
21 talked to each of us individually and figured out for
22 themselves what was really going on instead of just --

23 Q. And why do you believe him speaking to you, that
24 officer, whoever it might be, why is it you believe that
25 that officer speaking to you would have made a

1 difference if none of you admitted to the drugs that
2 were found in the home?

3 A. Because had he known that I had just got there,
4 and what my reason for being there was, that I just
5 randomly got kind of stuck with nowhere to go, if he had
6 just heard my story, I think he would have let me go. I
7 mean, I don't know how he wouldn't --

8 Q. You would agree --

9 A. -- unless he just don't have a heart.

10 Q. You would agree with me that someone with drugs
11 in their possession and only being home for about a
12 minute before hiding them, right? That's possible?

13 A. I'm sorry. What?

14 Q. You would agree with me that a person, if they
15 have possession of drugs on them, that they could hide
16 them in the home within a matter of minutes of being in
17 the home regardless of how long they are there, right?

18 A. Sure, it's possible.

19 Q. Right. And on that night you were, what, 90 to
20 100 miles from your house with no ID, wearing somebody
21 else's dress, in a house with no power and no water,
22 right?

23 A. Yes.

24 Q. And you believe that would have convinced an
25 officer, that story would have convinced an officer

1 that you were not --

2 A. Well, if he would have known --

3 Q. -- In constructive possession?

4 A. No, that's not what I said. I said if he would
5 have known that I got stranded there, and then in the
6 process told Samantha, well, while I'm here I will help
7 you pack your stuff, because they had to get out, you
8 know, if he had heard my story why I was there, how I
9 ended up there, why I was actually staying there and
10 waiting for my ride, and had he even like called Joey to
11 confirm, you know, I could have had him talk to my boss.

12 But, no, he didn't want to do any of that.
13 He didn't even acknowledge me other than who are you,
14 where do you live.

15 Q. Ms. Gardner, why is it relevant that he talk to
16 you about any of that, right? If you're in the home
17 where the drugs are found --

18 A. I mean, is that not part of their job?

19 Q. Hang on. Why is it relevant to know any of your
20 back story if you're in the home where the drugs were
21 found and no one else confesses to it? Why does it
22 matter, any of your back story?

23 A. Because I didn't know there were any drugs in
24 that home or I would have never been there.

25 Had he gave me a chance to explain that, and

1 tell him who I am, and how I had been sober and working
2 on my life, and how I have been to church every Sunday,
3 if he had listened to my story and looked it up, and
4 called my boss, he would have probably let me go because
5 I wasn't even in the same room where it was found.

6 I couldn't even walk to it, really, because
7 I would have to crawl over a bunch of stuff. It's not
8 like -- I wouldn't have had time to hide it as fast as
9 it happened. And they knew that, because they walked in
10 immediately. They seen me standing there. I had not
11 moved from the spot that they saw me at, and I sat right
12 down there beside it.

13 So they knew I couldn't climb up there.
14 They knew I couldn't go in that room without incident,
15 without tripping, falling, hurting myself, tripping over
16 something.

17 Q. I guess what I'm getting at, Ms. Gardner, before
18 the officers walked in you had ample time to walk around
19 in that house for the 30 minutes you were there, and if
20 the drugs were there --

21 A. I wasn't there for the -- the second time -- when
22 we first got there, they immediately rushed in the door.
23 There wasn't really a wait time before that. As soon as
24 we walked in the house, I plugged my phone up and boom,
25 they were in the back door.

1 Q. And you think a phone call to your boss that you
2 had met the night before for the first time, whose last
3 name you did not know --

4 A. Had he known why I was there and why I had to --
5 because there wasn't a plan for me to go there. You
6 know what I mean? It wasn't planned. I just didn't
7 know where to go. And I knew that she lived in the
8 area. I wasn't even sure like where. I just knew
9 Charleston.

10 Q. Got it. And, Ms. Gardner, you understand that
11 probable cause is not absolute proof of guilt, right?
12 Do you know that?

13 A. I don't know.

14 Q. Did you own a home or rent a space at the time of
15 the arrest taking place?

16 A. I was living with my mother.

17 Q. Other than living with your mom, did you own a
18 home or have an apartment placed under your name or a
19 lease under your name?

20 A. I did not.

21 Q. And you previously stayed in motel rooms. Is
22 that what you're saying, the motel rents?

23 A. Before I moved in with my mother, I was staying
24 in York with a friend of mine.

25 Q. Did you have safety concerns when you were

1 staying in those motel rooms?

2 A. I did.

3 Q. Did you ever worry about food and where you were
4 going to get your food when you were staying in those
5 motel rooms?

6 A. I did not. I was working two jobs. I was not
7 concerned with that.

8 Q. Did you ever worry about health care at all?

9 A. I was getting back and forth to the doctor as
10 required.

11 Q. When you went to the Berkeley County jail, had
12 you been to that particular jail before?

13 A. Never a day in my life.

14 Q. But you had been to several other jails in the
15 past?

16 A. Yes.

17 Q. Did you ever fear while you were in the Berkeley
18 County jail that they were not going to feed you?

19 A. I wasn't sure what was going to happen.

20 Q. Did you ever have any belief that it was going to
21 be different from any of the other times you had been to
22 jail?

23 A. Yes.

24 Q. Why was this particular moment striking as
25 opposed to all the other times you had been to jail?

1 A. Because all the other times I've been to jail I
2 was able to get out. This time I couldn't. I did not
3 know how long I was going to be in there.

4 Q. Right. As I recall, you spoke with someone who
5 told you if you stayed there longer you might get more
6 money? Is that true?

7 A. A lot of people in there told me a lot of
8 things --

9 Q. Sure.

10 A. -- about --

11 Q. Someone told you that --

12 A. -- settlements.

13 Q. -- if you stay there longer you might get more
14 money?

15 A. I was told the longer you stay, yeah.

16 Q. And at some point maybe even a lawyer told you
17 that, is that right?

18 A. I don't know, but all of that is really just
19 hearsay. It's not like I believed everything they said.

20 Q. I see. Ma'am, did you stay in jail longer
21 because you thought you might be able to milk it for
22 more money?

23 A. No. First chance of my bond reduction I got
24 Richard on the phone and I got the heck out of there as
25 fast as I could.

1 Q. Didn't you say you spoke with someone about
2 getting out of there earlier and it just didn't work
3 out?

4 A. Nobody could pay my bond. That was a lot of
5 money. There was no way I was getting out, no way.

6 Q. You spoke to someone and then they refused to
7 help you with the bond?

8 A. It's not that they refused. People were trying.
9 They just could not get the money up. We couldn't get
10 that much money together.

11 Q. Did you ever talk to Mr. Barlow after the -- or
12 Officer Barlow after the arrest?

13 A. No.

14 Q. Look, I will do this delicately. I know your
15 lawyer, and I respect the hell out of him. You
16 mentioned something earlier, and I want to do this
17 delicately. I'm not throwing stones here.

18 You mentioned something about your lawyer
19 being a customer. What does that mean?

20 A. That was my way for me to explain to my mom who
21 he was because she -- I didn't want to go into details
22 about it. I just was trying to make it simple. I had
23 met him at the club.

24 Q. We went through a variety of different reasons,
25 right, and I don't ask it for any other reason than

1 that.

2 What type of customer was he?

3 A. He used to come in and sit and talk with me,
4 once. Well, he did once --

5 Q. Where --

6 A. -- and we became friends. But, to my mother,
7 that's how I had to explain it to her so she would know
8 how I met him.

9 Q. I'll be honest with you, this is awkward.

10 Where were you when you were sitting with
11 your lawyer having nonlegal conversations with him when
12 you were a customer -- or he was a customer?

13 A. The Trophy Club.

14 Q. In Florence?

15 A. Yes.

16 Q. And did the two of you exchange money?

17 A. No.

18 Q. He never paid you for any services?

19 A. No.

20 Q. Like were the two of you in a relationship?

21 A. No.

22 Q. Okay. I don't know, ma'am. I just have to ask.

23 And I'm certainly not implying anything. I'm just
24 trying to ask.

25 Have the two of you-all ever been in a

1 relationship?

2 A. No.

3 Q. When was the last time you spoke with Mr.
4 Molyneaux?

5 A. Right after Samantha got out, I guess. He had
6 came --

7 Q. Go ahead.

8 A. He had came home when I was dropping her off,
9 because we had a beach day. When she first got out, we
10 hung out one time, and I never seen her again after
11 that.

12 Q. What did the two of you-all talk about when you
13 saw her after the arrest?

14 A. She had not yet had her motion of discovery, so I
15 took mine to show her, and we hung out on the beach for
16 a little bit.

17 Q. And that was when you saw Mr. Molyneaux as well?

18 A. I saw him when I was dropping her off, yes.

19 Q. And have you ever had any conversations with Mr.
20 Gethers or Mr. Resek since the arrest?

21 A. No.

22 Q. You will agree with me that the arrest warrants
23 that were presented to you by Ms. Jackson were signed by
24 a judge?

25 A. Yes.

1 Q. And those were the arrest warrants that were used
2 to arrest you and detain you into the Detention Center,
3 is that right?

4 A. They already had me detained before the warrants
5 were even given to me.

6 Q. Right, but a judge signed off and determined
7 there was probable cause for arrest at some point,
8 right?

9 A. I guess.

10 Q. So other than wishing that the officers would
11 have talked to you more, what is it that you believe
12 that the officers affiliated with Moncks Corner should
13 have done better?

14 A. Their job, just period.

15 Q. What do you mean by that?

16 A. I mean everything.

17 Q. What could they have done differently?

18 A. They could have investigated. They could have
19 looked into the situation, you know. They didn't do any
20 of that. They didn't even tell us what our charges
21 were. I mean, we went into jail scared, not knowing why
22 we were going to jail.

23 Q. Anything else, ma'am?

24 A. I think that Officer Barlow did not have to be so
25 funny about it. I don't think he had to laugh. He

1 laughed like basically in our faces. And he --

2 Q. Give me the context of that. That's the first
3 time I have heard that. Go ahead.

4 A. When he was telling Corey not to let us go down,
5 he was laughing. He was giggling. I will not forget it
6 as long as I live.

7 Q. He was laughing at Mr. Corey?

8 A. He was laughing at all of us. And when I say
9 laughing, I mean cackling hysterically.

10 Q. That a man would let you go to jail for his
11 drugs?

12 A. I'm sorry? What?

13 Q. He was laughing at the fact that another man
14 would let you go to jail for his drugs?

15 A. I guess in their eyes all they seen was they just
16 caught five big bad drug traffickers.

17 Q. Well, in fact they did take down five people who
18 were in constructive possession of a bunch of drugs,
19 right?

20 MR. NETTLES: Objection, form of the
21 question.

22 MR. BUTLER: Fair objection.

23 Q. (BY MR. BUTLER): Answer if you can.

24 MS. JACKSON: You can still answer. Would
25 you like her to repeat the question?

1 THE WITNESS: Yes.

2 (Question read back.)

3 A. I was not in possession of anything, or had any
4 knowledge. And I don't even know who really did know.

5 Q. (BY MR. BUTLER): Got it. You were talking a
6 little bit about damages earlier with Ms. Jackson, and
7 she did a great job dealing with that.

8 Do you have any separate damages associated
9 with Moncks Corner that are separate and apart from
10 those articulated to Ms. Jackson earlier today?

11 A. Other than having to actually pay the bond,
12 everything else is the same. Plus the bond --

13 Q. Bond was -- was the bond 21 grand, reduced?

14 A. They talked the bondsman into it being \$500, but
15 I don't know. I had to pay that back, but I don't know
16 if anything else was ever even paid on it. I don't know
17 because it was not assigned by me.

18 Q. And so if I sort of back through this, you had
19 \$500 in bond. You may have missed some days of
20 stripping. You may have missed some time where another
21 company could have hired you, but you're not sure.

22 Any other damages that you can think of,
23 that you can help Mr. --

24 A. Me having to stay here and work and pay for rent,
25 and having to get back and forth to my doctors'

1 appointments, and then having to drive back and forth to
2 court, and my lawyers.

3 Q. Other than having to pay rent, which I'm guessing
4 that most of the jury members will have to pay, and
5 having to drive to court, anything else that you can
6 think of other than those damages?

7 A. Yeah, me suffering for the whole time I had to
8 sit in there.

9 Q. And sit in a jail cell where you had previously
10 been to jail multiple times?

11 A. I never had to sit in jail before.

12 Q. What is the longest stint you had in jail before
13 this one?

14 A. Fifteen days, but I think I only had to do half
15 of it.

16 Q. Okay. So a week or so?

17 A. Yes.

18 MR. BUTLER: Okay. That's all the questions
19 I have at this point.

20 You know, I understand there were some
21 additional documents produced today that I haven't had a
22 chance to weigh into yet, so what I would like to do is
23 just leave the deposition open. I don't anticipate
24 opening this back up again. But just to protect my
25 client, I want to open it up for discussion of those

1 documents.

2 MR. NETTLES: That's fine.

3 MR. BUTLER: Thank you, sir. I appreciate
4 your professionalism on that.

5 MS. JACKSON: Do you have any questions, or
6 do you want me to finish before you go?

7 MR. NETTLES: I have some questions.

8 MS. JACKSON: Okay.

9 EXAMINATION

10 BY MR. NETTLES:

11 Q. Ms. Gardner, you're a United States citizen?

12 A. Yes.

13 Q. Born in this country?

14 A. Yes.

15 Q. Do you believe you have a right not to be
16 deprived of your liberty without probable cause?

17 A. Yes.

18 Q. The questions Mr. Butler asked you assumed that
19 being found near some drugs is probable cause for your
20 arrest. Do you believe that?

21 A. No.

22 Q. Did you have any awareness of the drugs?

23 A. No.

24 Q. Were they visible to you?

25 A. No, I never seen them.

1 Q. Now, was there any requirement that the officers
2 arrest anyone when they found the drugs?

3 MS. JACKSON: Objection to the form.

4 MR. BUTLER: Same objection.

5 A. Other than the officer telling Corey to take the
6 charge, I -- that's it.

7 Q. (BY MR. NETTLES): Was there any reason -- are
8 you aware of any reason that it was necessary to arrest
9 someone that day?

10 MS. JACKSON: Same objection.

11 MR. BUTLER: Same objection.

12 A. I don't know.

13 Q. (BY MR. NETTLES): Do you know what a grand jury
14 does?

15 A. No.

16 Q. Do you think the officers probably know what a
17 grand jury does?

18 A. Yes.

19 Q. Now, I'm going to ask you about Defendants'
20 Exhibit Number 5. That's not a newspaper article, is
21 it?

22 A. No.

23 Q. That's from Facebook?

24 A. Yes.

25 Q. And it's your understanding that Facebook -- that

1 that's published by the Berkeley County Sheriff's
2 Office?

3 A. Yes.

4 Q. And Facebook is one of the largest social media
5 locations or websites in the world?

6 MS. JACKSON: Objection to the form.

7 A. Yes.

8 MR. BUTLER: Same objection.

9 Q. (BY MR. NETTLES): Now, do you know of any
10 requirement that the Berkeley County Sheriff's
11 Department publish this information on public media, on
12 social media?

13 A. I'm not sure how it works, how they do it.

14 Q. Okay. The Berkeley County Sheriff's Office
15 voluntarily published this information?

16 A. Yes.

17 Q. You don't know of any requirement --

18 A. They didn't ask me.

19 Q. -- that they had to put this on Facebook?

20 A. I don't see why they would have had to.

21 Q. Is it your understanding from reading this that
22 they have accused you of trafficking in narcotics?

23 A. Yes.

24 Q. Do you think a reasonable person reviewing this
25 would assume that the Berkeley County Sheriff's Office

1 had special knowledge sufficient to believe that you
2 were trafficking in narcotics?

