

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name:** State full name (include any former names used).

Bruce Howe Hendricks
Formerly Bruce McCaw Howe

2. **Position:** State the position for which you have been nominated.

United States District Judge for the District of South Carolina

3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

United States District Court for the District of South Carolina
Charleston Federal Courthouse
85 Broad Street
Charleston, South Carolina 29401

4. **Birthplace:** State year and place of birth.

1957; Charleston, South Carolina

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1987 – 1990, University of South Carolina School of Law; J.D., 1990

1986 – 1987, Trident Technical College; no degree

1979 – 1983, College of Charleston; B.A., 1983

1977 – 1978, Sweet Briar College; no degree

1976 – 1977, College of Charleston; no degree

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation

from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2011 – present

United States District Court for the District of South Carolina
Charleston Federal Courthouse
85 Broad Street
Charleston, South Carolina 29401
United States Magistrate Judge

2002 – 2011

United States District Court for the District of South Carolina
Clement F. Haynsworth Federal Building and United States Courthouse
300 East Washington Street
Greenville, South Carolina 29601
United States Magistrate Judge

2000 – 2001

College of Charleston
66 George Street
Charleston, South Carolina 29464
Instructor (part-time)

1991 – 2002

United States Attorney's Office for the District of South Carolina
170 Meeting Street, Suite 300
Charleston, South Carolina 29401
Assistant United States Attorney

March 1991 – November 1991

Uricchio, Howe, Krell, Jacobson, Toporek, Theos & Keith P.A.
17 1/2 Broad Street
Charleston, South Carolina 29401
Law Clerk

September 1990 – November 1990

Michael A. Uricchio, Esquire
24 Broad Street
Charleston, South Carolina 29401
Law Clerk

May 1989 – November 1989

United States Attorney's Office for the District of South Carolina
1441 Main Street, Suite 500
Columbia, South Carolina 29202
Law Clerk

1988 –1989
University of South Carolina School of Law
701 Main Street
Columbia, South Carolina 29208
Law Clerk

1986 – 1987
Holmes & Thompson Law Firm
(no longer exists)
Paralegal
Post Office Box 835
Charleston, South Carolina, 29402

Other Affiliations (uncompensated):

2008 – present
Federal Bar Association, South Carolina Chapter
President Sam Sammataro
Turner Padgett Graham & Laney P.A.,
1901 Main Street, 17th Floor
Columbia, South Carolina 29201
Board Member

2010 – 2012
YMCA of Greenville, South Carolina
723 Cleveland Street
Greenville, South Carolina 29601
Board of Directors

2000 – 2001
College of Charleston Attorney Assistance Program
66 George Street
Charleston, South Carolina 29464
Advisory Board

2000 – 2001
College of Charleston, Lawyer Referral/Legal Assistance Program
66 George Street
Charleston, South Carolina 29464
Advisory Board

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have never served in the military. I am not required to register for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Certificate of Appreciation for Service and Leadership on the YMCA Board of Directors, 2012

Commendation for Service as United States Magistrate Judge, Greenville, South Carolina, from United States Attorney William Nettles, January 2010

Certificate of Appreciation from the South Carolina Chapter of the Federal Bar Association, 2010

Commendation for Diligent Support and Excellent Cooperation from the Drug Enforcement Agency Task Force, Charleston, South Carolina, 2002

Commendation for Support and Hard Work from the Bureau of Alcohol, Tobacco, and Firearms, Charleston, South Carolina Field Office, 2002

Commendation for Loyal Service to the Violent Crime Task Force from the Charleston Police Department, North Charleston Police Department, Charleston County Sheriff's Office, and the Federal Bureau of Investigation, 2002

Commendation for Loyal Service to the United States Attorney's Office, District of South Carolina, from United States Attorney J. Strom Thurmond, Jr., 2002

Certificate of Appreciation as Founding Member and Chair, Board of Directors, College of Charleston Attorney Assistance Program, 2001

Commendation for Outstanding Contribution to the Master's Program in Bilingual Legal Interpretation at the College of Charleston, 2001

United States Postal Service Award for Outstanding Performance in the Trial of *United States v. Carl Almon*, 1999

United States Attorney's Award for Outstanding Performance in the Church Burning Investigations, March 1997

Pi Sigma Alpha, National Political Science Honor Society, 1981

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Charleston County Bar Association (1991 – 2001, 2010 – present)

Federal Bar Association, South Carolina Chapter (2004 – present)
Board Member (2008 – present)

Greenville County Bar Association (2001 – 2010)

James L. Petigru American Inn of Court (2012 – present)

South Carolina Bar Association (1991 – present)

South Carolina Women Lawyers Association (2001 – present)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

South Carolina, 1991

There have been no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Fourth Circuit, 1991

United States District Court for the District of South Carolina, 1991

South Carolina, all courts, 1991

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

College of Charleston Alumni Association

Executive Board, Alumni Awards and Student Relations Committee
(2005 – 2009)

College of Charleston, Lawyer Referral/Legal Assistance Program (2000 – 2001)
Advisory Board

College of Charleston Master's Program in Bilingual Legal Interpreting (2001)
Advisory Board

YMCA of Greenville, South Carolina (2002 – 2007, 2008 – 2012)
Board of Directors (2010 – 2012)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical interpretation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

None.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

Based upon a review of my calendar, travel records, document database, and internet searches, I have identified the following speeches or talks that I delivered. I have included written remarks where they were available.

May 28, 2013: I spoke to the Rotary Club in Charleston, South Carolina, about the operation of the pilot drug court program. I have no notes, transcript or recording, but press coverage is supplied. The address of the Rotary Club is Post Office Box 21029, Charleston, South Carolina, 29413.

February 27, 2013: I spoke on substance abuse at two Bishop England High School assemblies in Charleston, South Carolina. Prepared remarks supplied.

February 26, 2013: I spoke at a Continuing Legal Education seminar sponsored by the South Carolina Federal Bar Association in Charleston, South Carolina, about the operation of the pilot federal drug court program. Prepared remarks supplied.

October 5, 2012: I participated as a panelist in a discussion entitled "Practice Pearls from the Big Girls" at the Law Practice Diversity seminar of the South Carolina Women Lawyers Association. The seminar took place in Charleston, South Carolina. Prepared remarks supplied.

September 6, 2012: I spoke on the ethics of Valmaer at the annual Continuing Legal Education seminar sponsored by the South Carolina Federal Bar Association in Greenville, South Carolina. Prepared remarks supplied.

January 18, 2012: I spoke at the Federal Correctional Institute in Williamsburg, South Carolina. I made brief remarks about the effectiveness of reentry drug court programs and expressed gratitude for the work of correctional facility personnel. I have no notes, transcript or recording, but press coverage is supplied. The address for the Federal Correctional Institute in Williamsburg is 8301 US 521, Salters, South Carolina, 29590.

September 15, 2011: I participated as a panelist in a discussion entitled "Everything You Need to Know About the State of the District of South Carolina & the Role of the United States Magistrate Judge" in Charleston, South Carolina, at the annual Continuing Legal Education seminar sponsored by the South Carolina Chapter of the Federal Bar Association. Prepared remarks supplied.

November 2010: I spoke at the United States Probation Office Guidelines seminar in Greenville, South Carolina. Prepared remarks supplied.

October 2010: I spoke at the Charleston County Bar Meeting in Charleston, South Carolina. Prepared remarks supplied.

August 2010: I spoke at the United States Probation Office Guidelines seminar in Charleston, South Carolina. Prepared remarks supplied.

January 20, 2010: I spoke at a luncheon for the South Carolina Women Lawyers Association in Greenville, South Carolina. I do not recall the topic, and I have no notes, transcript or recording. The address for the South Carolina Women Lawyers Association is Post Office Box 11910, Columbia, South Carolina, 29211.

November 11, 2009: I participated as a panelist in a discussion at a South Carolina Women Lawyers Association event in Greenville, South Carolina. The topic was women in the judiciary. I have no notes, transcript or recording. The address for the South Carolina Women Lawyers Association is Post Office Box 11910, Columbia, South Carolina, 29211.

September 17, 2009: I participated as a panelist in a discussion at the annual Continuing Legal Education Seminar for the Federal Bar Association in Greenville, South Carolina. The topic was practice in federal courts. I have no notes, transcript or recording. There is no physical address for the local chapter of the Federal Bar Association.

August 2009: I spoke at the United States Probation Guidelines seminar in Greenville, South Carolina. Prepared remarks supplied.

March 2009: I spoke at the Federal Bar meeting in Greenville, South Carolina, concerning consent cases before a United States Magistrate Judge. Prepared remarks supplied.

September 2008: I spoke in Greenville, South Carolina at a Continuing Legal Education seminar of the Federal Bar Association on ethical issues for Criminal Justice Act panel attorneys. Prepared remarks supplied.

August 2008: I spoke in Charleston, South Carolina at a Continuing Legal Education seminar on employment litigation before a magistrate judge. The CLE

was sponsored by the South Carolina Trial Lawyers Association. Prepared remarks supplied.

January 2008: I spoke at Pinewood Preparatory School in Summerville, South Carolina on civil rights. Prepared remarks and press coverage supplied.

November 1, 2005: I spoke at the Charleston School of Law in Charleston, South Carolina, on “‘Howe’ to Practice Law from a Family of Lawyers.” Prepared remarks supplied.

September 16, 2005: I spoke at the Greenville County Bar Association Employment Law Seminar about “Tips From the Bench” in employment law cases. I have no notes, transcript or recording. The address for the Greenville County Bar Association is P. O. Box 10145, Greenville, South Carolina, 29603.

Spring 2005: I participated as a panelist in a discussion at the South Carolina School of Law on practice before United States Magistrate Judges. I have no notes, transcript or recording. The address for the South Carolina School of Law is 701 Main Street, Columbia, South Carolina, 29208.

September 2004: I served as a panelist at Wofford College in Spartanburg, South Carolina, for a Continuing Legal Education seminar. The theme of the seminar was Wofford and the law. I have no notes, transcript or recording. The address for Wofford College is 429 North Church Street, Spartanburg, South Carolina 29303.

February 2004: I participated in a question and answer session at Hughes Academy of Science and Technology in Greenville, South Carolina, on the federal justice system, hate crimes, civil rights, and civil procedure. I have no notes, transcript or recording, but press coverage is supplied. The address of the Hughes Academy of Science and Technology is 122 Deoyley Avenue, Greenville, South Carolina 29605.

January 2004: I spoke at the annual bar meeting of the South Carolina Bar in Charleston, South Carolina, on the attorney’s oath and legal ethics. Prepared remarks supplied.

October 16, 2002: I spoke to members of Legal Staff Professionals of Greenville in Greenville, South Carolina. I do not recall the topic, and I have no notes, transcript or recording. The address for Legal Staff Professionals of South Carolina is Post Office Box 10208, Greenville, South Carolina, 29603.

I do not recall the date or the exact location, but while I was an Assistant United State Attorney, I spoke in Charleston, South Carolina, on binge drinking. I have no notes, transcript or recording.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Wes Allison, *Judicial Notice*, CHARLESTON COUNTY BAR ASSOCIATION NEWSLETTER, Fall 2011. Copy supplied.

Bill Clarke, *A Fond Farewell for Judge Bruce E. Hendricks*, G-BAR NEWS, Jan. 2011. Copy supplied.

Fred Horlbeck, *U.S. Magistrate Set for Return to Her Charleston Roots*, SOUTH CAROLINA LAWYERS WEEKLY, July 19, 2010. Copy supplied.

Christine Gantt-Sorenson, *President's Article*, G-BAR NEWS, April 2010. Copy supplied.

Alicia Lutz, *The Mother of All Decisions*, COLLEGE OF CHARLESTON MAGAZINE, Spring 2009. Copy supplied.

Nicole D. Jordan, *Getting to Know 3 Local Judges*, GREENVILLE MAGAZINE, November 2007. Copy supplied.

Bruce Smith, *Former Klan Member Gets 15 Years in Church, Migrant Camp Burning*, AP NEWS ARCHIVE, August 15, 1997. Copy supplied.

Jesse J. Holland, *Informant in Burnings Sentenced to Minimum*, Charlotte Observer, December 31, 1996. Copy supplied.

Mike Soraghan, *Ex-Magistrate Gets Prison Term Lee Sentenced for Using Office to Exact Sexual Favors*, Myrtle Beach Sun News, August 6, 1996. Copy supplied.

Richard Green, Jr., *Kiawah Arson Suspect Dies After Being Jailed*, THE POST AND COURIER, May 3, 1996. Copy available at <http://tinyurl.com/mfx9hpg>.

Kathy Scruggs, *Ex-fugitive Kills Himself While in Atlanta Jail*, ATLANTA JOURNAL AND CONSTITUTION, May 2, 1996. Copy supplied.

FBI Nabs Charleston Couple Wanted on Fraud Charges, THE STATE, April 29, 1996. Copy supplied.

Fugitive Couple Caught in Marietta, ATLANTA JOURNAL AND CONSTITUTION, April 28, 1996. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed,

and a description of the jurisdiction of each such court.