3 MS. JACKSON: Objection to the form.

4 A. Yes.

5 MR. NETTLES: That's all I have. Thank you

6 FURTHER EXAMINATION

7 BY MS. JACKSON:

8 Q. Okay. I just have a couple of follow-ups.

9 Ms. Gardner, have you been back to the
10 Trophy Club since your arrest?

11 A. No.

12 Q. That child who was there when you first arrived,
13 can you give me an idea of the age range of that child?
14 Was it a toddler? Was it a teenager?

15 A. I think he was a pre-teen, maybe a teenager. I'm
16 not sure. He was in between -- like I said, I only seen
17 him briefly. I heard later that he was Michael's like
18 nephew or something.

19 Q. Okay. You said that after Samantha got out of
20 jail you went to the beach and you saw Michael when you
21 dropped her off?

22 A. Yes.

23 Q. Was somebody with you?

24 A. Yes.

25 Q. Who else was with you?

1 A. Richard Velazquez.

2 Q. So did the three of you go to the beach?

3 A. Yes.

4 Q. I'm going to show you these documents that have
5 been marked 87 through 93. Those were produced to me
6 today.

7 Can you just tell me what that is?

8 A. That is my way of talking to God while I was in
9 there. I had been going to church. I had not even
10 missed a Wednesday. I was also going to an addiction
11 class through my church on a Tuesday, and every Sunday.

12 So these letters were my way of asking God
13 for help, talking to God, asking God was there a reason
14 why I was in there, like was it him doing it to test me,
15 just because I couldn't understand why I was still in
16 there.

17 Q. Okay. So those are journals, like a journal
18 entry?

19 A. It was me talking to God, asking God why am I
20 here, you know my heart kind of thing, like --

21 Q. Okay. Is that every page that you wrote, or is
22 it just select excerpts?

23 A. I think this is all of them. I think that's all
24 of them.

25 Q. Okay. And when you were writing these, were you

1 being honest in them?

2 A. One hundred percent.

3 Q. And did you write them with the intention that
4 somebody else would read them later?

5 A. No, not at all.

6 Q. You said they were out of order, but they're --

7 A. Well, there was a -- like the --

8 Q. Okay.

9 A. It's kind of in the back.

10 Q. This last one says -- it's a letter to Dave. And
11 is this your writing at the top?

12 A. Yes.

13 Q. And it says if you can use this. What does that
14 mean?

15 A. That's when -- I came across it a few weeks ago,
16 and mailed it to Louis in case it would help, but I
17 wasn't sure.

18 Q. Can you help me with just the one you said was
19 out of order? I just don't see the date.

20 A. I thought it was -- I think this one was the last
21 one.

22 Q. Okay. And that is Page -- what is the page
23 number at the bottom, the typed -- see the bottom?

24 Right there. Yeah, what does that say?

25 A. 91.

1 Q. And you think it should go where?

2 A. I think that's the last one. Because I tried to
3 keep up with them on the paper, because paper is kind of
4 expensive in there.

5 Q. Okay. So the one that says Dave on it is
6 separate?

7 A. That's a letter I wrote to someone very dear to
8 me who has been dead for a few years.

9 Q. Okay. So --

10 A. That's Dave.

11 Q. Okay. So that's the last page.

12 So what we have done is moved Page 91 to go
13 after Page 92 in date order, right?

14 A. Yes.

15 Q. All right. Have you understood all of the
16 questions that we asked you today?

17 A. Yes.

18 Q. And I do have one last -- I want you to look at
19 your discovery responses. And, if you would, look at
20 the last page. It's the answer to Number 18.

21 MS. JACKSON: And, Drew, these are the
22 responses to the Berkeley County Sheriff's Office
23 interrogatories, and I have her looking at Number 18 in
24 the answer.

25 MR. BUTLER: Yep, I'm following.

1 A. What is your question?

2 Q. (BY MS. JACKSON): Is there anything about this
3 answer that you think needs to be changed based on your
4 testimony here today?

5 A. Well, his name, Jeff to Joey.

6 Q. Okay. All good.

7 A. Other than that name has to be changed. They've
8 got Joey down here, but --

9 Q. And you were actually arrested on the 27th,
10 correct, Friday the 27th and not Saturday the 28th?

11 A. Yeah. It was a Friday.

12 Q. Okay. So then the two preceding days should
13 actually say Wednesday and Thursday instead of Thursday
14 and Friday?

15 A. Yeah. I worked at the Trophy Club Wednesday and
16 Thursday.

17 Q. Okay. And is Stilettos the name of the club that
18 you were coming to work at here?

19 A. I think so, but it could have been the other one.
20 There -- he said there was two, but I don't know which
21 one he was taking me to. I don't know which one he
22 actually worked at. He told me, but I just can't -- I
23 think he said it was Stilettos, though.

24 Q. And then it says a friend of Joey's named
25 Kristin. Is that --

1 A. Yeah, that was his girlfriend.

2 Q. Okay. So her name is Kristin?

3 A. Uh-huh.

4 Q. Is that a yes?

5 A. Yes.

6 Q. And then it says, "Upon arrival Plaintiff and
7 Eason changed clothes and walked to a nearby store to
8 buy beer."

9 A. We didn't walk.

10 Q. Okay. So we need to change the date, change Jeff
11 to Joey, and you think it's Stilettos, but are you
12 positive?

13 A. I know it was with an S, so that's why I just
14 said Stilettos.

15 Q. Do you remember where the club was?

16 A. I had not been there. So, no, I don't know. I
17 never made it there.

18 Q. All right. And you didn't walk to the store?

19 A. No.

20 Q. And is the last sentence about learning that she
21 was moving, you agreed to help her pack while you were
22 waiting, does that -- that doesn't fit in that part of
23 the timeline, does it?

24 A. I had agreed to -- when I first got there, she
25 told me she was moving and asked could I pack. That is

1 when I first got there, while we were getting dressed
2 into the dresses.

3 Q. Is it odd that she asked you to help her pack and
4 then you guys got dressed up?

5 A. No. We were talking about it while we were
6 getting dressed.

7 Q. Right. But I guess my question is why are you
8 getting all dressed up to pack?

9 A. It's not like we were wearing anything fancy. We
10 were just wearing long summer sundresses. It's not
11 like -- well, hers was kind of, but mine was just a -- I
12 always wear dresses. It's nothing unusual. I wear
13 dresses almost every day. I always have. That's the
14 reason why she asked did I want to put on a dress with
15 her. She isn't used to not seeing me in one.

16 Q. So you had a romper with shorts when you first
17 got there?

18 A. When I first got there, yeah.

19 Q. And are you wearing a dress today?

20 A. No.

21 Q. Oh, how did you know that Samantha was in Moncks
22 Corner?

23 A. I didn't until -- I actually was told by her
24 father and her when she first moved away that she was
25 living in a nice apartment on the second floor in

1 Summerville somewhere.

2 So I never asked the address, I had never
3 been there, whatever, but this whole time she was really
4 living here, and they had lied to me about where she was
5 even living until 15 minutes before I got there.

6 Because where me and Joey's girlfriend were
7 when she sent the address, it just so happened to be
8 like -- we were 15 minutes away, according to my GPS.
9 We didn't go straight there, though.

10 Q. And then I think my last questions are on Number
11 3 on the first page. It says in the answer that she was
12 unable to receive treatment for her ongoing medical
13 condition.

14 A. Uh-huh.

15 Q. What was the condition?

16 A. My hepatitis.

17 Q. And what was the treatment that you were unable
18 to get?

19 A. The medicine for it.

20 Q. Okay. But you had --

21 A. I had a three-month supply.

22 Q. -- started?

23 A. Well, that's the thing. I still had to turn in
24 my paperwork like so that I could apply for prescription
25 assistance through my doctors, and that's what they were

1 working on with me while I was locked up. Like that's
2 what we were waiting on, and that got put to a hold. I
3 couldn't go and turn in everything they needed so I
4 could get the prescription.

5 Q. Okay. So it wasn't that you --

6 A. We already had a plan. My doctor already had a
7 plan. The woman, though, was trying to get to where I
8 could get the medicine for free without having to pay
9 \$30,000.

10 Q. But you hadn't already started the medication?

11 A. No.

12 Q. Wait. I'm sorry. That was a bad question.

13 Had you already started the medication?

14 A. No. I had only been going through blood work and
15 checkups with them at the time while we were coming up
16 with our plan on how to treat me.

17 MS. JACKSON: All right. Now I don't have
18 any further questions.

19 Drew, do you have any more questions?

20 MR. BUTLER: None for me. Thank you.

21 MR. NETTLES: I have nothing further.

22 MS. JACKSON: Okay. Ms. Gardner, you are
23 done. However, you have the right to read and sign your
24 deposition.

25 MR. NETTLES: We would like to have her read

1 and sign it.

2 MS. JACKSON: Okay. Do you want her to send
3 it to you?

4 MR. NETTLES: Send it to me and I'll get it
5 to her.

6 MR. BUTLER: I was going to say, I think you
7 already put in your order, so I didn't know if you still
8 needed anything else.

9 MR. BUTLER: Nope, that's it.

10 MS. JACKSON: All right. Then I'm going to
11 disconnect. You have a good weekend.

12 MR. BUTLER: Thanks, guys. Thanks,
13 everyone.

14 (The deposition was recessed at 2:59 p.m.)

15 - - -

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1 STATE OF SOUTH CAROLINA)
2)
3 COUNTY OF CHARLESTON)

4 I, Nancy Ennis Tierney, Certified Shorthand Reporter
5 and Notary Public for the State of South Carolina at
6 Large, do hereby certify that the witness in the
7 foregoing deposition was by me duly sworn to testify to
8 the truth, the whole truth and nothing but the truth in
9 the within-entitled cause; that said deposition was
10 taken at the time and location therein stated; that the
11 testimony of the witness and all objections made at the
12 time of the examination were recorded stenographically
13 by me and were thereafter transcribed by computer-aided
14 transcription; that the foregoing is a full, complete
15 and true record of the testimony of the witness and of
16 all objections made at the time of the examination; and
17 that the witness was given an opportunity to read and
18 correct said deposition and to subscribe the same.

19 Should the signature of the witness not be affixed to
20 the deposition, the witness shall not have availed
21 himself/herself of the opportunity to sign or the
22 signature has been waived.

23 I further certify that I am neither related to nor
24 counsel for any party to the cause pending or interested
25 in the events thereof.

Witness my hand, I have hereunto affixed my official
seal this 11th day of October, 2020, at Charleston,
Charleston County, South Carolina.

Nancy Ennis Tierney, CSR (IL)
My Commission Expires: _____
June 12, 2024

ATTESTATION

In Re: Stephanie Michelle Gardner v. Berkeley
County Sheriff's Office, et al.
Case No.: 2020-CP-08-00773
Deposition of: Stephanie Michelle Gardner
Date Taken: September 25, 2020
Taken Before: Nancy Ennis Tierney, CSR (IL)

I have read the transcript of my deposition and find
that no changes are necessary.

Stephanie Gardner
Stephanie Michelle Gardner

Having read the transcript of my deposition, I wish
to make the following corrections:

Page 129 Line: 3-4 He came in once and sat and talked to me.

Page 129 Line: 17 Yes

Page 129 Line: 17 He did pay me

Page Line:

Page Line:

Page Line:

Page Line:

Page Line:

Page Line:

Page Line:

Page Line:

Stephanie Gardner
Stephanie Michelle Gardner

Sworn to and subscribed before me this 29th day of
December, 2020, in Calhoun County, South
Carolina.

Donna R. Hain
Notary Public

State of South Carolina

My Commission Expires: 3/21/2029

STATE OF SOUTH CAROLINA

AFFIDAVIT

2018A0810200351

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Berkeley

THE STATE
against

201804030603

Stephanie Michelle Gardner

Address: 1908 Paces Landing Ave
Rock Hill, SC 29073-

Phone: SSN: 247-79-8189
Sex: F Race: W Height: 5 2 Weight: 120

DL State: SC DL #: 100149658
DOB: 3/2/1986 Agency ORI #: SC0080000

Prosecuting Agency: Berkeley County Sheriff
Prosecuting Officer: Brooks M Barlow - S00027

Offense: Drugs / Possession of less than one gram of meth.
or cocaine base, 1st offense

Offense Code: 3009
Code/Ordinance Sec: 44-53-0375(A)

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.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Stephanie Gardner

on 4/28/18

B. Barlow

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
300 B California Avenue
PO Box 219
Moncks Corner, SC 29461

ORIGINAL

ORIGINAL

Berkeley

Personally appeared before me the affiant Brooks M Barlow

being duly sworn deposes and says that defendant Stephanie Michelle Gardner

did within this county and state on or about 4/27/2018

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Berkeley

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Possession of less than one gram of meth. or cocaine base, 1st offense

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 4/27/2018, while located at 112 Lodestone Ct., Moncks Corner, Berkeley County, SC, the defendant, Samantha Eason, did
violate Section 44-53-375 (A) SC Code of Laws, Trafficking in Methamphetamine - While located on a consent search of the said
residence, the defendant was an occupant, Law Enforcement Officers located 13 gg of presumptive Methamphetamine, 14.9 gg of
presumptive cocaine, 4 gg of presumptive Heroin and .3 gg of presumptive Cocaine Base under a couch cushion in the living room
of the residence. All of which was done against the peace, law, and dignity of the State of South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Berkeley

Affiant's Address 223 North Live Oak Drive
Moncks Corner, SC 29461-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/27/2018 defendant Stephanie Michelle Gardner
did violate the criminal laws of the State of South Carolina (or ordinance of) as set forth below:
☒ County/ ☐ Municipality of Berkeley

DESCRIPTION OF OFFENSE: Drugs / Possession of less than one gram of meth. or cocaine base, 1st offense

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 4/28/2018

Signature of Issuing Judge

Judge Code: 7340

ORIGINAL

ORIGINAL

Judge's Address

Judge's Telephone

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

EXHIBIT 1

ORIGINAL

S.C. Attorney General
April 21, 2003
SCCA 318

ARREST WARRANT

2018A0810200352

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Berkeley

THE STATE
against

Stephanie Michelle Gardner

Address: **1908 Paces Landing Ave**
Rock Hill, SC 29073-

Phone: **SSN: 247-79-8189**

Sex: **F** Race: **W** Height: **5** 2 Weight: **120**

DL State: **SC** DL #: **100149658**

DOB: **3/2/1986** Agency ORI #: **SC0080000**

Prosecuting Agency: **Berkeley County Sheriff**

Prosecuting Officer: **Brooks M Barlow - S00027**

Offense: **Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II - 1st offense**

Offense Code: **0183**

Code/Ordinance Sec: **44-53-0370(b)(1)**

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.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant **Stephanie Gardner**

on **4/28/18**

B. Barlow

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions

300 B California Avenue

PO Box 219

Moncks Corner, SC 29461

ORIGINAL

ORIGINAL

AFFIDAVIT

☒ County/ ☐ Municipality of

Berkeley

Personally appeared before me the affiant **Brooks M Barlow** who

being duly sworn deposes and says that defendant **Stephanie Michelle Gardner** violate the criminal laws of the

did within this county and state on or about **4/27/2018**

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of **Berkeley**)

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II - 1st offense

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 4/27/2018, while located at 112 Lodestone Ct., Moncks Corner, Berkeley County, SC, the defendant, Stephanie Gardner, did violate Section 44-53-370 (b) (1) SC Code of Laws, PWID Heroin. While located on a consent search of the said residence, the defendant was an occupant, Law Enforcement Officers located 13 gg of presumptive Methamphetamine, 14.9 gg of presumptive cocaine, .4 gg of presumptive Heroin and .3 gg of presumptive Cocaine Base under a couch cushion in the living room of the residence. All of which was done against the peace, law, and dignity of the State of South Carolina.

Signature of Affiant **B. Barlow**

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Berkeley

Affiant's Address **223 North Live Oak Drive**

Moncks Corner, SC 29461-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about **4/27/2018** defendant **Stephanie Michelle Gardner**

did violate the criminal laws of the State of South Carolina (or ordinance of **Berkeley**) as set forth below:

☒ County/ ☐ Municipality of

DESCRIPTION OF OFFENSE: Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II - 1st offense

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 **4/28/2018**

Judge's Address

Judge's Telephone

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

Signature of Judge **734** (L.S.)

Judge Code: **734**

ORIGINAL **ORIGINAL** **ORIGINAL** **ORIGINAL**

EXHIBIT 1

ORIGINAL

S.C. Judiciary General
April 21, 2020
SCCA 518

ARREST WARRANT

2018A0810200354

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Berkeley

THE STATE 201804030603

against

Stephanie Michelle Gardner

Address: 1908 Paces Landing Ave
Rock Hill, SC 29073-

Phone: SSN: 247-79-8189

Sex: F Race: W Height: 5 2 Weight: 120

DL State: SC DL #:

DOB: 3/2/1986 Agency ORI #: SC0080000

Prosecuting Agency: Berkeley County Sheriff

Prosecuting Officer: Brooks M Barlow - S00027

Offense: Drugs / Trafficking in cocaine, 10 g or more, but less than 28 g - 1st offense

Offense Code: 0278

Code/Ordinance Sec: 44-53-0370(e)(2)(a)1

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.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant on 4/12/18

Stephanie Gardner

Signature of Constable/Law Enforcement Officer

B. Barlow

RETURN WARRANT TO:

General Sessions

300 B California Avenue

PO Box 219

Moncks Corner, SC 29461

ORIGINAL

ORIGINAL

AFFIDAVIT

☒ County/ ☐ Municipality of

Berkeley

Personally appeared before me the affiant Brooks M Barlow who

being duly sworn deposes and says that defendant Stephanie Michelle Gardner

did within this county and state on or about 4/27/2018 violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Berkeley)

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 10 g or more, but less than 28 g - 1st offense

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 4/27/2018, while located at 112 Lorlestone Ct., Moncks Corner, Berkeley County, SC, the defendant, Stephanie Gardner, did violate Section 44-53-370 (e) (2) SC Code of Laws, Trafficking Cocaine. While located on a consent search of the said residence, the defendant was an occupant, Law Enforcement Officers located 13 gg of presumptive Methamphetamine, 14.9 gg of presumptive cocaine, 4 gg of presumptive Heroin and .3 gg of presumptive Cocaine Base under a couch cushion in the living room of the residence. All of which was done against the peace, law, and dignity of the State of South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Berkeley

Affiant's Address 223 North Live Oak Drive
Moncks Corner, SC 29461-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/27/2018 defendant Stephanie Michelle Gardner

did violate the criminal laws of the State of South Carolina (or ordinance of Berkeley) as set forth below:

☒ County/ ☐ Municipality of

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 10 g or more, but less than 28 g - 1st offense

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 4/28/2018

Signature of Issuing Judge

Judge Code: 734

ORIGINAL

ORIGINAL

Judge's Address

Judge's Telephone

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

EXHIBIT 1

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 018

ARREST WARRANT

2018A0810200355

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Berkeley

THE STATE

201804030603

Stephanie Michelle Gardner

Address: 1908 Paces Landing Ave

Rock Hill, SC 29073-

Phone: SSN: 247-79-8189
Sex: F Race: W Height: 5 2 Weight: 120

DL State: SC DL #: 100149658

DOB: 2/1986 Agency ORI #: SC0080000

Prosecuting Agency: Berkeley County Sheriff

Prosecuting Officer: Brooks M Barlow - S00027

Offense: Drugs / Trafficking in meth. or cocaine base - 10 g
or more, but less than 28 g - 1st offense

Offense Code: 0450
Code/Ordinance Sec: 44-53-0375(C)(1)(a)

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.

(L.S.)

Signature of Judge
Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Stephanie Gardner
on 4/28/18

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
300 B California Avenue
PO Box 219
Moncks Corner, SC 29461

ORIGINAL

ORIGINAL

☒ County/ ☐ Municipality of

Berkeley

Personally appeared before me the affiant Brooks M Barlow

being duly sworn deposes and says that defendant Stephanie Michelle Gardner

did within this county and state on or about 4/27/2018 violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Berkeley)

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in meth. or cocaine base - 10 g or more, but less than 28 g - 1st offense

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 4/27/2018, while located at 112 Lodestone Ct., Moncks Corner, Berkeley County, SC, the defendant, Stephanie Gardner, did
violate Section 44-53-375 (C) SC Code of Laws, Trafficking Methamphetamine. While located on a consent search of the said
residence, the defendant was an occupant, Law Enforcement Officers located 13 gg of presumptive Methamphetamine, 14.9 gg of
presumptive cocaine, .4 gg of presumptive Heroin and .3 gg of presumptive Cocaine Base under a couch cushion in the living room
of the residence. All of which was done against the peace, law, and dignity of the State of South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Berkeley

Affiant's Address 223 North Live Oak Drive

Moncks Corner, SC 29461-

Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 4/27/2018 defendant Stephanie Michelle Gardner
did violate the criminal laws of the State of South Carolina (or ordinance of) as set forth below:

☒ County/ ☐ Municipality of Berkeley
DESCRIPTION OF OFFENSE: Drugs / Trafficking in meth. or cocaine base - 10 g or more, but less than 28 g - 1st offense

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 4/28/2018

Signature of Issuing Judge (L.S.)

Judge Code: 7840

ORIGINAL

ORIGINAL

Judge's Address

Judge's Telephone

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

EXHIBIT 1

OFFICE OF THE SOLICITOR
NINTH JUDICIAL CIRCUIT

INDICTMENT/WARRANT STATUS CHANGE FORM
(One Defendant and One Warrant/Indictment per Form)

Name: Stephanie Michelle Gardner

Indictment #:

Race: W

Sex: F

Warrant Number: 2018A0810200355

Year of Birth: 1986

Case Number: 0342568

Disposition (Check One)

☒ Dismissed (44)

☐ Nolle Prosequi (43)

*REASON (44 OR 43):

Based on the evidence available, unable to prove this charge beyond a reasonable doubt, with
regard to this defendant.

☐ Remanded (7)

Charge:

Municipal Court:

Magistrate Court:

Judge:

☐ Failure to Appear (9)

Date Bench Warrant Issued: _____

Trial/Plea Docket Week: _____

PROSECUTOR: _____

Jordan A. Smith, Assistant Solicitor

Date: 10/24/18

CODE: DPIE

CLERK OF COURT'S DATE/TIME STAMP:

RECEIVED BY: _____

DATE: _____

* Questions regarding the reason for disposition should be directed to the Solicitor's Office.

Defense Attorney: Patrick S. Goodwyn

EXHIBIT 2

Gardner V. TOIMC et al. 001

Rev. 5/26/16

OFFICE OF THE SOLICITOR
NINTH JUDICIAL CIRCUIT

INDICTMENT/WARRANT STATUS CHANGE FORM
(One Defendant and One Warrant/Indictment per Form)

Name: Stephanie Michelle Gardner

Indictment #:

Race: W

Sex: F

Warrant Number: 2018A0810200354

Year of Birth: 1986

Case Number: 0342568

Disposition (Check One)

☒ Dismissed (44)

☐ Nolle Prosequi (43)

*REASON (44 OR 43):

Based on the evidence available, unable to prove this charge beyond a reasonable doubt, with
regard to this defendant.

☐ Remanded (7)

Charge: _____

Municipal Court: _____

Magistrate Court: _____

Judge: _____

☐ Failure to Appear (9)

Date Bench Warrant Issued: _____

Trial/Plea Docket Week: _____

PROSECUTOR: _____

Jordan A. Smith, Assistant Solicitor

Date: 10/24/18

CODE: DPIE

CLERK OF COURT'S DATE/TIME STAMP: _____

RECEIVED BY: _____

DATE: _____

* Questions regarding the reason for disposition should be directed to the Solicitor's Office.

Defense Attorney: Patrick S. Goodwyn

EXHIBIT 2

Gardner v. FOMC et al. 002

Rev. 5/26/16

OFFICE OF THE SOLICITOR
NINTH JUDICIAL CIRCUIT

INDICTMENT/WARRANT STATUS CHANGE FORM
(One Defendant and One Warrant/Indictment per Form)

Name: Stephanie Michelle Gardier

Indictment #:

Race: W

Sex: F

Warrant Number: 2018A0810200352

Year of Birth: 1986

Case Number: 0342568

Disposition (Check One)

☒ Dismissed (44)

☐ Nolle Prosequi (43)

*REASON (44 OR 43):

Based on the evidence available, unable to prove this charge beyond a reasonable doubt, with
regard to this defendant.

☐ Remanded (7)

Charge: _____

Municipal Court: _____

Magistrate Court: _____

Judge: _____

☐ Failure to Appear (9)

Date Bench Warrant Issued: _____

Trial/Plea Docket Week:

PROSECUTOR: _____

Jordan A. Smith, Assistant Solicitor

Date: 10/24/18

CODE: DPIE

CLERK OF COURT'S DATE/TIME STAMP:

RECEIVED BY: _____

DATE: _____

* Questions regarding the reason for disposition should be directed to the Solicitor's Office.

Defense Attorney: Patrick S. Goodwyn

EXHIBIT 2

Gardner v. FOMIC et al. 005

Rev. 5/26/16

OFFICE OF THE SOLICITOR
NINTH JUDICIAL CIRCUIT

ELECTRONICALLY FILED - 2021 Mar 29 4:18 PM - BERKELEY - COMMON PLEAS - CASE#2020CP0800773

INDICTMENT/WARRANT STATUS CHANGE FORM
(One Defendant and One Warrant/Indictment per Form)

Name: Stephanie Michelle Gardner

Indictment #:

Race: W

Sex: F

Warrant Number: 2018A0810200351

Year of Birth: 1986

Case Number: 0342568

Disposition (Check One)

☒ Dismissed (44)

☐ Nolle Prosequi (43)

*REASON (44 OR 43):

Based on the evidence available, unable to prove this charge beyond a reasonable doubt, with
regard to this defendant.

☐ Remanded (7)

Charge: _____

Municipal Court: _____

Magistrate Court: _____

Judge: _____

☐ Failure to Appear (9)

Date Bench Warrant Issued: _____

Trial/Plea Docket Week: _____

PROSECUTOR: _____

Jordan A. Smith, Assistant Solicitor

Date: 10/24/18

CODE: DPIE

CLERK OF COURT'S DATE/TIME STAMP: _____

RECEIVED BY: _____

DATE: _____

* Questions regarding the reason for disposition should be directed to the Solicitor's Office.