I have been a United States Magistrate Judge since 2002, when I was appointed by the district court judges for the United States District for the District of South Carolina. United States Magistrate Judges are judges in the United States District Court System, as provided for in 28 U.S.C. § 631 *et seq.* As a magistrate judge, I lack statutory authority to issue binding final orders on dispositive matters or take to trial any civil matter not consented to by the litigants and, thereafter, referred by the district judge. *See* 28 U.S.C. § 636. Likewise, in criminal matters, I have jurisdiction over only misdemeanor and petty offenses and over preliminary felony criminal matters.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?

As a United States Magistrate Judge, I have presided over 42 cases that have gone to verdict or judgment. Because I can only preside over civil matters by consent of the parties and over criminal trials involving misdemeanor and petty offenses, I have only presided over a small percentage of the thousands of cases I have handled.

- i. Of these, approximately what percent were:

jury trials:	1%
bench trials:	99%
civil proceedings:	88%
criminal proceedings:	12%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

See attached list.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

I have presided over a limited number of cases in the way that term is described in Question 13(a). Moreover, consent trials before a magistrate judge are not common in this District. For purposes of this question, however, I have taken a broader view of that phrase. Accordingly, for this question, I have described the three trials over which I actually presided as well as a substantial piece of complex mediation to which I was appointed mediator by the district court. I have also described six other written Orders or Reports and Recommendations that I issued in significant cases before me.

1. *Cantrell v. Target Corporation*, No. 6:06-cv-2723 (D.S.C. May 15, 2009).
Order supplied.

Cantrell was a state-law defamation case. The plaintiff was wrongly accused of tendering a counterfeit \$100 bill by employees of defendant Target. She left with the bill and had its authenticity confirmed at an area bank. In the interim, however, Target published, in unqualified terms, its accusations against the plaintiff to over 70 other retail establishments participating in a theft task-force program, including the department store Belk where the plaintiff was employed. On the strength of Target's representations, Belk called the Secret Service. Secret Service agents subsequently arrived at Belk unannounced, *Mirandized* the plaintiff, and interviewed her concerning the bill, eventually also confirming its legitimacy. The jury found in favor of the plaintiff on her sole claim of defamation. It awarded her \$100,000 in actual damages and \$3 million in punitive damages. My written post-trial order, affirming the award, attempted to balance deference for the verdict with respect for controlling constitutional precedent on the propriety of large punitive awards. The trial and post-trial arguments implicated a somewhat novel application of a defense in qualified privilege, which might have protected Target from publishing its beliefs about the plaintiff among entities whom shared a common interest. I ruled that evidence existed from which a jury might have reasonably concluded that the scope of the privilege had been exceeded and affirmed the award. The order was appealed but eventually settled before any disposition by the Fourth Circuit.

Counsel for the plaintiff: Robert B. Ransom
Leventis and Ransom
Post Office Box 11067
Columbia, SC 29211
803-765-2383

Cameron G. Boggs
Boggs Law Firm
Post Office Box 65
Greenville, SC 29602
864-233-8066

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Post Office Box 10648
Greenville, SC 29603
864-282-1198

Kirsten Elena Small
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Post Office Box 10648

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864-282-1112

Counsel for the defendant: Knox L. Haynsworth, III
Brown Massey Evans McLeod and Haynsworth
Post Office Box 2464
Greenville, SC 29602
864-271-7424

Carmen Vaughn Ganjehsani
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1201 Main Street
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803-758-2886

Charles Elford Carpenter, Jr.
Carpenter Appeals and Trial Support
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803-758-2886

2. *Reece v. Shealy*, No. 8:04-cv-120 (Sept. 18, 2006); *Shealy v. Reece*, No. 8:04-cv-374 (Sept. 18, 2006). Order supplied.

These companion cases involved a state-law contract dispute over a hunting lease. The lease included contradictory terms as to its duration. In one portion of the agreement, it stated that the duration of the lease was for 99 years. In another portion of the agreement, however, the lease stated that “the hunting lease is for a full term of one year from the date hereof.” The matter was tried before me without a jury. I ruled that no meeting of the minds existed and, therefore, that under South Carolina law, the lease reverted to a month-to-month tenancy and was not for a 99-year duration. Judgment was entered in favor of Shealy in both cases. No appeal was filed.

Counsel for Reece: Brian A. Autry
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803-771-8900

Karl Stephen Brehmer
Brown and Brehmer
Post Office Box 7966

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Valentine Henry Stieglitz, III
Nexsen Pruet Jacobs and Pollard
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Counsel for Shealy:

Thomas H. Pope, III
Pope and Hudgens
Post Office Box 190
Newberry, SC 29108
803-276-2532

William Chad Jenkins
Pope and Hudgens
Post Office Box 190
Newberry, SC 29108
803-276-2532

3. *Henley v. Atkinson*, No. 8:06-2420-BHH (D.S.C. Oct. 1, 2006), *aff'd*, 326 Fed. App'x 201 (4th Cir. 2009).

Henley involved the alleged use of excessive force in the course of the plaintiff's arrest by the defendant state police officers. In the middle of the night, the defendant officer, along with another deputy, attempted to stop the plaintiff after observing him parked in the parking lot of a business. The deputies initiated their emergency equipment in an attempt to stop him, but the plaintiff continued in his vehicle. Eventually, the plaintiff exited his vehicle on foot and fled. The defendant officer released his K-9 unit service dog to effectuate the apprehension of the plaintiff. The plaintiff sustained bite wounds during the capture, including allegedly one to the groin, and was arrested for multiple criminal charges and then taken into custody. The plaintiff alleged that the defendant officer deployed the canine after he was restrained and handcuffed. The case was tried before a jury, which found in favor of the defendant. The verdict was affirmed on appeal.

Counsel for the plaintiff:

Aisha S. Lusk
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Post Office Box 11070
Columbia, SC 29211
803-799-2000

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803-806-8222

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4. *Savannah Riverkeeper v. U.S. Army Corps of Engineers*, No. 9:12-cv-610 (Sept. 2012-May 2013).

Savannah Riverkeeper involved various challenges by private conservation groups and state agencies of South Carolina to the Savannah Harbor Expansion Project (“SHEP”), a nearly \$700 million congressionally authorized plan to deepen the Savannah River. The plaintiffs argued that the Army Corps of

Engineers failed to obtain all necessary state permits from South Carolina for the project, as required by federal law. The Honorable Richard Gergel of the United States District Court for the District of South Carolina appointed Congressman John Spratt and me to preside over the mediation of this highly complex multi-state matter. The mediation took over seven months, four in-person mediation sessions, numerous teleconferences, and countless hours of preparation and effort to resolve. In addition to the unprecedented scope and scale of the project itself, all the various political and economic interests implicated, and the numerous parties with stake, the case posed a variety of novel legal issues under the Clean Water Act, National Environmental Policy Act, and state administrative law. Our efforts resulted in a global and court-approved settlement among three state agencies (between two states); the Army Corps of Engineers; and three private conservation groups.