Defense Attorney: Patrick S. Goodwyn

EXHIBIT 2

Gardner v. FOMC et al. 004

Rev. 5/26/16

EXHIBIT F



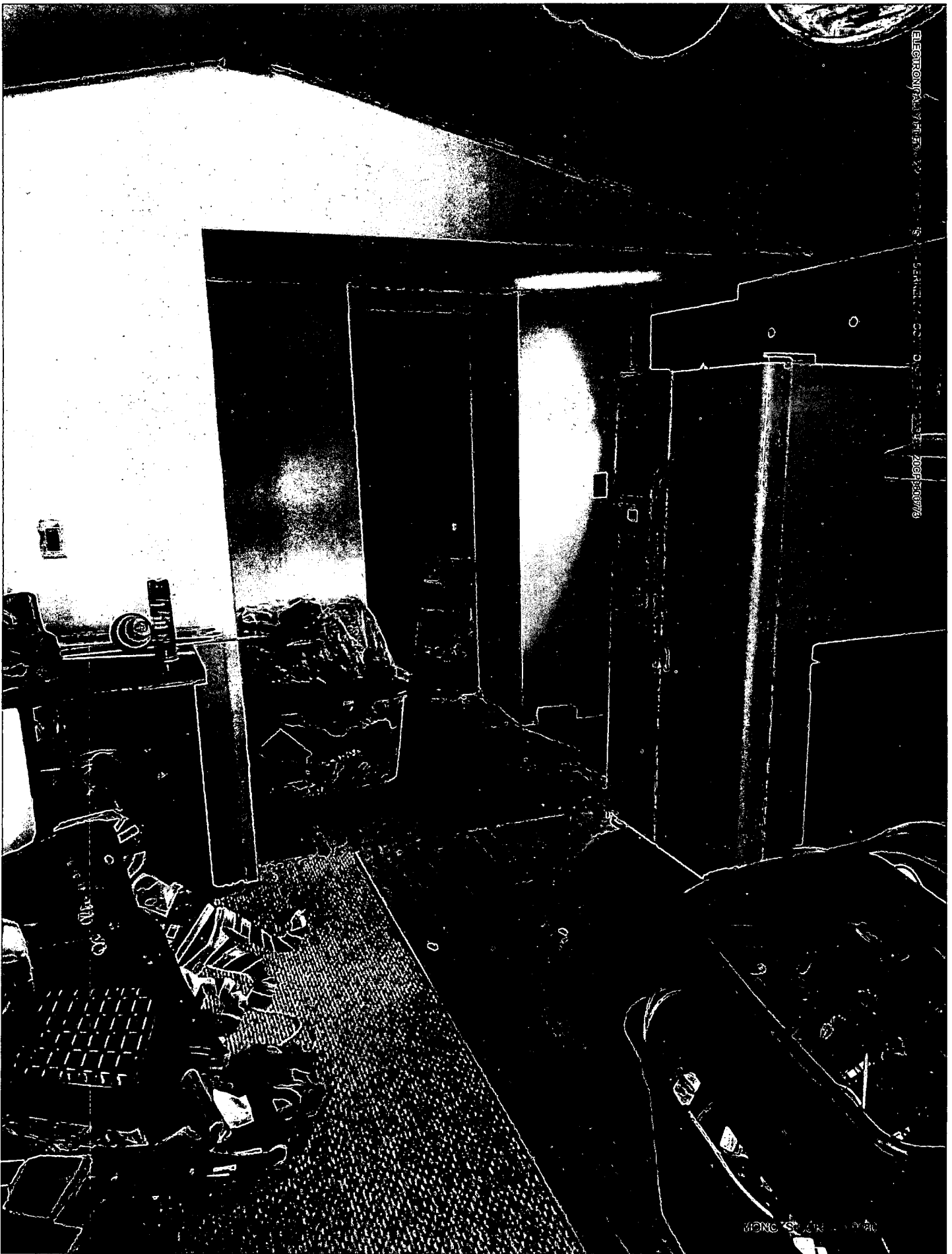
SECRET - COMMON FILES - CASE 2020-07000





ENCLOSURE INFORMATION - COMMON PLEAS - CASE#2020CP000073





ELECTRONICALLY FILED
SERIALS
2008-00076

AGENCY I.D.
SC0080000

INCIDENT REPORT

CASE NUMBER

NCIC

201804030603

INQ. ENT.
N N

EVENT	INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM	
	1. DRUG OFFENSE (35A)		☒ YES ☐ NO	☐ YES ☐ NO	Highway/Road/Alle		☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Org. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.	
	2.		☐ YES ☐ NO	☐ YES ☐ NO				
VICTIM NO. 1	3.		☐ YES ☐ NO	☐ YES ☐ NO				
	INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)					ZIP CODE	WEAPON TYPE	
	112 LODESTONE COURT, MONCK'S CORNER					29461		
VICTIM NO. 1	INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK		LOCATION NO.
	04/27/2018	21:44				DISPATCH DATE/TIME 24 HR. CLOCK 04/27/18 21:44 21:44 23:50		1
	COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
BARLOW, B.				☒ S ☐ O ☐ U	W	M		N
ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.		
223 NORTH LIVE OAK DR		MONCK'S CORNER		SC	29461	4/252		
VICTIM NO. 1	VICTIM'S NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE
	STATE, OF, SOUTH CAROLINA				☒ S ☐ O ☐ U	W	M	
	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.	
223 N. LIVE OAK DRIVE		MONCK'S CORNER		SC	29641-	1/142		
VICTIM NO. 1	VISIBLE INJURY (VCT. 1) ☐ YES ☒ NO		EXPLAIN --		COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ YES ☒ NO			
	VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☒ NO		UNK ☐ DRUGS: ☐ YES ☒ NO		TYPE:			
	TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPLASHT. ☐ OTHER ☐		ALONE ☐ ASSISTED ☐		*J - This Jurisdiction. S - State. O - Out of State. U - Unknown			
SUBJECT NO. 1	SUBJECT NAME (LAST, FIRST, MIDDLE)		RACE		SEX	AGE	ETH.	HEIGHT
	MOLYNEAUX, MICHAEL, JR		W		M	32	N	600
	WEIGHT		HAIR		EYES		BLN BLU	
170		BLN		BLU				
SUBJECT NO. 1	WANTED		WARRANT		ARREST		JAIL	
	SUBJECT (NO. 1) USING: ALCOHOL ☐ YES ☒ NO		UNK ☐ DRUGS: ☐ YES ☒ NO		TYPE:		TOTAL # ARRESTED	
	DATE/TIME OF OFFENSE		DATE/TIME OF ARREST		JURISDICTION OF RECOVERY		JURISDICTION OF RECOVERY	
04/27/18 21:44		04/27/18 22:00		JURISDICTION OF RECOVERY		JURISDICTION OF RECOVERY		
NARRATIVE	On 4/27/2018, Agents with the Berkeley County Sheriff's Office Drug Enforcement Unit, Community Action Team, Patrol							
	Division, and the Summerville Police Department went to 112 Lodestone Court, located in the Moncks Corner area of Berkeley							
	County, SC to attempt to locate Michael Molyneaux, Jr., due to having outstanding Berkeley County Family Court Bench							
Warrants. Upon arrival, I observed a white male matching the description of Molyneaux run onto the front porch of the								
residence and then enter through the front door.								
I made contact with several individuals, later identified as Samantha Eason, Stephanie Gardner, Nathan Parker Pesek, and								
Cory Gethers, at the backdoor of the residence and I asked who was the home owner then Samantha Eason replied she was. I								
advised her Officers were at the residence to attempt to locate Molyneaux and she stated he was in their bedroom. I along with								
other Officers then went to the said bedroom and gave verbal commands for Molyneaux to come out of the bedroom.								
PROPERTY EST.	TYPE (GROUP)		AMPHETAMINES		COCAINE - al		HEROIN	
	STOLEN		DAMAGED		BURIED		RECOVERED	
	13.000 GM		14.900 GM		0.400 GM		0.300 GM	
1.200 GM		100		100				
ADMINISTRATIVE	SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE		ADM. CLOSED	
	☒ YES ☐ NO		☐ YES ☒ NO		☐ ACTIVE ☒ ADM. CLOSED		☐ ARRESTED UNDER 18	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY		REPORTING OFFICER(S)		DATE		UNIT NUMBER	
BARLOW, BROOKS		04/30/18		7759		TANNER, HURSHEL		
FOLLOW-UP		INVESTIGATION		☐ YES ☒ NO		OFFICER		
04/30/18		5344						

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1311 - BCSO - 0001

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
201804030603

NCIC
INQ. N
ENTD. N

ELECTRONICALLY FILED - 2021 Apr 01 4:43 PM - BERKELEY - COMMON PLEAS - CASE#2020CP0800773

☐ ORIGINAL REPORT ☐ MODIFIED ORIGINAL		☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE		☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY		PAGE 3 of 3 PAGES	

VICT/SUBJ. LD. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE) RESEK, NATHAN, PETER				VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3			RESIDENT J S O U	RACE W	SEX M	AGE 18	ETH N		
	☐ VICTIM #														
	☒ SUBJECT # 4														
	☐ RUNAWAY														
	☐ WANTED														
	☐ WARRANT														
	☐ ARREST														
	☐ JAIL														
	☐ SUMMONS														
		☐ VICTIM NO. : VISIBLE INJURY: ☐ NO ☐ YES EXPLAIN:		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT. ☐ ALONE ☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED							
		☒ SUBJECT NO. 4 : USING ALCOHOL: ☐ NO ☐ YES USING DRUGS: ☐ NO ☐ YES -> TYPE: ☐ UNK													
VICT/SUBJ. LD. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE) GARDNER, STEPHANIE, MICHELLE				VICTIM RELATIONSHIP TO SUBJECT #1 #2 #3			RESIDENT J S O U	RACE W	SEX F	AGE 32	ETH N		
	☐ VICTIM #														
	☒ SUBJECT # 5														
	☐ RUNAWAY														
	☐ WANTED														
	☐ WARRANT														
	☐ ARREST														
	☐ JAIL														
	☐ SUMMONS														
		☐ VICTIM NO. : VISIBLE INJURY: ☐ NO ☐ YES EXPLAIN:		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT. ☐ ALONE ☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED							
		☒ SUBJECT NO. 5 : USING ALCOHOL: ☐ NO ☐ YES USING DRUGS: ☐ NO ☐ YES -> TYPE: ☐ UNK													
NARRATIVE	verbal/written consent. At this time, none of the occupants were detained, however all were instructed that they stayed at the residence during the search to not interfere with Officers. During the Consent Search of the residence the subject, identified as Cory Gethers, attempted to interfere with Officers searching the residence by coming into rooms they were searching. By his presence in the rooms, it created an Officer safety issue.														
				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY							
VEH. / GUN / ETC. 1	STATUS		TYPE		VIN AND/OR LICENSE NO.				BOAT HULL NO. AND/OR REG. NO.						
	☐ STOLEN	☐ VEHICLE													
	☐ RECOVERED	☐ GUN													
	☐ FOUND	☐ BOAT													
	☐ TOWED	☐ LICENSE PLATE													
	☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS													
	☐ VICTIM	☐ ARTICLE													
					SERIAL AND/OR OWNER APPLIED NO.				STATE						
					YEAR OF REGISTRATION		YEAR OF EXPIRATION		YEAR		MAKE		TYPE		
					MODEL		STYLE		COLOR		BRAND NAME		CALIBER		
				MIC NO.		DENOMINATION		ISSUER		SECURITIES DATE					
				MISCELLANEOUS											
ADMINISTRATIVE PROPERTY EST.	TYPE (GROUP)												TOTAL VALUE		
	STOLEN														
	DAMAGED														
	BURNED														
	RECOVERED														
	SEIZED														
SUBJECT IDENTIFIED		☒ YES ☐ NO		SUBJECT LOCATED		☐ YES ☒ NO		☐ ACTIVE ☒ ADM. CLOSED		☐ ARRESTED UNDER 18 ☒ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☒ EX-CLEAR 18 AND OVER			
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY															
REPORTING OFFICER(S)				DATE		UNIT NUMBER		APPROVING OFFICER				DATE		UNIT NUMBER	
BARLOW, BROOKS				04/30/18		7759		TANNER, HURSHSEL				04/30/18		5344	
								FOLLOW-UP INVESTIGATION ☐ YES ☒ NO							

1311 - BCSO - 0003

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

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2 0 1 8 0 4 0 3 0 6 0 3

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ELECTRONICALLY FILED - 2021 Apr 01 4:43 PM - BERKELEY - COMMON PLEAS - CASE#2020CP0800773

☐ ORIGINAL REPORT ☐ MODIFIES ORIGINAL		☐ SUPPLEMENTAL REPORT: ☐ CASE STATUS CHANGE		☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY		PAGE <u>4</u> of <u> </u> PAGES	

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH	
	☐ VICTIM #			#1	#2	#3	J S O U						
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY												
	☐ WANTED	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE		
	☐ WARRANT												
☐ ARREST	☐ VICTIM NO. ____ : VISIBLE INJURY: ☐ NO ☐ YES		COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPASMT. ☐ ALONE						
☐ JAIL	EXPLAIN:				DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK		☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED						
☐ SUMMONS	☐ SUBJECT NO. ____ : USING ALCOHOL: ☐ NO ☐ YES												
☐	USING DRUGS: ☐ NO ☐ YES → TYPE: ☐ UNK												

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH	
	☐ VICTIM #			#1	#2	#3	J S O U						
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY												
	☐ WANTED	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE		
	☐ WARRANT												
☐ ARREST	☐ VICTIM NO. ____ : VISIBLE INJURY: ☐ NO ☐ YES		COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPASMT. ☐ ALONE						
☐ JAIL	EXPLAIN:				DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK		☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED						
☐ SUMMONS	☐ SUBJECT NO. ____ : USING ALCOHOL: ☐ NO ☐ YES												
☐	USING DRUGS: ☐ NO ☐ YES → TYPE: ☐ UNK												

NARRATIVE	and hand rolled cigarette containing green plant like material. I also collected the plastic bag containing the white powder substance and white rock like substance. These items were field tested which revealed presumptive for cocaine/cocaine base and marijuana. I was then advised by Lt. K. Ham that he located a black digital scale (did not seize), a US \$20 bill (did not seize), and two plastic bags containing a plastic bag containing a blue pill shaped like a tennis shoe, a plastic bag containing green plant like material, a gray plastic bag containing a tan powder substance, multiple clear plastic bags containing white powder substance, white rock like substance, and clear crystal substance (listed as item 1 and item 2 on the Consent to Search Return form). Lt. K. Ham advised he located the said items stuffed in between a couch cushion and the arm of the couch. Located on the couch cushion concealing the items was a cellular telephone (listed as Item 4 on the Consent to Search											

				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY					
STATUS		TYPE		VIN AND/OR LICENSE NO.				BOAT HULL NO. AND/OR REG. NO.					
☐ STOLEN	☐ VEHICLE												
☐ RECOVERED	☐ GUN			SERIAL AND/OR OWNER APPLIED NO.				STATE					
☐ FOUND	☐ BOAT			YEAR OF REGISTRATION		YEAR OF EXPIRATION		YEAR		MAKE		TYPE	
☐ TOWED	☐ LICENSE PLATE			MODEL		STYLE		COLOR		BRAND NAME		CALIBER	
☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS			MIC NO.		DENOMINATION		ISSUER		SECURITIES DATE			
☐ VICTIM	☐ ARTICLE			MISCELLANEOUS									

ADMINISTRATIVE PROPERTY EST.	TYPE (GROUP)											TOTAL VALUE
	STOLEN											
	DAMAGED											
	BURNED											
	RECOVERED											
☐ SEIZED												

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☒ ADJ. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18	
☒ YES	☐ NO	☐ YES	☐ NO	☐ UNFOUNDED		☐ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY									
REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER		DATE	
BARLOW, BROOKS		04/30/18		7759		TANNER, HURSHEL		04/30/18	

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
2 0 1 8 0 4 0 3 0 6 0 3

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ELECTRONICALLY FILED - 2021 Apr 01 4:43 PM - BERKELEY - COMMON PLEAS - CASE#2020CP0800773

☒ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE 5 of 5 PAGES
☐ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.	
	☐ VICTIM #			#1	#2	#3	J S O U						
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY	ADDRESS											
☐ WANTED	CITY			STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE				
☐ WARRANT	☐ VICTIM NO. _____ VISIBLE INJURY: ☐ NO ☐ YES			☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES			☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK			☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT. ☐ ALONE			
☐ ARREST	EXPLAIN:			☐ DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK			☐ ONE-MAN VEHICLE ☐ OTHER			☐ ASSISTED			
☐ JAIL	☐ SUBJECT NO. _____ USING ALCOHOL: ☐ NO ☐ YES			☐ USING DRUGS: ☐ NO ☐ YES → TYPE: ☐ UNK									
☐ SUMMONS													

Return form).

The gray plastic bag containing the tan powder substance field tested presumptive for Heroin and weighed approximately .4 gross grams. The clear plastic bags containing the white powder substance field tested presumptive for cocaine and weighed approximately 14.9 gross grams. The clear plastic bags containing the clear crystal like substance field tested presumptive for methamphetamine and weighed approximately 13 gross grams. The clear plastic bag containing the white rock like substance field tested presumptive for cocaine base and weighed approximately .4 gross grams. The blue pill shaped like a tennis shoe had no markings on it, so it was placed into Berkeley County Sheriffs Office for further testing. One clear plastic bag contained

JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
STATUS	TYPE	VEH AND/OR LICENSE NO.	BOAT HULL NO. AND/OR REG. NO.
☐ STOLEN	☐ VEHICLE		
☐ RECOVERED	☐ GUN	SERIAL AND/OR OWNER APPLIED NO.	STATE
☐ FOUND	☐ BOAT	YEAR OF REGISTRATION	YEAR OF EXPIRATION
☐ TOWED	☐ LICENSE PLATE	MODEL	STYLE
☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS	NCIC NO.	DENOMINATION
☐ VICTIM	☐ ARTICLE	ISSUER	SECURITIES DATE
MISCELLANEOUS			

TYPE (GROUP)	TOTAL VALUE	
STOLEN		
DAMAGED		
BURNED		
RECOVERED		
SEIZED		
SUBJECT IDENTIFIED		SUBJECT LOCATED
☒ YES ☐ NO	☐ YES ☐ NO	
☐ ACTIVE ☒ ADM. CLOSED		☐ ARRESTED UNDER 18
☐ UNFOUNDED		☐ ARRESTED 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY		
REPORTING OFFICER(S)	DATE	UNIT NUMBER
BARLOW, BROOKS	04/30/18	7759
APPROVING OFFICER		DATE
TANNER, HURSHSEL		04/30/18
FOLLOW-UP INVESTIGATION ☐ YES ☒ NO		UNIT NUMBER
		5344

1311 - BCSO - 0005

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

2 0 1 8 0 4 0 3 0 6 0 3

NCIC

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☒ ORIGINAL REPORT ☐ MODIFIES ORIGINAL		☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE		☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY		PAGE 6 of _____ PAGES	

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)				VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH	
	☐ VICTIM #					#1	#2	#3							
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
	☐ RUNAWAY														
	☐ WANTED	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE			
	☐ WARRANT														
	☐ ARREST	☐ VICTIM NO. _____: VISIBLE INJURY: ☐ NO ☐ YES ☐ EXPLAIN: _____				☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES ☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK.				☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT. ☐ ALONE ☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED					
	☐ JAIL														
	☐ SUMMONS	☐ SUBJECT NO. _____: USING ALCOHOL: ☐ NO ☐ YES ☐ USING DRUGS: ☐ NO ☐ YES → TYPE: _____				☐ DRUGS: ☐ NO ☐ YES TYPE: _____ ☐ UNK.									
	☐														
VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)				VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH	
	☐ VICTIM #					#1	#2	#3							
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
	☐ RUNAWAY														
	☐ WANTED	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE			
	☐ WARRANT														
	☐ ARREST	☐ VICTIM NO. _____: VISIBLE INJURY: ☐ NO ☐ YES ☐ EXPLAIN: _____				☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES ☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK.				☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT. ☐ ALONE ☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED					
	☐ JAIL														
	☐ SUMMONS	☐ SUBJECT NO. _____: USING ALCOHOL: ☐ NO ☐ YES ☐ USING DRUGS: ☐ NO ☐ YES → TYPE: _____				☐ DRUGS: ☐ NO ☐ YES TYPE: _____ ☐ UNK.									
	☐														
NARRATIVE	a white rock like substance above listed did not field test for any known drug and was not weighed. This was not included in the weights of the presumptive drugs, however it was placed into Berkeley County Sheriff's Office for further testing.														
	After locating the items all occupants of the residence were detained and advised their rights via Miranda. All advised they understood their rights and would answer any questions by Law Enforcement. All denied ownership of Item 1 and Item 2 (the items located concealed in between the couch cushion and arm of the couch). Samantha Eason advised the marijuana belonged to her, however she thought the plastic bags containing the white powder substance and white rock like substance may belong to their former room mates. Samantha Eason advised she did claim ownership of the bedroom it was located in.														
VEH. / GUN / ETC. 1	STATUS		TYPE		VIN AND/OR LICENSE NO.				BOAT HULL NO. AND/OR REG. NO.						
	☐ STOLEN	☐ VEHICLE													
	☐ RECOVERED	☐ GUN	SERIAL AND/OR OWNER APPLIED NO.				STATE								
	☐ FOUND	☐ BOAT	YEAR OF REGISTRATION		YEAR OF EXPIRATION		YEAR	MAKE	TYPE						
	☐ TOWED	☐ LICENSE PLATE	MODEL		STYLE		COLOR		BRAND NAME						
	☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS	MIC NO.		DENOMINATION		ISSUER		SECURITIES DATE						
	☐ VICTIM	☐ ARTICLE	MISCELLANEOUS												
	ADMINISTRATIVE PROPERTY EST.	TYPE (GROUP)										TOTAL VALUE			
STOLEN															
DAMAGED															
BURNED															
RECOVERED															
SEIZED															
SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☒ ADJ. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18							
☒ YES ☐ NO		☐ YES ☒ NO		☐ UNFOUNDED		☒ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER							
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY															
REPORTING OFFICER(S)				DATE		UNIT NUMBER		APPROVING OFFICER		DATE					
BARLOW, BROOKS				04/30/18		7759		TANNER, HURSHIEL		04/30/18					
										5344					
								FOLLOW-UP INVESTIGATION ☐ YES ☒ NO		OFFICER					