Counsel for the plaintiff
Conservation groups:

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Southern Environmental Law Center
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Charleston, SC 29401
843-720-5270

J. Blanding Holman, IV
Southern Environmental Law Center
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Frank S. Holleman, III
Southern Environmental Law Center
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Counsel for the Savannah
River Maritime
Commission:

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Counsel for the Department of Health and Environmental Control:	Jacquelyn Sue Dickman Department of Health and Environmental Control 2600 Bull Street Columbia, SC 29201 803-898-3351
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John Harleston
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Counsel for the Army Corps of Engineers:	Norman L. Rave United States Department of Justice Environmental Defense Section Post Office Box 23986 Washington, DC 20026 202-514-8865
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United States Attorney's Office for the District of

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Counsel for the Georgia
Ports Authority:

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5. *Peter B. v. Sanford*, No. 6:10-cv-767, 2010 WL 5912259 (D.S.C. Nov. 24, 2010).

The plaintiffs brought an action against the Governor of South Carolina and various South Carolina state agencies seeking declaratory and injunctive relief for allegedly violating Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12132; Section 504 of the Rehabilitation Act of 1973 (Section 54); and 42 U.S.C. § 1983. The district judge referred the plaintiffs' motion for injunctive relief to me. The plaintiffs asked the court to enjoin the defendants

from reducing or terminating certain medical and personal-care services, the absence of which would allegedly force the plaintiffs from their homes and communities into disability institutions and other like facilities. I held a hearing on the motion and recommended to the district court that the defendants should be temporarily enjoined and ordered to maintain or return services in the quality, kind, and volume previously enjoyed by the plaintiffs. The district court adopted that recommendation.

Counsel for the plaintiff: Kenneth C. Anthony
Anthony Law Firm
Post Office Box 3565
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864-582-2355

Patricia L. Harrison
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Sandra Kerr Ray
Solo Practitioner
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Counsel for the defendants: Kenneth Paul Woodington
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William Henry Davidson, II
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6. *Credell v. Bodison*, No. 8:10-cv-18, 2011 WL 573425 (D.S.C. Jan. 26, 2011).

The petitioner, a state prisoner, sought habeas relief pursuant to 28 U.S.C. § 2254. Among other less persuasive grounds, the petitioner argued that trial counsel was ineffective (1) for failing to object when the solicitor pitted his testimony against that of his mother; (2) in the handling of a witness's prior statements; and (3) in advising him not to testify. I recommended habeas relief on all three grounds. That recommendation was adopted by the district court. No appeal was taken.

The state, however, has indicated its intent to retry the petitioner.

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7. *Humphries v. Ozmint*, 8:02-cv-4276 (D.S.C. 2003). Report and Recommendation supplied.

Within months of my appointment as a United States Magistrate, I issued this recommendation denying habeas relief in a death penalty case. The district court adopted that recommendation. *See Humphries v. Ozmint*, 8:02-cv-4276 (D.S.C. 2003). The petitioner appealed. The Fourth Circuit affirmed in a published decision. *See Humphries v. Ozmint*, 397 F.3d 206 (4th Cir. 2005).

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8. *EEOC v. Cromer Food Services, Inc.*, No. 6:08-cv-3249 (D.S.C. Jan. 6, 2010), *rejected*, 691 F. Supp. 2d 646 (D.S.C. 2010), *vacated and rev'd*, 414 Fed. App'x 602 (4th Cir. 2011). Report and Recommendation supplied.

The plaintiff EEOC, on behalf of an individual complainant, pled claims for hostile work environment, on account of the complainant's sex, and for retaliation, pursuant to Title VII of the Civil Rights Act of 1964, as amended. I recommended denial of the defendant's motion for summary judgment as to all claims. The district court rejected the Report and Recommendation and dismissed the case. The reasoning of the Report and Recommendation was affirmed on appeal to the Fourth Circuit.

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9. *Whitten v. Fred's*, No. 8:08-cv-218, 2009 WL 364162 (D.S.C. Jan. 13, 2009) *rejected*, 2009 WL 364077 (D.S.C. Feb. 11, 2009), *vacated and remanded*, 601 F.3d 231 (4th Cir. 2010).

The plaintiff alleged that an agent of the defendant, Fred's, Inc., sexually harassed her in violation of the South Carolina Human Affairs Law, S.C. Code § 1-13-30 *et seq.* The defendant moved to dismiss the plaintiff's claims for lack of subject matter jurisdiction, for untimeliness, for failure to exhaust, and for a want of

substantive merit. I recommended that the defendant's motions to dismiss and for summary judgment be denied. The district court rejected the Report and Recommendation. The reasoning of the Report and Recommendation was affirmed on appeal to the Fourth Circuit in a published decision.

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10. *Malik v. Ozmint*, No. 8:05-cv-3472, 2010 WL 1052708 (D.S.C. Feb. 16, 2010).

I recommended that the South Carolina Department of Corrections' policy requiring all inmates to keep their hair short and their faces shaven did not violate a Sunni Muslim inmate's rights under the Religious Land Use and Institutionalized Persons Act. The Fourth Circuit had approved a prior version of the policy, which applied to higher security inmates, but had not approved the policy in its amended form. The matter, therefore, was of some first impression. Although the inmate demonstrated that the policy substantially burdened his free exercise of religion, the policy furthered a compelling state interest and was the least restrictive means of furthering that interest. The district court adopted the recommendation.

Counsel for the plaintiff: *pro se*

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- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Peter B. v. Sanford*, No. 6:10-cv-767, 2010 WL 5912259 (D.S.C. Nov. 24, 2010).

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2. *Credell v. Bodison*, No. 8:10-cv-18, 2011 WL 573425 (D.S.C. Jan. 26, 2011).

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3. *Humphries v. Ozmint*, 8:02-cv-4276. Report and Recommendation previously supplied in response to Question 13c.

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4. *Cantrell v. Target Corporation*, No. 6:06-cv-2723 (D.S.C. May 15, 2009). Order previously supplied in response to Question 13c.

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5. *EEOC v. Cromer Food Services, Inc.*, No. 6:08-cv-3249 (D.S.C. Jan. 6, 2010) (Report and Recommendation previously supplied in response to Question 13c), *rejected*, 691 F. Supp. 2d 646 (D.S.C. 2010), *vacated and rev'd*, 414 Fed. App'x 602 (4th Cir. 2011).

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6. *Whitten v. Fred's*, No. 8:08-cv-218, 2009 WL 364162 (D.S.C. Jan. 13, 2009) *rejected*, 2009 WL 364077 (D.S.C. Feb. 11, 2009), *vacated and remanded*, 601 F.3d 231 (4th Cir. 2010).

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7. *Malik v. Ozmint*, No. 8:05-cv-3472, 2010 WL 1052708 (D.S.C. Feb. 16, 2010).

Counsel for the plaintiff: *pro se*

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8. *Carthens v. Lewis*, No. 8:08-cv-107 (D.S.C. Jan. 27, 2009). Report and Recommendation supplied.

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9. *Mortensen v. Astrue*, No. 8:07-547 (D.S.C. Apr. 23, 2008), *adopted by* 2008 WL 1826185 (D.S.C. Apr. 23, 2008). Report and Recommendation supplied.

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10. *Thompson v. Astrue*, No. 8:09-cv-1968, 2010 WL 3878729 (D.S.C. June 16, 2010), *adopted*, 2010 WL 3880047 (D.S.C. Sept. 28, 2010), *aff'd*, 442 Fed. App'x 804 (4th Cir. 2011).

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- e. Provide a list of all cases in which certiorari was requested or granted.

To the best of my knowledge, there are no such cases.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

To the best of my knowledge, no final order of mine has been appealed to the district court or the United States Court of Appeals for the Fourth Circuit and reversed. However, the following Reports and Recommendations were not adopted, or were adopted only in part. Conservatively, I have issued over 1,200 Report and Recommendations. Every Report and Recommendation is subject to review by the District Court, and my recommendations have been adopted in approximately 96% of those cases.

Chambers v. Mueller, No. 2:12-cv-1372, 2013 WL 603349 (D.S.C. Jan. 11, 2013), *adopted in part, rejected in part*, 2013 WL 603348 (D.S.C. Feb. 19, 2013). The district court predominately adopted the Report and Recommendation but rejected the recommendation that the plaintiff's proposed amendment to the Complaint would sufficiently allege deliberate indifference.

Patterson-Womble v. Mabus, No. 2:11-cv-834 (D.S.C. Jan. 4, 2013). The district court adopted the Report and Recommendation as to the plaintiff's race discrimination claim but rejected it as to claims for pregnancy discrimination, hostile work environment, and retaliation. The Report and Recommendation found that the plaintiff had been replaced by a black female and, therefore, that she could not make out any *prima facie* case. The district court interpreted the plaintiff's sex based claim more broadly, as one in pregnancy discrimination, and found she had been replaced by a non-pregnant individual. (Report and Recommendation and Order attached.)

Thomas v. Kmart Corp., No. 9:11-cv-669, 2012 WL 7808898 (D.S.C. Nov. 15, 2012), *adopted in part, rejected in part*, 2013 WL 1282019 (D.S.C. Mar. 26, 2013). The district court predominately adopted the Report and Recommendation but rejected the recommendation that the "ulterior purpose" element of an abuse of process claim could not be established.

Smith v. InterSouth Properties, Inc., No. 2:11-cv-2177 (D.S.C. Mar. 15, 2012). The district court declined to adopt a recommendation that the defendant's motion for partial judgment on the pleadings should be granted as to the plaintiff's claim for wrongful termination in violation of public policy. The district court stated, without explanation, that at that early stage in litigation, the claim had been sufficiently pled. (Report and Recommendation and Order attached.)

Chappell v. Miles, No. 2:12-cv-303, 2012 WL 1570024 (D.S.C. Feb. 17, 2012), *rejected by* 2012 WL 1570020 (D.S.C. May 3, 2012). The district court rejected a portion of the Report and Recommendation recommending summary dismissal, which was made as a part of this district's initial review procedure for *pro se* complaints. The district court believed there was a facially sufficient allegation of excessive force and equal protection such that issuance and service of process should be made.

Singletary v. South Carolina Dept. of Educ., No. 3:11-cv-1449, 2012 WL 714972 (D.S.C. Feb. 3, 2012), *adopted in part, rejected in part*, 2012 WL 714796 (D.S.C. Feb. 29, 2012). The district court predominately adopted the Report and Recommendation but found that one defendant had not established qualified immunity. Amendment of the complaint was allowed.

Williams v. U.S. Services, Inc., No. 2:10-cv-1546, 2012 WL 590049 (D.S.C. Jan. 31, 2012), *adopted in part, rejected in part*, 2012 WL 601867 (D.S.C. Feb. 23, 2012). The district court predominately adopted the Report and Recommendation but found that issues of fact existed as to whether a reasonable disability accommodation had been made for one of multiple positions alleged. The Report and Recommendation was affirmed as to the other positions.

Drayton v. Cohen, No. 2:10-cv-03171, 2012 WL 666844 (D.S.C. Jan. 11, 2012), *adopted in part, rejected in part*, 2012 WL 666839 (D.S.C. Feb. 29, 2012), *aff'd*,

474 Fed. App'x 991 (4th Cir. 2012). The district court disagreed with the Report and Recommendation that the plaintiff prisoner had created issues of fact concerning his failure to protect claim. The district court found insufficient evidence related to whether the plaintiff had notified prison officials concerning specific threats against him. The district court adopted the remainder of the Report and Recommendation. The Fourth Circuit affirmed the district court order.

Stewart v. Astrue, No. 2:10-cv-822 (D.S.C. July 21, 2011). The district court rejected the finding that the Administrative Law Judge had properly considered evidence of certain impairments and remanded the case to the Social Security Administration for additional consideration. (Report and Recommendation and Order attached.)

Solesbee v. Astrue, No. 2:10-cv-1882, 2011 WL 3099738 (D.S.C. July 12, 2011), *rejected by* 2011 WL 5101531 (D.S.C. Oct. 25, 2011). The district court rejected the finding that the Administrative Law Judge had properly considered evidence of certain impairments and remanded to the Social Security Administration for additional consideration.

Carter v. Centura College, No. 2:10-cv-907, 2011 WL 7429447 (D.S.C. June 16, 2011), *adopted in part, rejected in part*, 2012 WL 638800 (D.S.C. Feb. 27, 2012). The district court adopted the Report and Recommendation as to the plaintiff's retaliation claim but rejected it as to the religious discrimination one.