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1311 - BCSO - 0006

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
201804030603

NCIC
INQ. N
ENTD. N

☒ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIED ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.	
	☐ VICTIM #			#1	#2	#3							
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY	ADDRESS											
	☐ WANTED	CITY		STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE				

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.	
	☐ VICTIM #			#1	#2	#3							
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY	ADDRESS											
	☐ WANTED	CITY		STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE				

NARRATIVE	Samantha Eason stated Michael Molyneaux was outside working on a vehicle prior to law enforcements arrival. Cory Gethers advised the cellular telephone belonged to him. Stephanie Gardner, Nathan Parker Pesek, and Cory Gethers advised they arrived at the residence with in a hour prior to law enforcement's arrival. At this time, all were advised that since no one claimed ownership of the plastic bags containing the said substance they would all be arrested due to it being located in a common area of the residence. I requested for a Transportation Officer to respond to the incident location to transport the defendants to the Command Post for booking procedures.											
	JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY						JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY					

VEH. / GUN / ETC. 1	STATUS	TYPE	VIN AND/OR LICENSE NO.	BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ VEHICLE	SERIAL AND/OR OWNER APPLIED NO.		STATE
	☐ RECOVERED	☐ GUN	YEAR OF REGISTRATION	YEAR OF EXPIRATION	YEAR
	☐ FOUND	☐ BOAT	MODEL	STYLE	COLOR
	☐ TOWED	☐ LICENSE PLATE	BRAND NAME		

ADMINISTRATIVE	TYPE (GROUP)					TOTAL VALUE
	STOLEN					
	DAMAGED					
	BURNED					
	RECOVERED					
PROPERTY EST.	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY					
	REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
	BARLOW, BROOKS	04/30/18	7759	TANNER, HURSHIEL	04/30/18	5344
	FOLLOW-UP INVESTIGATION ☐ YES ☒ NO					
	OFFICER					

ELECTRONICALLY FILED - 2021 Apr 01 4:43 PM - BERKELEY - COMMON PLEAS - CASE#2020CP0800773

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

2 0 1 8 0 4 0 3 0 6 0 3

NCIC

INQ. N ENTD. N

☒ ORIGINAL REPORT ☐ MODIFIES ORIGINAL		☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE		☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY		PAGE 8 of 8 PAGES	

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)				VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.
	☐ VICTIM #					#1	#2	#3						
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	☐ RUNAWAY	ADDRESS												
	☐ WANTED	CITY				STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE			
	☐ WARRANT													
	☐ ARREST	☐ VICTIM NO. : VISIBLE INJURY: ☐ NO ☐ YES ☐ EXPLAIN:				☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT. ☐ ALONE				
	☐ JAIL													
	☐ SUMMONS	☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES ☐ USING DRUGS: ☐ NO ☐ YES ☐ TYPE:												
	☐													

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)				VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.
	☐ VICTIM #					#1	#2	#3						
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	☐ RUNAWAY	ADDRESS												
	☐ WANTED	CITY				STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE			
	☐ WARRANT													
	☐ ARREST	☐ VICTIM NO. : VISIBLE INJURY: ☐ NO ☐ YES ☐ EXPLAIN:				☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT. ☐ ALONE				
	☐ JAIL													
	☐ SUMMONS	☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES ☐ USING DRUGS: ☐ NO ☐ YES ☐ TYPE:												
	☐													

NARRATIVE	While waiting for a Transportation Officer to arrive Samantha Eason advised she was being evicted on Sunday (4/29/2018).													
	Samantha Eason was allowed to make a telephone call to a family member to make arrangements to take custody of the													
	animals, her possessions, and vehicles. Due to the civil liabilities, I requested for the next wrecker on rotation to respond to													
	take custody of the 2003 Kia Sorento, bearing SC license plate the vehicle was being operated by Cory Gethers and													
	he advised it was his mothers. The vehicle was locked and the keys were in Cory Gethers possession. Deputies unlocked the													
	vehicle for an inventoried for tow and during the inventory a white rock like substance was located in a purse on the passenger													
	side of the vehicle (Item 3 on the Consent to Search Return form). The white rock like substance field tested presumptive for													
	cocaine and weighed approximately .1 gross grams. A CD Case was located on the center console arm rest and on the plastic													

VEH. / GUN / ETC. 1	STATUS		TYPE		VIN AND/OR LICENSE NO.				BOAT HULL NO. AND/OR REG. NO.			
	☐ STOLEN	☐ VEHICLE										
	☐ RECOVERED	☐ GUN	SERIAL AND/OR OWNER APPLIED NO.									
	☐ FOUND	☐ BOAT	YEAR OF REGISTRATION				YEAR OF EXPIRATION		YEAR		MAKE	
	☐ TOWED	☐ LICENSE PLATE	MODEL				STYLE		COLOR		BRAND NAME	
	☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS	NIC NO.				DENOMINATION		ISSUER		SECURITIES DATE	
	☐ VICTIM	☐ ARTICLE	MISCELLANEOUS									

ADMINISTRATIVE PROPERTY EST.	TYPE (GROUP)										TOTAL VALUE	
	STOLEN											
	DAMAGED											
	BURNED											
	RECOVERED											
	SEXED											
	SUBJECT IDENTIFIED		☐ YES ☐ NO		SUBJECT LOCATED		☐ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY											
	REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		UNIT NUMBER	
	BARLOW, BROOKS		04/30/18		7759		TANNER, HURSHL		04/30/18		5344	

FOLLOW-UP INVESTIGATION ☐ YES ☐ NO		OFFICER	

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1311 - BCSO - 0008

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
201804030603

NCIC
INQ. N
ENTD. N

ELECTRONICALLY FILED - 2021 Apr 01 4:43 PM - BERKELEY - COMMON PLEAS - CASE#2020CP0800773

☐ ORIGINAL REPORT ☐ MODIFIED ORIGINAL		☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE		☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY		PAGE 9 of 9 PAGES	

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.	
	☐ VICTIM #												
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY												
	☐ WANTED	ADDRESS											
	☐ WARRANT	CITY		STATE		ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE			
	☐ ARREST	☐ VICTIM NO. : VISIBLE INJURY: ☐ NO ☐ YES		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT. ☐ ALONE					
	☐ JAIL	EXPLAIN:		☐ NO ☐ YES		☐ DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED			
	☐ SUMMONS	☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES											
	☐	USING DRUGS: ☐ NO ☐ YES → TYPE: ☐ UNK											

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.	
	☐ VICTIM #												
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY												
	☐ WANTED	ADDRESS											
	☐ WARRANT	CITY		STATE		ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE			
	☐ ARREST	☐ VICTIM NO. : VISIBLE INJURY: ☐ NO ☐ YES		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/PLASMT. ☐ ALONE					
	☐ JAIL	EXPLAIN:		☐ NO ☐ YES		☐ DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED			
	☐ SUMMONS	☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES											
	☐	USING DRUGS: ☐ NO ☐ YES → TYPE: ☐ UNK											

NARRATIVE	cover was a white rock like substance (did not seize). The substance field tested presumptive for cocaine base. A metal											
	strainer was located on the passenger side seat with a white rock like substance (seized item for further testing). The											
	substance field tested presumptive for cocaine base, however I did not weigh the item. These items were later placed into											
	Berkeley County Sheriff's Office Evidence for further testing. Upright Towing responded, took possession of the vehicle, and											
	stored it at their lot.											
	As the Transportation Officer arrived Cory Gethers requested to speak with me. Cory Gethers advised if I do not arrest him he											
	would "order up" an ounce of cocaine from a drug dealer in North Charleston.											

VEH. / GUN / ETC. 1	STATUS		TYPE		VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ VEHICLE						
	☐ RECOVERED	☐ GUN					STATE	
	☐ FOUND	☐ BOAT						
	☐ TOWED	☐ LICENSE PLATE						
	☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS						
	☐ VICTIM	☐ ARTICLE						
					YEAR OF REGISTRATION		YEAR OF EXPIRATION	YEAR
					MODEL		STYLE	COLOR
					NIC NO.		DENOMINATION	ISSUER
				SECURITIES DATE				
				MISCELLANEOUS				

ADMINISTRATIVE PROPERTY EST.	TYPE (GROUP)										TOTAL VALUE		
	STOLEN												
	DAMAGED												
	BURNED												
	RECOVERED												
	SEIZED												
	SUBJECT IDENTIFIED		☐ YES ☐ NO		SUBJECT LOCATED		☐ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		
											☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER		
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY												
	REPORTING OFFICER(S)				DATE		UNIT NUMBER		APPROVING OFFICER				DATE
BARLOW, BROOKS				04/30/18		7759		TANNER, HURSHEL				04/30/18	
								FOLLOW-UP INVESTIGATION ☐ YES ☐ NO				OFFICER	

1311 - BCSO - 0009

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
2 0 1 8 0 4 0 3 0 6 0 3

NCIC
INQ. ENT.
N N

☒ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE 10 of 10 PAGES
☐ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.	
	☐ VICTIM #			#1	#2	#3	J S O U						
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY	ADDRESS											
	☐ WANTED	CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE						

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.	
	☐ VICTIM #			#1	#2	#3	J S O U						
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY	ADDRESS											
	☐ WANTED	CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE						

NARRATIVE	Below listed as it appears on the Consent to Search Return form:											
	1. Located in living room couch one plastic bag containing a white rock-like substance in one plastic bag, an amount of clear crystal like substance in one plastic bag, and an amount of white powder substance in a third plastic bag.											
	2. In a different plastic bag three smaller plastic bags an amount of clear crystal like substance, five plastic bags containing a white powder substance, one plastic bag containing green plant like material and one plastic bag containing an unknown											
	JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY											
	JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY											

VEH. / GUN / ETC. 1	STATUS	TYPE	VIN AND/OR LICENSE NO.	BOAT HULL NO. AND/OR REG. NO.
	☐ STOLEN	☐ VEHICLE		
	☐ RECOVERED	☐ GUN	SERIAL AND/OR OWNER APPLIED NO.	STATE
	☐ FOUND	☐ BOAT	YEAR OF REGISTRATION	YEAR OF EXPIRATION
	☐ TOWED	☐ LICENSE PLATE	MODEL	STYLE

PROPERTY EST.	TYPE (GROUP)	TOTAL VALUE
	STOLEN	
	DAMAGED	
	BURNED	
	RECOVERED	

ADMINISTRATIVE	SUBJECT IDENTIFIED	SUBJECT LOCATED	☐ ACTIVE	☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
	☒ YES	☐ YES	☐ UNFOUNDED	☐ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY					
	REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
	BARLOW, BROOKS	04/30/18	7759	TANNER, HURSHIEL	04/30/18	5344

1311 - BCSO - 0010

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER
201804030603

NCIC
INQ. N
ENTD. N

ELECTRONICALLY FILED - 2021 Apr 01 4:43 PM - BERKELEY - COMMON PLEAS - CASE#2020CP0800773

☐ ORIGINAL REPORT ☐ MODIFIES ORIGINAL		☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE		☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY		PAGE 11 of 11 PAGES	

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.
	☐ VICTIM #												
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY												
	☐ WANTED												
	☐ WARRANT												
	☐ ARREST												
	☐ JAIL												
	☐ SUMMONS												
	☐												
☐ VICTIM NO. : VISIBLE INJURY: ☐ NO ☐ YES EXPLAIN: ☐ NO ☐ YES		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK.		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT. ☐ ALONE		☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED					
☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES		☐ USING DRUGS: ☐ NO ☐ YES → TYPE:		☐ UNK.									
☐ COMPLAINANT		NAME (LAST, FIRST, MIDDLE)			VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.
☐ VICTIM #													
☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
☐ RUNAWAY													
☐ WANTED													
☐ WARRANT													
☐ ARREST													
☐ JAIL													
☐ SUMMONS													
☐													
☐ VICTIM NO. : VISIBLE INJURY: ☐ NO ☐ YES EXPLAIN: ☐ NO ☐ YES		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK.		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT. ☐ ALONE		☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED					
☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES		☐ USING DRUGS: ☐ NO ☐ YES → TYPE:		☐ UNK.									

NARRATIVE	substance. One plastic bag containing a pill.		
	3. Located in black Kia bearing SC tag NTE849 was a purse containing a pink box which contained an off-white rock like substance		
	4. one cellular phone		
	Items that were seized from the residence that I later noticed were not listed on the return, however were placed into Berkeley		
JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	

VEH. / GUN / ETC. 1	STATUS	TYPE	VIN AND/OR LICENSE NO.	BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ VEHICLE			
	☐ RECOVERED	☐ GUN			
	☐ FOUND	☐ BOAT			
	☐ TOWED	☐ LICENSE PLATE			
	☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS			
	☐ VICTIM	☐ ARTICLE			
			MISCELLANEOUS		

ADMINISTRATIVE PROPERTY EST.	TYPE (GROUP)					TOTAL VALUE
	STOLEN					
	DAMAGED					
	BURNED					
	RECOVERED					
	SEIZED					
	SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	
	☐ YES ☐ NO		☐ YES ☐ NO		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER	
	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER					
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY					
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
BARLOW, BROOKS		04/30/18	7759	TANNER, HURSHIEL	04/30/18	5344
		FOLLOW-UP INVESTIGATION		OFFICER		
		☐ YES ☐ NO				

1311 - BCSO - 0011

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

2 0 1 8 0 4 0 3 0 6 0 3

NCIC

INQ. N ENFD. N

☒ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE 12 of 12 PAGES
☐ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINT	NAME (LAST, FIRST, MIDDLE)	VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.
	☐ VICTIM #		#1	#2	#3	J S O U					
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
	☐ RUNAWAY	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE		
	☐ WANTED										
	☐ WARRANT										
	☐ ARREST	☐ VICTIM NO. : VISIBLE INJURY: ☐ NO ☐ YES		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT. ☐ ALONE			
	☐ JAIL	EXPLAIN:		☐ NO ☐ YES		☐ DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED	
	☐ SUBMIONS	☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES									
	☐	USING DRUGS: ☐ NO ☐ YES → TYPE: ☐ UNK									

County Sheriff's Office Evidence for further testing was green plant like material, a clear plastic bag containing the white powder substance, and a clear plastic bag containing a white rock like substance from the night stand next to the bed in the bedroom.

A hand rolled cigarette containing green plant like material from dresser in the bedroom. A hand rolled cigarette containing green plant like material in the living room. A metal strainer containing a white rock like substance from the Kia Sorento.

All items seized were placed into Berkeley County Sheriff's Office for further testing, to be Processed for Latent Fingerprints, or search warrant (cellular telephone).

VEH. / GUN / ETC. 1	STATUS		TYPE		VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ VEHICLE						
	☐ RECOVERED	☐ GUN						
	☐ FOUND	☐ BOAT						
	☐ TOWED	☐ LICENSE PLATE						
	☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS						
	☐ VICTIM	☐ ARTICLE						

TYPE (GROUP)							TOTAL VALUE
STOLEN							
DAMAGED							
BURNED							
RECOVERED							
SEIZED							

SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE	☒ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
☒ YES	☐ NO	☐ YES	☒ NO	☐ UNFOUNDED		☒ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY							
REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER
BARLOW, BROOKS		04/30/18	7759	TANNER, HURSHL		04/30/18	5344
FOLLOW-UP INVESTIGATION ☐ YES ☒ NO OFFICER							

ELECTRONICALLY FILED - 2021 Apr 01 4:43 PM - BERKELEY - COMMON PLEAS - CASE#2020CP0800773

1311 - BCSO - 0012

AGENCY I.D.
SC0080000

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

201804030603

NCIC

INQ. N ENT. N

☐ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE 13 of PAGES.
☐ MODIFIED ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH	
	☐ VICTIM #			#1	#2	#3	* J S O U						
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY												
	☐ WANTED	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE				
	☐ WARRANT												
	☐ ARREST	☐ VICTIM NO. : VISIBLE INJURY: ☐ NO ☐ YES		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK.		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT. ☐ ALONE					
	☐ JAIL	EXPLAIN:		☐ NO ☐ YES		DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK.		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED			
	☐ SUMMONS	☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES											
	☐	USING DRUGS: ☐ NO ☐ YES -> TYPE: ☐ UNK.											

VICT/SUBJ. I.D. OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH	
	☐ VICTIM #			#1	#2	#3	* J S O U						
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY												
	☐ WANTED	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE				
	☐ WARRANT												
	☐ ARREST	☐ VICTIM NO. : VISIBLE INJURY: ☐ NO ☐ YES		☐ COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK.		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT. ☐ ALONE					
	☐ JAIL	EXPLAIN:		☐ NO ☐ YES		DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK.		☐ ONE-MAN VEHICLE ☐ OTHER		☐ ASSISTED			
	☐ SUMMONS	☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES											
	☐	USING DRUGS: ☐ NO ☐ YES -> TYPE: ☐ UNK.											

NARRATIVE												

VEH. / GUN / ETC. 1	STATUS		TYPE		VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.	
	☐ STOLEN	☐ RECOVERED	☐ VEHICLE	☐ GUN				
	☐ FOUND	☐ TOWED	☐ BOAT	☐ LICENSE PLATE				
	☐ SUSPECT	☐ VICTIM	☐ SECURITIES/BONDS, STOCKS	☐ ARTICLE				
					SERIAL AND/OR OWNER APPLIED NO.		STATE	
					YEAR OF REGISTRATION		YEAR OF EXPIRATION	
					MODEL		STYLE	
					COLOR		BRAND NAME	
					NIC NO.		DENOMINATION	
					ISSUER		SECURITIES DATE	

PROPERTY EST.	TYPE (GROUP)							TOTAL VALUE
	STOLEN							
	DAMAGED							
	BURNED							
	RECOVERED							
	SEIZED							

ADMINISTRATIVE	SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18			
	☐ YES ☐ NO		☐ YES ☐ NO		☐ UNFOUNDED		☐ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER			
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY											
	REPORTING OFFICER(S)			DATE		UNIT NUMBER		APPROVING OFFICER			DATE	
	BARLOW, BROOKS			04/30/18		7759		TANNER, HURSHEL			04/30/18	

FOLLOW-UP INVESTIGATION		☐ YES ☐ NO	OFFICER		

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AGENCY I.D.
SC0080000

EXTRA PERSONS & PROPERTY

CASE NUMBER
201804030603

PERSONS

NAME (LAST, FIRST, MIDDLE, SUFFIX)					RACE	SEX	AGE	ETHNIC	DOB	HEIGHT	WEIGHT
HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
ADDRESS					CITY			STATE		ZIP	
NAME (LAST, FIRST, MIDDLE, SUFFIX)					RACE	SEX	AGE	ETHNIC	DOB	HEIGHT	WEIGHT
HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
ADDRESS					CITY			STATE		ZIP	
NAME (LAST, FIRST, MIDDLE, SUFFIX)					RACE	SEX	AGE	ETHNIC	DOB	HEIGHT	WEIGHT
HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.									
ADDRESS					CITY			STATE		ZIP	

PROPERTY

QUANTITY 1	TYPE LOSS (6) Seized (property)		PROPERTY GROUP (07) Computer Hardware/Software - c		DESCRIPTION WHITE SAMSUNG SMART PHONE						
VICTIM NO. 1	SUBJ. NO. 3	VALUE 100.00	DATE RECOVERED	RECOVERED VALUE	NO. STOLEN VEHICLES		NO. RECOV. VEHICLES		JURIS. OF THEFT		JURIS. OF RECOVERY
VIN		LICENSE NO.		BOAT HULL NO./REG. NO.		SERIAL NO./OWNER-APPLIED NO.		STATE		YEAR OF REGISTRATION	YEAR OF EXPIRATION
YEAR	MAKE	TYPE	MODEL	STYLE	COLOR	CALIBER	BRAND NAME			NIC NO.	
DENOMINATION		ISSUER		SECURITIES DATE		MISCELLANEOUS					
SUSPECTED DRUG TYPE			ESTIMATED DRUG QUANTITY		TYPE DRUG MEASUREMENT		DRUG ACTIVITY TYPE				
QUANTITY	TYPE LOSS		PROPERTY GROUP		DESCRIPTION						
VICTIM NO.	SUBJ. NO.	VALUE	DATE RECOVERED	RECOVERED VALUE	NO. STOLEN VEHICLES		NO. RECOV. VEHICLES		JURIS. OF THEFT		JURIS. OF RECOVERY
VIN		LICENSE NO.		BOAT HULL NO./REG. NO.		SERIAL NO./OWNER-APPLIED NO.		STATE		YEAR OF REGISTRATION	YEAR OF EXPIRATION
YEAR	MAKE	TYPE	MODEL	STYLE	COLOR	CALIBER	BRAND NAME			NIC NO.	
DENOMINATION		ISSUER		SECURITIES DATE		MISCELLANEOUS					
SUSPECTED DRUG TYPE			ESTIMATED DRUG QUANTITY		TYPE DRUG MEASUREMENT		DRUG ACTIVITY TYPE				
QUANTITY	TYPE LOSS		PROPERTY GROUP		DESCRIPTION						
VICTIM NO.	SUBJ. NO.	VALUE	DATE RECOVERED	RECOVERED VALUE	NO. STOLEN VEHICLES		NO. RECOV. VEHICLES		JURIS. OF THEFT		JURIS. OF RECOVERY
VIN		LICENSE NO.		BOAT HULL NO./REG. NO.		SERIAL NO./OWNER-APPLIED NO.		STATE		YEAR OF REGISTRATION	YEAR OF EXPIRATION
YEAR	MAKE	TYPE	MODEL	STYLE	COLOR	CALIBER	BRAND NAME			NIC NO.	
DENOMINATION		ISSUER		SECURITIES DATE		MISCELLANEOUS					
SUSPECTED DRUG TYPE			ESTIMATED DRUG QUANTITY		TYPE DRUG MEASUREMENT		DRUG ACTIVITY TYPE				
QUANTITY	TYPE LOSS		PROPERTY GROUP		DESCRIPTION						
VICTIM NO.	SUBJ. NO.	VALUE	DATE RECOVERED	RECOVERED VALUE	NO. STOLEN VEHICLES		NO. RECOV. VEHICLES		JURIS. OF THEFT		JURIS. OF RECOVERY
VIN		LICENSE NO.		BOAT HULL NO./REG. NO.		SERIAL NO./OWNER-APPLIED NO.		STATE		YEAR OF REGISTRATION	YEAR OF EXPIRATION
YEAR	MAKE	TYPE	MODEL	STYLE	COLOR	CALIBER	BRAND NAME			NIC NO.	
DENOMINATION		ISSUER		SECURITIES DATE		MISCELLANEOUS					
SUSPECTED DRUG TYPE			ESTIMATED DRUG QUANTITY		TYPE DRUG MEASUREMENT		DRUG ACTIVITY TYPE				

1311 - BCSO - 0014

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AGENCY I.D.
SC0080000

SUPPLEMENTARY REPORT

CASE NUMBER

NCIC

2 0 1 8 0 4 0 3 0 6 0 3

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☐ ORIGINAL REPORT ☒ SUPPLEMENTAL REPORT ☐ ADDITIONAL VICTIMS ☐ ADDITIONAL STOLEN PROPERTY
☐ MOOTIES ORIGINAL ☐ CASE STATUS CHANGE ☐ ADDITIONAL OFFENDERS ☐ ADDITIONAL RECOVERED PROPERTY

PAGE 1 of 1 PAGES.

On 4/28/2018, I drafted arrest warrants for Cory Gethers, Nathan Parker Pesek, Stephanie Gardner, Samantha Eason, and Michael Molyneaux, Jr. and the warrants were signed by the Honorable Judge J. Hinson. I then served Michael Molyneaux, Jr. with the following arrest warrants; 2018A0810200360 (Possession of Cocaine Base), 2018A0810200361 (PWID Heroin), 2018A0810200362 (Trafficking Cocaine), and 2018A0810200363 (Trafficking Methamphetamine). Samantha Rae Eason was served with the following arrest warrants; 2018A0810200347 (Possession of Cocaine Base), 2018A0810200348 (PWID Heroin), 2018A0810200349 (Trafficking Cocaine), and 2018A0810200350 (Trafficking Methamphetamine). Cory L. Gethers was served with the following arrest warrants; 2018A0810200356 (Possession of Cocaine Base), 2018A0810200357 (PWID Heroin), 2018A0810200358 (Trafficking Methamphetamine), and 2018A0810200359 (Trafficking Cocaine). Nathan Peter Resek was served with the following arrest warrants; 2018A0810200364 (Possession of Cocaine Base), 2018A0810200365 (PWID Heroin), 2018A0810200366 (Trafficking Cocaine), and 2018A0810200367 (Trafficking Methamphetamine). Stephanie Michelle Gardner was served with the following arrest warrants; 2018A0810200351 (Possession of Cocaine Base), 2018A0810200352 (PWID Heroin), 2018A0810200354 (Trafficking Cocaine), and 2018A0810200355 (Trafficking Methamphetamine).

NARRATIVE

ADMINISTRATIVE

SUBJECT IDENTIFIED ☒ YES ☐ NO
SUBJECT LOCATED ☐ YES ☒ NO
☐ ACTIVE ☒ ADM. CLOSED ☐ ARRESTED UNDER 18 ☐ EX-CLEAR UNDER 18
☐ UNFOUNDED ☒ ARRESTED 18 AND OVER ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION. 3. ☐ EXTRADITION DENIED. 4. ☐ VICTIM DECLINES COOPERATION. 5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER
BARLOW, BROOKS	05/03/18		TANNER, HURSHIEL	04/28/18	5344
FOLLOW-UP INVESTIGATION ☐ YES ☒ NO			OFFICER		

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Berkeley County Sheriff's Office

May 1 at 12:09pm ·

Crime & Drug Sweep in Berkeley County

The Berkeley County Sheriff's Office conducted a two-day Crime & Drug Sweep on Thursday the 26th and Friday the 27th. The sweep included law enforcement officers from the Hanahan PD, Goose Creek PD, Bonneau PD, Summerville PD, the SCHP, SC Constables, SC Probation & Parole, SLED and Dorchester County Sheriff's Office as well as members of the Berkeley County Sheriff's Office. The initiative resulted in 59 in-custody arrests for a wide range of charges.

"This was a lot of work but it was needed. The areas we worked during this crime sweep continue to have high call volumes and problems related to drugs," Sheriff Duane Lewis stated.

The booking photos and related charges are listed below:

Lampkin, Detric- of Old Black Oak Rd, Goose Creek – 28yr old

o Assault & Battery 2nd

□ 16-03-0600(D)(2) – 3413 – Assault / Assault & Battery 2nd degree 349

Bonneau, William- State Road – 53yr old

o False Information to Police

□ 16-17-0725(C) – 1223 – Report / Giving false information to law enforcement,

□ fire dept. or rescue dept. 1859

Smallwood, Demar- Harbour Lake Dr, Goose Creek – 37yr old

o General Session Bench Warrant

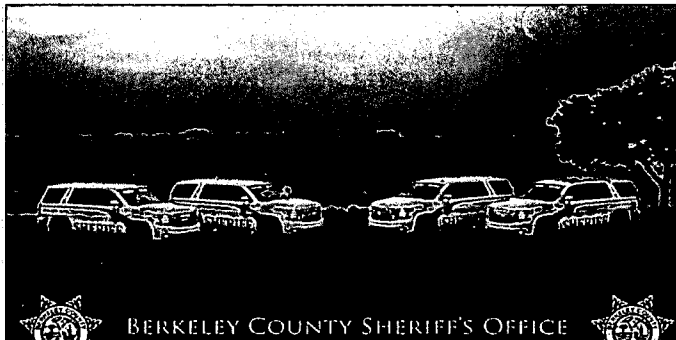
□ TRAFFIC/FAILURE TO STOP FOR BLUELIGHT NO INJURY OR DEATH(GSBW)

Drawdy, Daniel- Giles Drive, Goose Creek – 27yr old

o Possession of Cocaine & Simple Possession of Marijuana

□ 44-53-0370(d)(3) ~ 3011 ~ Drugs / possession of cocaine, 1st offense 809

□ 44-53-0370(d)(4) ~ 659 ~ Drugs / Poss. of 28g (1 oz.) or less of marijuana or 10g or less of hash - 1st offense 796



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☐ 44-53-0370(d)(4) ~ 659 ~ Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g or

☐ less of hash - 1st offense 796

Barr, Quentin- Rutt Rd, Goose Creek – 28 yr old

o Simple Possession of Marijuana

☐ 44-53-0370(d)(4) ~ 659 ~ Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g or

☐ less of hash - 1st offense 796

Owen, Shon- Harbour Lake Dr, Goose Creek – 28yr old

o Simple Possession of Marijuana

☐ 44-53-0370(d)(4) ~ 659 ~ Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g or

☐ less of hash - 1st offense 796

Baylock, Shantelle- Rutt Ln, Goose Creek – 29yr old

o Simple Possession of Marijuana

☐ 44-53-0370(d)(4) ~ 659 ~ Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g or

☐ less of hash - 1st offense 796

Pough, Kieran – Kinard Rd, Ravenel – 28yr old

o Simple Possession of Marijuana

☐ 44-53-0370(d)(4) ~ 659 ~ Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g or

☐ less of hash - 1st

☐ offense 796

Brusso, Albin- Willhite Dr, Ladson – 47 yr old

o Fail Stop for Blue Light, Disorderly Conduct, Habitual Traffic Offender, DUS, Disregarding Stop Sign

☐ DISREGARDING STOP SIGN

☐ 56-01-1100 ~ 57 ~ Traffic / Habitual Traffic Offenders, DUS as per Habitual Traffic Offender status 2269

☐ 16-17-0530 ~ 622 ~ Disorderly / Public disorderly conduct 723

☐ 56-01-0460(A)(1)(c) ~ 175 ~ DUS / Driving under suspension, license not suspended for DUI - 3rd or sub. offense 972