Bates v. Astrue, No. 8:09-cv-3355, 2011 WL 1113778 (D.S.C. Jan. 21, 2011), *rejected by* 2011 WL 1113474 (D.S.C. Mar. 24, 2011). The district court remanded for an additional administrative hearing because the claimant's legal counsel did not fully develop the record. The district court acknowledged that the Report and Recommendation correctly noted that no ineffective assistance type claim was available.

Folkes v. Byrd, No. 8:10-cv-22, 2010 WL 4721572 (D.S.C. Oct. 21, 2010), *adopted in part, rejected in part*, 2010 WL 4721575 (D.S.C. Nov. 15, 2010). The district court modified the dismissal of certain unexhausted claims from "with prejudice" to "without."

Robinson v. Cannon, No. 8:10-cv-2236 (D.S.C. Sept. 8, 2010), *rejected by* 8:10-cv-2236 (D.S.C. Apr. 21, 2011). The district court rejected a portion of the Report and Recommendation recommending summary dismissal, which was made as a part of this district's initial Report and Recommendation review procedure for *pro se* complaints. The district court allowed issuance and service of process and the plaintiff an opportunity to identify the proper defendant. (Report and Recommendation and Order attached.)

Tinsley v. Wight, No. 7:09-cv-2455, 2010 WL 6422745 (D.S.C. Aug. 23, 2010), *adopted in part, rejected in part*, 2011 WL 1287910 (D.S.C. Mar. 31, 2011),

reconsidered in part, 2012 WL 5305980 (D.S.C. Mar. 28, 2012), *aff'd*, 478 Fed. App'x 15 (4th Cir. 2012). The district court stayed the case pending resolution of a state criminal prosecution instead of adopting the recommendation for summary dismissal.

Field v. McMaster, No. 6:09-cv-1949, 2010 WL 3257908 (D.S.C. June 30, 2010), *adopted in part, rejected in part*, 2010 WL 3257888 (D.S.C. Aug. 17, 2010), *aff'd*, 398 Fed. App'x 894 (4th Cir. 2010). The district court predominately adopted the Report and Recommendation but also granted summary judgment as to the plaintiff's claim for injunctive relief against certain defendants.

Panchura v. Astrue, No. 8:09-cv-01014, 2010 WL 3521718 (D.S.C. May 19, 2010), *adopted in part, rejected in part*, 2010 WL 3521719 (D.S.C. Sept. 7, 2010). The district court predominately adopted the Report and Recommendation but remanded to the Administrative Law Judge for additional consideration of the plaintiff's depression.

Hopkins v. Astrue, No. 8:09-cv-01014, 2010 WL 2219330 (D.S.C. Mar. 3, 2010), *adopted in part, rejected in part*, 2010 WL 2219328 (D.S.C. May 28, 2010). The district court predominately adopted the Report and Recommendation but remanded to the Social Security Administration for additional explanation of the Administrative Law Judge's finding that the plaintiff could perform medium work.

EEOC v. Cromer Food Services, Inc. No. 6:08-cv-3249 (D.S.C. Jan. 6, 2010). (Report and Recommendation previously supplied in response to Question 13c.) The district court rejected the Report and Recommendation. *See EEOC v. Cromer Food Services, Inc.*, 691 F. Supp. 2d 646 (D.S.C. 2010). The reasoning of the Report and Recommendation was affirmed on appeal to the Fourth Circuit. *See EEOC v. Cromer Food Services, Inc.*, 414 Fed. App'x 602 (4th Cir. 2011).

Lisenby v. Lear, No. 8:09-cv-410 (D.S.C. March 18, 2009). The district court agreed, in part, on a recommendation that the plaintiff's case could not be removed to federal court because the plaintiff had three previous cases dismissed as "strikes," for their frivolous or malicious nature, and, therefore, remanded the case to state court. *See Lisenby v. Lear*, No. 8:09-cv-410, 2010 WL 758677 (D.S.C. Feb. 26, 2010). On appeal, the Fourth Circuit concluded that the prior "strikes" did not prevent removal of the case by the defendants. *Lisenby v. Lear*, 674 F.3d 259 (4th Cir. 2012). (Report and Recommendation attached.)

Malpass v. Gibson, No. 8:08-cv-3243, 2009 WL 5868578 (D.S.C. Nov. 13, 2009), *rejected by* 685 F.Supp.2d 573 (D.S.C. Feb. 11, 2010). The district court declined to adopt the Report and Recommendation and concluded that issues of fact existed as to whether "extraordinary circumstances" were present concerning the plaintiff's excessive force claim even though the plaintiff suffered *de minimis* injury.

Peoples v. Rogers, No. 8:10-cv-1312, 2010 WL 424203 (D.S.C. Jan. 12, 2010), *rejected by* 2010 WL 424201 (D.S.C. Feb. 1, 2010). The district court rejected the Report and Recommendation recommending summary dismissal, which was made as a part of this district's initial review procedure for *pro se* complaints. The district court believed questions remained concerning the timeliness of the plaintiff's claims and the application of *res judicata* such that issuance and service of process should be made.

Kelly v. Yates, No. 8:08-cv-2147, 2009 WL 6323747 (D.S.C. Dec. 17, 2009), *adopted in part, rejected in part*, 2010 WL 1294109 (D.S.C. Mar. 29, 2010). The district court disagreed with the Report and Recommendation's recommendation that material facts existed as to the plaintiff's Fourth Amendment claim that his right against unreasonable seizure had been violated when he was removed from the scene of a traffic stop and taken to a motel.

Pellegrino v. United Parcel Service, Inc., No. 7:08-cv-180, 2009 WL 6325694 (D.S.C. Dec. 15, 2009), *adopted in part, rejected in part*, 2010 WL 1346415 (D.S.C. Mar. 30, 2010). The district court adopted the Report and Recommendation as to the plaintiff's Family and Medical Leave Act (FMLA) retaliation claim but rejected it as to the FMLA interference one.

Barnes v. Seymour, No. 8:09-cv-2616, 2009 WL 6547636 (D.S.C. Nov. 10, 2009). The district court agreed, in part, with a recommendation, made as a part of our district's initial review of *pro se* complaints, that a "strike" should be awarded to the plaintiff for filing a malicious or frivolous case. *Barnes v. Seymour*, No. 8:09-2166, 2010 WL 2293237 (D.S.C. Jun. 4, 2010). The Fourth Circuit concluded a strike could not be awarded where the case was dismissed "without prejudice." *Barnes v. Seymour*, 416 Fed. App'x 300 (4th Cir. 2011).

Landrum v. Bowens, No. 8:08-cv-2993, 2009 WL 3060359 (D.S.C. July 16, 2009), *adopted in part, rejected in part*, 2009 WL 3060356 (D.S.C. Sept. 24, 2009). The district court predominately adopted the Report and Recommendation but disallowed the case to proceed against an additional defendant for supervisory liability.