☐ 56-05-0750(B)(1) ~ 65 ~ Traffic / Failure to stop for a blue light, no injury or

☐ death - 1st offense 2231

Hazeres, Samantha – Traders Station Rd, Summerville – 23yr old

o Resisting Arrest, Possession of Meth., Conspiracy to Violate Drug Law o ~ 9000 ~ Municipal / Violation of City Ordinance (EVADING ARREST)

☐ 1589

☐ HOLD FOR BCSO (TRAFFICKING METH)

Klinner, Jason Lee – Poplar Cir, Summerville – 35yr old

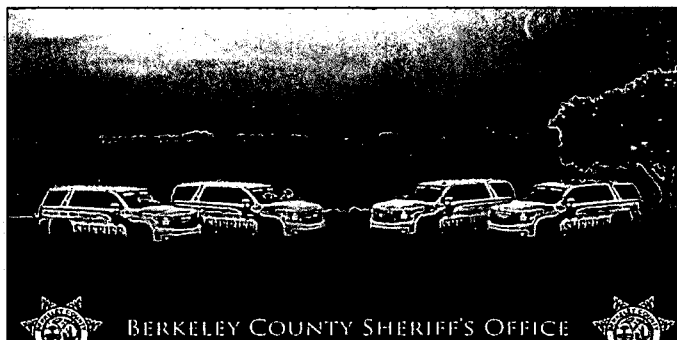
o Resisting Arrest & Conspiracy to Violate Drug Law

☐ HOLD FOR BCSO (TRAFFICKING METH AND CONSPIRACY TO VIOLATE DRUG

☐ LAW)

o ~ 9000 ~ Municipal / Violation of City Ordinance (use state code if possible) 1589 (RESISTING ARREST)

Pollin, Jonathan Michael- Stanford Rd, Prospect, PA 32 yr old



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pretenses, value \$2,000 or less 456

Bray, Kenneth Dwayne: Hershey Cir, Summerville 36 yr old

o General Sessions Bench Warrant (Poss of Cocaine)

□ 44-53-0375(A) ~ 3009 ~ Drugs / Possession of less than one gram of meth. or cocaine base, 1st offense 830

Greene, Timothy Michael: Wilhite Dr, Ladson, 26 yr old

o Armed Robbery; Assault & Battery 2nd

□ 16-03-0600(D)(2) ~ 3413 ~ Assault / Assault & Battery 2nd degree 349

□ 16-11-0330(A) ~ 139 ~ Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon 1879

Antoine-Antristaine, D'Jon: Kentucky Dr, Ladson, 18 yr old

o Simple Possession of Marijuana; Unlawful Carrying

□ 44-53-0370(d)(4) ~ 659 ~ Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g or less of hash - 1st offense 796

□ 16-23-0050(A)(1) ~ 2364 ~ Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawful; stolen pi 2657

□ 16-23-0050(A)(2) ~ 44 ~ Weapons / Unlawful carrying of pistol 2660

Rose, Casey Merrill: Curly Ln, Ladson, 51yr old

o Failure to Stop for Blue Light; DUS 2nd

□ 56-05-0750(B)(1) ~ 65 ~ Traffic / Failure to stop for a blue light, no injury or death - 1st offense 2231

□ 56-01-0460(A)(1)(a) ~ 624 ~ DUS / Driving under suspension, license not suspended for DUI - 1st offense 970

Hulsey, Jayme Marie: Red Oak Cir, Summerville, 27yr old

o Child Neglect x2

□ 63-05-0070 ~ 2481 ~ Children / Legal custodian, unlawful neglect of child or helpless person 584

□ 63-05-0070 ~ 2481 ~ Children / Legal custodian, unlawful neglect of child or helpless person 584

Bunch, Thomas: Westbrook Rd, Summerville, 26 yr old

o Possession With the Intent to Distribute Meth

□ 44-53-0375 (B) ~ 3198 ~ Drugs/ manufacture, distribution, etc. of methamphetamine, 1st 914

• Caldwell, Ashley May: Westbrook Rd, Summerville, 27 yr old

o Possession With the Intent to Distribute Meth

□ 44-53-0375 (B) ~ 3198 ~ Drugs/ manufacture, distribution, etc. of methamphetamine, 1st 914

□ PROBATION (Bench Warrant)

Washington, Robert Anthony: Burchwood, Moncks Corner, 41 yr old

o Possession With the Intent to Distribute Cocaine

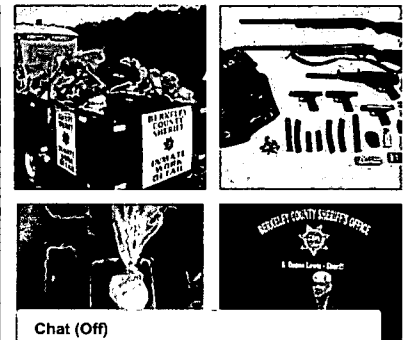
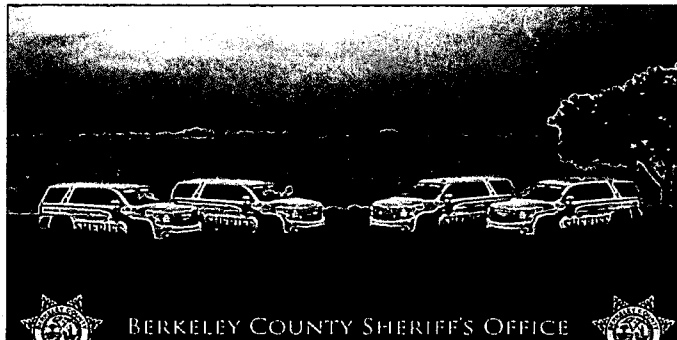
□ 44-53-0370(b)(1) ~ 183 ~ Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II - 1st offense 790

Molyneaux, Michael, Jr. : Lodestone Ct, Moncks Corner, 32 yr old

o Family Court BW & Trafficking Cocaine, Trafficking Meth., PWID Heroin, Poss. Of Cocaine Base

□ 63-05-0020 (A) ~ 762 ~ Children / Support, obligation to support spouse and children 588

□ 44-53-0370(e)(2)(a)1 ~ 278 ~ Drugs / Trafficking in cocaine, 10 g or more, but less than 28 g - 1st offense 837



Chat (Off)

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- 44-53-0370(b)(1) ~ 183 ~ Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II - 1st offense 790
- 44-53-0375(C)(1)(a) ~ 450 ~ Drugs / Trafficking in meth. or cocaine base - 10 g or more, but less than 28 g - 1st offense 881
- 44-53-0370(e)(2)(a)1 ~ 278 ~ Drugs / Trafficking in cocaine, 10 g or more, but less than 28 g - 1st offense 837

Jefferson, Daron: Kentucky Drive, Ladson, 27 yr old

o Simple Possession of Marijuana 2nd & Unlawful Carrying of Pistol, Possession of stolen Gun

- 16-23-0050(A)(1) ~ 2364 ~ Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawful; stolen pi 2657
- 16-23-0050(A)(1) ~ 2364 ~ Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawful; stolen pi 2657
- 44-53-0370(d)(4) ~ 182 ~ Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g - 2nd or sub. Offense 795

Resek, Nathan: Pinsettia Ave, Summerville, 18 yr old

o Trafficking Meth., Trafficking Cocaine, Possession With the Intent to Distribute Heroin, Poss. Of Cocaine Base

- 44-53-0370(b)(1) ~ 183 ~ Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II - 1st offense 790
- 44-53-0375(C)(1)(a) ~ 450 ~ Drugs / Trafficking in meth. or cocaine base - 10 g or more, but less than 28 g - 1st offense 881
- 44-53-0370(e)(2)(a)1 ~ 278 ~ Drugs / Trafficking in cocaine, 10 g or more, but less than 28 g - 1st offense 837
- 44-53-0375(A) ~ 3009 ~ Drugs / Possession of less than one gram of meth. or cocaine base, 1st offense 830

Gardner, Stephanie: Lester Rd, Dillon, 32 yr old

o Traffic Meth., Trafficking Cocaine, PWID Heroin, Poss. of Cocaine Base

- 44-53-0370(e)(2)(a)1 ~ 278 ~ Drugs / Trafficking in cocaine, 10 g or more, but less than 28 g - 1st offense 837
- 44-53-0375(C)(1)(a) ~ 450 ~ Drugs / Trafficking in meth. or cocaine base - 10 g or more, but less than 28 g - 1st offense 881
- 44-53-0375(A) ~ 3009 ~ Drugs / Possession of less than one gram of meth. or cocaine base, 1st offense 830
- 44-53-0370(b)(1) ~ 183 ~ Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II - 1st offense 790

Eason, Samantha: Lodestone Ct, Moncks Corner, 30 yr old

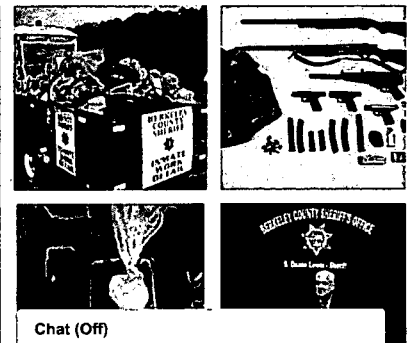
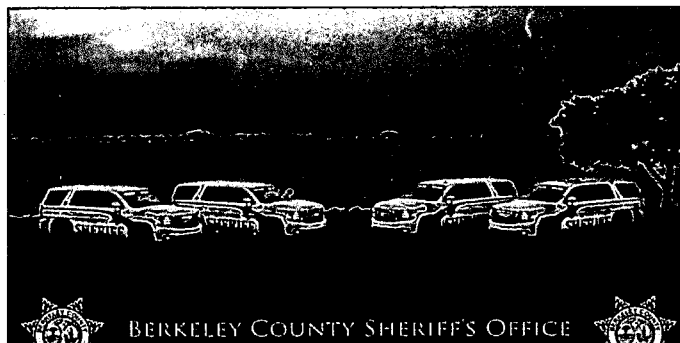
o Trafficking Cocaine, Trafficking Meth., Possession With the Intent to Distribute Heroin, Poss. Of Cocaine Base

- 44-53-0375(A) ~ 3009 ~ Drugs / Possession of less than one gram of meth. or cocaine base, 1st offense 830
- 44-53-0370(b)(1) ~ 183 ~ Drugs / MDP, Narcotic drugs in Sch. I(b) & (c), LSD, and Sched. II - 1st offense 790
- 44-53-0375(C)(1)(a) ~ 450 ~ Drugs / Trafficking in meth. or cocaine base - 10 g or more, but less than 28 g - 1st offense 881
- 44-53-0370(e)(2)(a)1 ~ 278 ~ Drugs / Trafficking in cocaine, 10 g or more, but less than 28 g - 1st offense 837

Simonin, Priscillia Leigh: Lincoln Avenue, Summerville, 29 yr old

o Possession of Schedule 4 Narcotics

- 44-53-0370(b)(1) ~ 183 ~ Drugs / MDP, Narcotic drugs in Sch. I(b) & (c),



Chat (Off)

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o Possession With the Intent to Distribute Methamphetamine
 □ 44-53-0375 (B) ~ 3198 ~ Drugs/ manufacture, distribution, etc. of methamphetamine, 1st 914

Parm, Gary: Pleasant Grove Rd, Round O, 35 yr old

o Possession With the Intent to Distribute Methamphetamine
 □ 44-53-0375 (B) ~ 3198 ~ Drugs/ manufacture, distribution, etc. of methamphetamine, 1st 914

McFadden, Sadena Lacorri: Oglethorpe Cir, Moncks Corner, 32 yr old
 o Child Endangerment & DUI

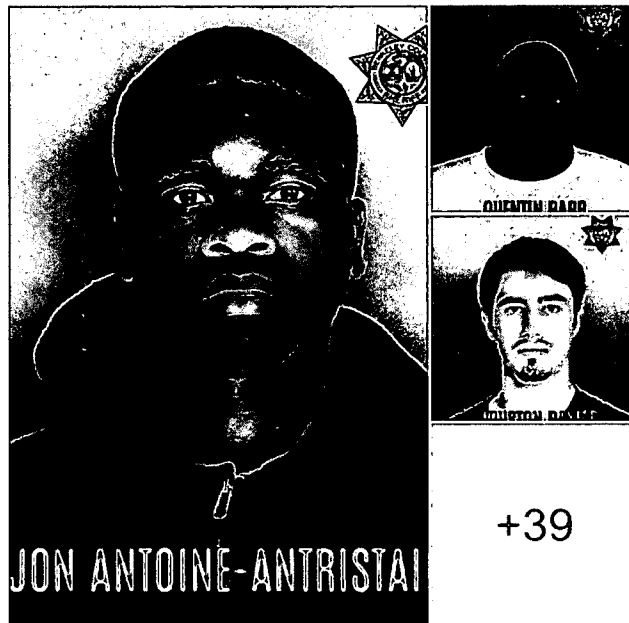
□ 56-05-2947 ~ 2395 ~ Child / Child endangerment, commit certain vehicular offenses w/ minor in vehicle (enhance-half 561

□ 56-05-2930(A)(1) ~ 3353 ~ DUI / Driving under the Influence, less than .10, 1st Offense 945

Rose, Cody: Ewell Ct, Summerville, 26 yr old

o Breach of Trust with Fraudulent Intent

□ 16-13-0230(B)(2) ~ 3423 ~ Breach / Breach of trust with fraudulent intent, value more than \$2,000 but less than \$10,000 451



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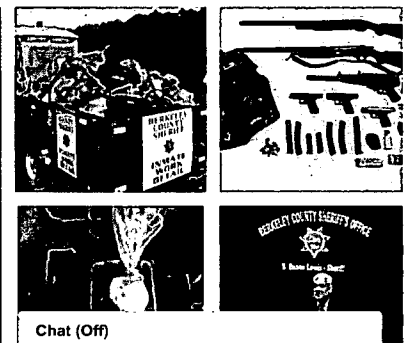
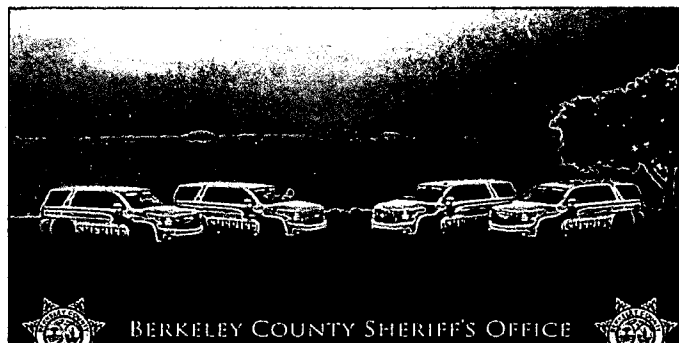
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Community for our kids

Like · Reply · Storify · 6d

2



Laura Margarita Swanson Very Sad. I hope they get the help they need so that they can rebuild their lives and regain their families and friends. Drugs destroy your lives, dreams, futures and FAMILIES.

Like · Reply · Storify · 6d

2



Ann Galindo Julie Stamp Grooms

Like · Reply · Storify · 6d



Brey Settles Latoya Pinckney

Like · Reply · Storify · 6d



Barbara Perry Mary what your duck in problem. I share because most of my friends live in the community just because you saw it doesn't mean I sent it to you this is going on in my area not yours and it was more whites than blacks

Like · Reply · Storify · 6d



Barbara Perry This is awesome get the drugs out of our county

Like · Reply · Storify · 6d

1



Keshia Sheppard Destinee Drayton look

Like · Reply · Storify · 6d



Jean Linker Thank you!!!

Like · Reply · Storify · 6d



Tiphonie Sherrod James Flinny Joseph

Like · Reply · Storify · 6d

1

3 Replies



Michelle Larrabee Thank you BCSO for everything y'all do!!!