Wolfe v. Cooper, No. 8:08-cv-869, 2009 WL 2929442 (D.S.C. May 20, 2009), *rejected by* 2009 WL 2929438 (D.S.C. Sept. 2, 2009). The Report and Recommendation found that a credibility issue existed as to whether the plaintiff prisoner had been raped and forced to perform oral sex on prison guards. The district court found that there was no other evidence of the allegations and that the credibility dispute was insufficient to survive summary judgment.

Whitten v. Fred's, No. 8:08-cv-218 (D.S.C. Jan. 13, 2009). The district court rejected the Report and Recommendation. *See Whitten v. Fred's*, No. 8:08-CV-218, 2009 WL 364077 (D.S.C. Feb. 11, 2009). However, the reasoning of the Report and Recommendation was affirmed on appeal to the Fourth Circuit in a

published decision. *See Whitten v. Fred's*, 601 F.3d 231 (4th Cir. 2010). (Report and Recommendation previously supplied in response to Question 13c.)

Peoples v. Davis, No. 8:08-cv-251, 2009 WL 483805 (D.S.C. Jan. 23, 2009), *rejected by* 2009 WL 483798 (D.S.C. Feb. 24, 2009). The district court rejected the recommendation of the Report and Recommendation that a portion of the plaintiff's excessive force claim should survive summary judgment.

Lawrence v. Astrue, No. 8:07-cv-3732, 2008 WL 5785183 (D.S.C. Dec. 11, 2008), *rejected by* 2009 WL 890655 (D.S.C. Mar. 30, 2009). Contrary to the Report and Recommendation, the district court found that the ALJ did not have substantial evidence to reject a lower IQ score of the claimant and remanded the case to the Social Security Administration for further findings.

Blackwell v. Astrue, No. 8:07-cv-1084, 2008 WL 4200305 (D.S.C. May 22, 2008), *rejected by* 2008 WL 4200302 (Sept. 4, 2008). The district court concluded that the case should be remanded to the Social Security Administration and not simply dismissed, as recommended by the Report and Recommendation and requested by the Defendant Commissioner.

Peoples v. SCDC, No. 8:07-cv-1203, 2008 WL 4442586 (D.S.C. May 13, 2008), *rejected by* 2008 WL 4442583 (D.S.C. Sept. 25, 2008). The district court rejected the recommendation of the Report and Recommendation that the plaintiff prisoner's excessive force claim should be dismissed.

Bostick v. Warden of Broad River Correctional Inst., No. 8:07-cv-727. The district court adopted and incorporated by reference my Report and Recommendation regarding the grant of summary judgment concerning a petition for writ of habeas corpus, in part because the ineffective assistance of counsel claim had not been exhausted. *See Bostick v. Warden of Broad River Correctional Inst.*, No. 8:07-727, 2008 WL 474219 (D.S.C. Feb. 20, 2008). The Fourth Circuit reversed the district court's order and granted habeas relief, concluding that because the state exhaustion rule had been unevenly applied, it did not bar federal review of the claim. *See Bostick v. Warden of Broad River Correctional Inst.*, 589 F.3d 160 (4th Cir. 2009).

Frost v. Toney, No. 8:07-cv-108, 2007 WL 4924758 (D.S.C. Oct. 30, 2007), *rejected by* 2008 WL 426286 (D.S.C. Feb. 13, 2008). The district court found that issues of fact existed as to the use of force that caused the plaintiff prisoner to hit his head.

Sturkey v. Ozmint, No. 8:07-cv-1502, 2007 WL 4901401 (D.S.C. June 19, 2007), *adopted in part, rejected in part*, 2008 WL 373610 (D.S.C. Feb. 7, 2008). The district court rejected the Report and Recommendation recommending summary dismissal of the case, a determination which is made as a part of this district's initial review procedure for *pro se* complaints prior to service of process. On

objection to the district court, the district court believed there was a discernible equal protection claim in the complaint such that issuance and service of process should be made.

United States v. Clarkson, No. 8:05-cv-2734, 2007 WL 1988261 (D.S.C. May 14, 2007), *adopted in part, rejected in part*, 2007 WL 1988257 (D.S.C. Jul. 3, 2007). The district court predominately adopted the Report and Recommendation but found that both forms of requested injunctive relief concerning false tax statements made by the plaintiff should issue.

Ashe v. Smith, No. 8:07-cv-537, 2007 WL 1423745 (D.S.C. Mar. 1, 2007), *adopted in part, rejected in part*, 2007 WL 1423730 (D.S.C. May 10, 2007). The district court rejected the Report and Recommendation recommending summary dismissal, which was made as a part of this district's initial review procedure for *pro se* complaints. The district court found that although there was no allegation of physical injury, the plaintiff prisoner's request for injunctive relief was still colorable such that issuance and service of process should be made.

Chavis v. Barnhardt, No. 6:05-cv-1793, 2007 WL 1032302 (D.S.C. Feb. 8, 2007), *adopted in part, rejected in part*, 2007 WL 1032300 (D.S.C. Mar. 31, 2007). The district court adopted the Report and Recommendation as to the plaintiff's race discrimination claim but rejected it as to the age discrimination and retaliation ones.

Koon v. Rushton, No. 8:05-cv-2523, 2006 WL 4046219 (D.S.C. Aug. 24, 2006), *rejected by* 2007 WL 465515 (D.S.C. Feb. 6, 2007). The Report and Recommendation was rejected by the district court for recommending "dismissal without prejudice" of a "mixed-application" habeas petition, which included both exhausted and unexhausted claims. The district court concluded that the petitioner was entitled to proceed on the exhausted claims.

Nicholas v. Ozmint, No. 8:05-cv-3472 (D.S.C. July 25, 2006). The district court substantially adopted the Report and Recommendation but permitted the plaintiff prisoner's Grooming Policy claim to proceed. (Report and Recommendation and Order attached.)

Hucks v. Allstate Insurance Co., No. 8:04-cv-23336 (D.S.C. July 10, 2006). The district court substantially adopted the Report and Recommendation but, out of an abundance of caution, modified the dismissal from "with prejudice" to "without." (Report and Recommendation and Order attached.)

Nave v. Trans-Cor America, No. 8:06-cv-1065, 2006 WL 4681146 (D.S.C. May 16, 2006), *rejected by* 2007 WL 2156670 (D.S.C. Jul. 26, 2007). The district court rejected the Report and Recommendation recommending summary dismissal, which was made as a part of this district's initial review procedure for *pro se*

complaints. The district court disagreed that the complaint did not implicate the court's federal question jurisdiction.