Like · Reply · Storify · 6d

2



Haley Kittrell Let the weed people go man, but keep the meth heads ☺

Like · Reply · Storify · 6d

13

2 Replies



Jon Banias Mark Orvin

Like · Reply · Storify · 6d

1 Reply

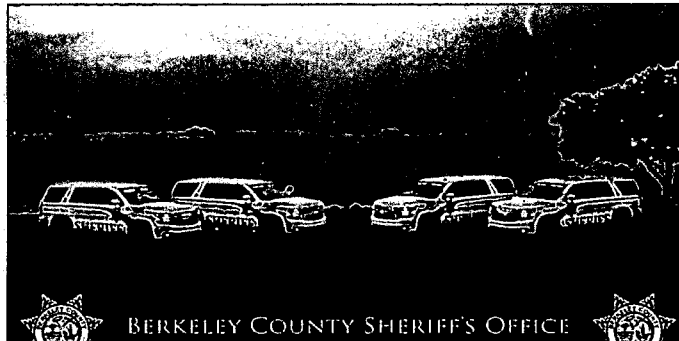


Mike N Beverly JudyStill Innocent until proven guilty,,, jk lol

Like · Reply · Storify · 6d

1

1 Reply



Chat (Off)

Like	Follow	Share	



Jonathan Greene Smalls Edna

Like · Reply · Storify · 6d



Teresa Ann Brown Great work ! So glad all blue was safe after this fantastic tag team

Like · Reply · Storify · 6d



Matthew Evans These street drugs they are taking now days are devastating to their body's.

Like · Reply · Storify · 6d



Vince Michaels Ross Best Bail Bond

Like · Reply · Storify · 6d



Steven Holmes These people need HELP

Like · Reply · Storify · 6d



Gloria Jean Devine They all look pretty bad. Great job BCSO.

Like · Reply · Storify · 6d



B Earl Copeland Good job ALL LEOs involved in the sweep. Thanks Sheriff Lewis and BCSO.

Like · Reply · Storify · 6d · Edited



Quinton Oliver Alexis Alexander

Like · Reply · Storify · 6d



Lauren Clark and they will steal from anyone to get the drugs they need,, i knew someone for many years and her own mother would give her pills,, and friends sold them to her,, may she rest in peace and forever be on the minds of the ones that caused her death

Like · Reply · Storify · 6d



Ross Best Ball Bond Www.BestBailBond.Net

Like · Reply · Storify · 6d



Guy Taylor Eric Snider lmao

Like · Reply · Storify · 5d

1 Reply



Xount B Fettuccine Mexico Mexico Smb Brazy Brandon Stinson Eric Camphor Meech Sui Fecit

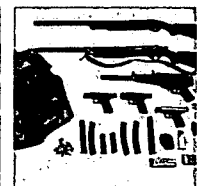
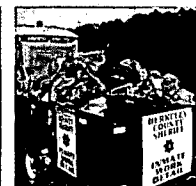
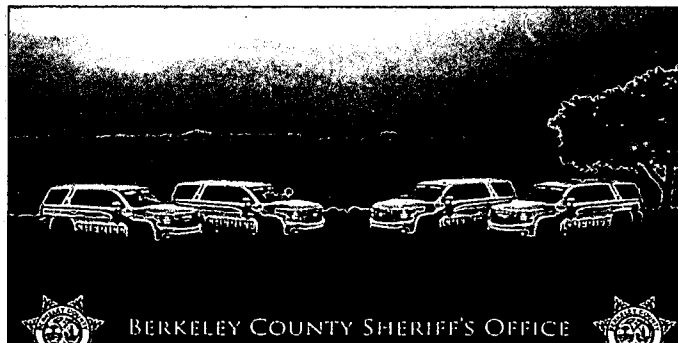
Like · Reply · Storify · 5d

1 Reply



Clarence Simpson Now, straighten up and walk the straight and narrow!

Like · Reply · Storify · 5d



Chat (Off)

Like	Follow	Share	

them had to smile!

Like · Reply · Storify · 5d

1 Reply



Carla Hair Hope they keep them all behind bars. Great job Berkeley County

Like · Reply · Storify · 5d · Edited



Louise Moore They forgot a few here in walterboro...

Like · Reply · Storify · 5d



Mandy Nichole Hammond Wish SC would finally legalize weed. But kudos to the other arrests.

Like · Reply · Storify · 5d



Stephen Thomas Wertan Those are some scary looking people.

Like · Reply · Storify · 5d



Stephen Thomas Wertan You guys need to stop hating. Doing drugs is illegal. From the looks of a lot of them they are messing up their lives and if they are smart this will make them see Positive changes are needed.

Like · Reply · Storify · 5d



Raven Rinchere FREE MY DOG HOUSTON BAXTER

Like · Reply · Storify · 4d



Melody Edington Wow, in my area

Like · Reply · Storify · 3d



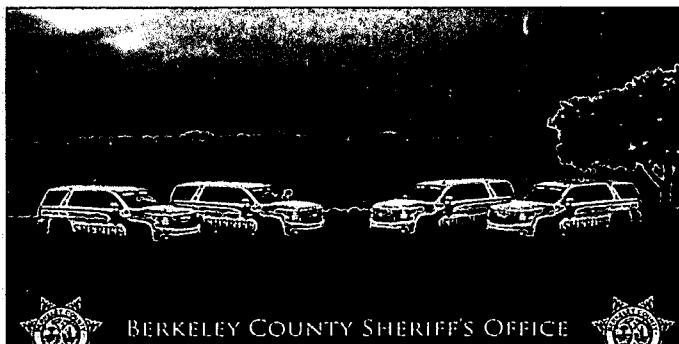
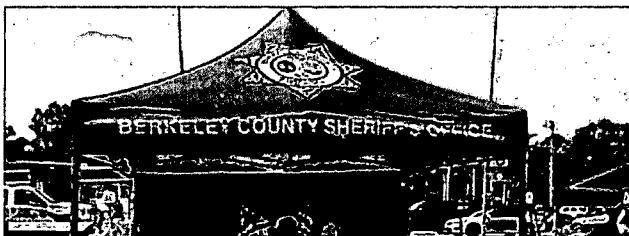
Write a comment...



Berkeley County Sheriff's Office

May 6 at 8:43pm ·

Berkeley County Sheriff's Office participated in the Hell Hole Parade in Jamestown Saturday. We would like to thank the members of the Hell Hole Inc. For donating the beautiful tent to the Community Action Team. The Communities working with your Sheriff's Office to build and strengthen relationships.



Chat (Off)

EXHIBIT B

STATE OF SOUTH CAROLINA)	
)	LAW ENFORCEMENT
)	ASSISTANCE AND SUPPORT
)	MULTIJURISDICTIONAL TASK FORCE
COUNTY OF BERKELEY)	METRO NARCOTICS ENFORCEMENT TEAM

This agreement is made and entered into this 18th day of July, 2016 by and between and the **BERKELEY COUNTY SHERIFF'S OFFICE**, 223 North Live Oak Dr., Moncks Corner, SC 29461 and the **MONCK'S CORNER POLICE DEPARTMENT**, 118 Carolina Ave., Moncks Corner, SC 29461.

WHEREAS, as amended on June 3, 2016, South Carolina Code Ann. Section 23-20-10, et. seq., provides for contractual agreements between and among state, county, municipal and local law enforcement agencies for the purpose of providing the proper and prudent exercise of public safety functions across jurisdictional lines.

WHEREAS, the **BERKELEY COUNTY SHERIFF'S OFFICE** desires to enter into such an agreement with the **MONCK'S CORNER POLICE DEPARTMENT** for the purposes of securing to each other the benefits of mutual aid in the event of natural disaster, disorder, special events, emergency situations, and any other law enforcement activities.

WHEREAS, the purpose of this Agreement is to define the scope of such mutual aid and the responsibilities of the parties; and

WHEREAS, during these activities, it is possible that law enforcement officers will respond to, become involved with, and/or deal with emergency situations, civil disorders, arrests, natural or manmade disasters, pursuits of criminal suspects, location of missing persons, criminal investigations, and/or any other matter handled by law enforcement, and the requesting agency desires replying agency's officers to have lawful authority and jurisdiction to respond to, become involved with, and/or deal with these or any other situations which may arise during the presence of responding agency's officers in the requesting agency's jurisdiction.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, it is the intent of the parties to share jurisdiction under this written Agreement to the fullest extent permitted under South Carolina law and it is further agreed as follows:

1. VESTING OF AUTHORITY AND JURISDICTION

To the fullest extent permitted by the Constitution and the statutes of this State, officers, assigned under this Agreement shall be vested with authority, jurisdiction, rights, immunities, and privileges outside his resident jurisdiction for the purpose of investigation, arrest, or any other activity related to the criminal activity for which the agreement is drawn. This Agreement is in no way intended to effect any other multi-jurisdictional agreement(s) which may exist between the agencies. The assistance to be rendered pursuant to this Agreement shall solely involve responding law enforcement officers from one party's jurisdiction to the other. However, local ordinances adopted by responding party's jurisdiction shall not be deemed extended into areas of operation that are located outside the geopolitical territorial limits of that party.

2. REQUEST FOR ASSISTANCE

The responding law enforcement officers may be requested in response to any public safety function across jurisdictional lines, such as multijurisdictional task forces, criminal investigations, patrol services, crowd control, traffic control and safety, and other emergency service situations. Assistance provided in this Agreement includes, but is not limited to:

- A. Emergency Situations;
- B. Civil Disorders;
- C. Natural or Manmade Disasters;
- D. Transporting of Prisoners;
- E. Operating Temporary Detention Facilities & Housing Inmates;
- F. Mass Processing of Arrest;
- G. Arrest;
- H. Pursuits of Criminal Suspects;
- I. Location of Missing Persons;
- J. Traffic Control and Safety;
- K. Criminal Investigations; or
- L. Any Other Matter Handled by Law Enforcement for that Particular Jurisdiction.

3. PRIMARY RESPONSIBILITY

It is agreed and understood that the primary responsibility of the parties to this Agreement is to provide law enforcement services within the geographical boundaries of their respective jurisdictions. Therefore, it is agreed that the law enforcement agency whose assistance is requested shall be the sole judge as to whether or not it can respond and to what extent it can comply with the request for assistance from the other agency.

4. PROCEDURE FOR REQUESTING LAW ENFORCEMENT ASSISTANCE

- A. Request: A request for assistance shall only be made by the **Sheriff of Berkeley County**, or his/her designee, or the **Chief of Police of Moncks Corner Police Department** or his/her designee. This request shall include a description of the situation creating the need for assistance, the specific aid needed, the approximate number of law enforcement officers requested, the location to which law enforcement personnel are to be dispatched, and the officer in charge of such location.
- B. Reply: A reply to any request for assistance shall only be made by the **Sheriff of Berkeley County**, or his/her designee, or the **Chief of Police of Moncks Corner Police Department**, or his/her designee. If the request is granted, the requesting law enforcement agency shall be immediately informed of the number of law enforcement officers to respond.
- C. Officer in Charge: The responding law enforcement officers shall report to the officers in charge of the requesting law enforcement agency at the designed location and shall be subject to the lawful orders and commands of that officer. The responding law enforcement officers shall exert their best efforts to cooperate with, and aid, the requesting law enforcement agency. The responding law enforcement officers shall be responsible at all times for acting within the policies and procedures set forth in the policy and procedure manual of the law enforcement agency by which they are regularly employed.

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- D. Release: The responding law enforcement officers shall be released by the officer in charge when their services are no longer required or when they are needed to respond to a situation within the geographic boundaries of their own jurisdiction; provided however, the responding law enforcement officers shall use their best efforts to complete the requested service prior to being released.

5. PERSONNEL, COSTS AND RECORDS

Except as otherwise agreed among the parties, each party shall maintain control over its personnel. Except as otherwise provided herein, each party shall bear its own costs incurred in the performance of its obligations hereunder, and shall keep its own personnel and other usual records as to its assigned officers.

Any and all records of law enforcement activities conducted pursuant to this Agreement shall be the property of and maintained by the agency conducting the activity, including any incident reports, citations, photographs, or other images captured on any photographic or digital media. Nothing contained herein prohibits or precludes any participating agency from making or maintaining a copy of any such records referenced above.

6. REQUESTS FOR INFORMATION PURSUANT TO THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT

Upon receipt, each agency participating in this Agreement must respond to requests for information pursuant to the South Carolina Freedom of Information Act.

7. COMPENSATION

This Agreement shall in no manner affect or reduce the compensation, pension, or retirement rights of any responding officer. Except as otherwise agreed, each party shall bear its own costs and expenses incurred in complying with the Agreement.

8. INSURANCE

Each party shall maintain such insurance coverage for general liability, workers' compensation, and other such coverage as may be required by law or deemed advisable by individual parties.

9. EMPLOYMENT STATUS

Nothing herein shall be construed or interpreted to imply that the law enforcement officers responding in accordance with this Agreement shall be the employees of the law enforcement agency requesting such assistance.

10. MODIFICATION OR AMENDMENT

This Agreement shall not be modified, amended or changed in any manner except upon express written consent of the parties to this Agreement.

11. RESPONSIBILITY TO RESPECTIVE GOVERNING BODIES

Each party is responsible for any approval requirements to their respective governing body as may be required under South Carolina law.

12. SEVERABILITY

Should any part of this Agreement be found to be unenforceable by any court or other competent authority, then the rest shall remain in full force and effect.

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13. BINDING SUCCESSORS IN OFFICE

All parties agree that any and all successors in interest to their offices will be similarly bound by the terms of this agreement without necessitating execution of any amendment.

14. NO INDEMNIFICATION OR THIRD PARTY RIGHTS

To the extent provided by law, the parties shall be solely responsible for the acts and omissions of their respective employees, officers, and officials, and for any claims, lawsuits and payment of damages that arise from activities of its officers. No right of indemnification is created by this agreement and the parties expressly disclaim such. The provisions of this agreement shall not be deemed to give rise to or vest any rights or obligations in favor of any rights or obligations in favor of any party or entity not a party to this agreement.

15. TERMINATION

This Agreement shall be terminated at any time upon written notice to the other party to this Agreement.

16. TERM AND RENEWAL

This Agreement is effective as to each party at the date and time of signing and will automatically renew each anniversary date, year to year, and term to term unless a party exercises its right to terminate as further described herein.

17. USE OF EQUIPMENT AND FACILITIES

Each party shall be responsible for the maintenance of its own equipment and shall be responsible for the procurement of facilities unless otherwise agreed upon by the parties.

18. LOGISTICAL SUPPORT

The Berkeley County Sheriff's Office will provide additional technical and logistical support for all members of the Narcotics Enforcement Team to include:

- A. Vehicles and Fuel;
- B. Office Space;
- C. Computers
- D. Administrative Support;
- E. Necessary Equipment for Drug Enforcement Operations.

19. FORFEITURES

South Carolina Code Ann. § 44-53-530 provides for forfeiture procedures; disposition of forfeited items and disposition of sales. The Parties to this Agreement stipulate and agree that for the purposes of this Agreement the Berkeley County Sheriff's Office shall be deemed in all instances to be the seizing agency. From the statutorily prescribed percentages due law enforcement agencies under South Carolina Code Ann. § 44-53-530 (e), the Parties agree to share in the disposition of forfeited items as follows:

Berkeley County Sheriff's Office – Fifty (50) %

All other Parties – Fifty (50) % to be apportioned on a pro rata basis.

IN WITNESS WHEREOF, these parties have set their hands and seals at the date set forth above.

Certificate of Counsel Rule 210(g) SCACR

Counsel for Appellant certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

s/Louis D. Nettles
LOUIS D. NETTLES
Attorney for Appellant
Nettles Law Firm
Post Office Box 5533
Florence, South Carolina 29502
843-942-1444

February 7, 2022