Habeck v. Barnhart, No. 8:04-cv-1844 (D.S.C. June 28, 2005). The district court rejected the Report and Recommendation recommending remand to the Social Security Administration and concluded that the Commissioner's disability determination was based on substantial evidence. (Report and Recommendation and Order attached.)

Nicholas v. Ozmint, No. 8:05-cv-1011 (D.S.C. Apr. 18, 2005). The district court substantially adopted the Report and Recommendation but disagreed that a "strike" should be awarded to the plaintiff for filing a malicious or frivolous case. (Report and Recommendation and Order attached.)

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

As a United States Magistrate Judge all of my decisions are filed on the United States District Court for the District of South Carolina's Electronic Case Filing System (ECF). The vast majority of my decisions are unpublished nondispositive matters, such as motions to amend scheduling deadlines, motions to amend pleadings, and motions to compel or resolve discovery disputes. To my knowledge, there is not a reliable way of estimating the number of such decisions. Those matters include either written work product uploaded to ECF or text entries made directly in it. I have prepared thousands of such unpublished items.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Fordham v. Moore, No. 2:12-974, 2012 WL 6947765 (D.S.C. Nov. 20, 2012), *adopted by* 2:12-974, 2012 WL 314476 (D.S.C. Jan. 28, 2013), *aff'd*, 2013 WL 1800528 (4th Cir. 2013).

Green v. Anderson, No. 2:10-cv-03080 (Jan. 18, 2012) *adopted by* No. 2:10-cv-03080, 2012 WL 602708 (Feb. 24, 2012). Report and Recommendation provided.

Williams v. Ozmint, No. 8:07-3723 (D.S.C. Aug. 14, 2009) *adopted by* 726 F. Supp. 2d 589 (D.S.C. June 2, 2010). Report and Recommendation provided.

Carthens v. Lewis, No. 8:08-cv-107, 2009 WL 3942299 (D.S.C. Jan. 27, 2009) *adopted by* No. 8:08-cv-107, 2009 WL 3942299 (D.S.C. Feb. 17, 2009).

Battle v. Metts, No. 8:07-cv-466, 2008 WL 2704870 (Feb. 16, 2007), *adopted by* 8:07-cv-466, 2008 WL 2704870 (July 8, 2008), *aff'd*, 308 Fed. App'x 686 (4th Cir. 2009).

Maness v. Ozmint, No. 3:06-382, 2007 WL 474181 (Dec. 15, 2006), *adopted by* No. 3:06-382, 2007 WL 474181 (Feb. 8, 2007).

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have never sat by designation on a federal appeals court.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

The Clerk of Court for the District of South Carolina keeps a recusal list that is updated periodically. Judges are asked to review their self-identified recusal list on a regular basis. In addition to recusals made based on this list, I searched my records as well as the court's electronic docketing system. To the best of my knowledge, the following is a complete list of recusal requests:

Mr. Koon requested my recusal in *Koon v. Rushton et al.*, No. 8:05-cv-2523. This same individual also requested my recusal in *Koon v. Ozmint et al.*, 8:06-cv-1072, and *Koon v. Ozmint et al.*, 8:06-cv-2000. Mr. Koon contended that I was biased against him as a result of my rulings on various pretrial motions. In *Koon v. Rushton et al.* and *Koon v. Ozmint et al.*, 8:06-cv-2000, I denied the request for recusal because the only alleged bias pertained to my rulings. In *Koon v. Ozmint et al.*, 8:06-cv-1072, Judge Harwell denied Mr. Koon's motion for recusal as moot.

Mr. Peoples filed a motion seeking my recusal in *Peoples v. SCDC et al.*, 8:07-cv-01203. Mr. Peoples contended I was biased as a result of my rulings in his case. I

denied the motion because judicial rulings alone do not constitute a sufficient basis to warrant recusal.

In *Stepheny v. Social Security Administration*, 4:08-cv-03449, Mr. Stepheny filed a motion seeking my recusal. Mr. Stepheny sought my recusal because I denied his motion to appoint counsel. I denied Mr. Stepheny's motion for recusal because judicial rulings alone do not constitute a sufficient basis to warrant recusal.

Petitioner Weersing moved for my recusal in *Weersing v. Cartledge*, 8:09-cv-00088. Mr. Weersing contended that I was biased as a result of my rulings. I denied Mr. Weersing's motion because judicial rulings alone do not constitute a sufficient basis to warrant recusal.

Mr. Brown, Sr., moved for my recusal in *Brown v. Norton et al.*, 8:09-cv-01628, contending that I had a conflict of interest. Judge Duffy denied Mr. Brown's motion as moot.

In *Bell v. Cooks et al.*, 2:10-cv-03244, Mr. Bell, filed a motion for recusal wherein he contended that I was biased, presumably as a result of my rulings and recommendations in his case. I denied the Plaintiff's request because judicial rulings alone do not constitute a sufficient basis to warrant recusal.

Mr. Moore moved for my recusal in *Moore v. Padula et al.*, 5:11-cv-1033. In his motion, Mr. Moore contended that I was biased against him because of the court's rulings in a previous case, *Moore v. Padula*, 8:07-cv-01471. I denied his request because the only alleged bias pertained to my rulings in a previous case.

Mr. Rogers moved for my recusal in *Rogers v. Cartledge*, 2:12-cv-01858. Mr. Rogers contended I was biased as a result of my rulings in one of his previous cases, *Rogers v. May et al.*, No. 3:12-cv-00837. I denied Mr. Rogers' motion because the only alleged bias pertained to my rulings in a previous case.

Mr. McCrief filed a motion for recusal in *McCrief v. Wachovia Bank et al.*, 2:12-cv-00072. In his motion, Mr. McCrief asserted I should be recused due to a "prior history of biased misconducts." I denied the motion. Mr. McCrief appealed that ruling to Judge Seymour, who agreed that no recusal was warranted. Mr. McCrief also filed an interlocutory appeal; the United States Court of Appeals for the Fourth Circuit dismissed the appeal. Mr. McCrief's case remains pending in district court.

15. Public Office, Political Activities and Affiliations:

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed

you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held any public office other than my present judicial office. I have never had an unsuccessful candidacy for elective office or unsuccessful nomination for appointed office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held any office or rendered services to a political party or election committee. I have never held a position or played a role in a political campaign.

16. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have never served as a law clerk to a judge.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced law alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1991 – 2002

United States Attorney's Office for the District of South Carolina
170 Meeting Street, Suite 300
Charleston, South Carolina 29401
Assistant United States Attorney

1991

Uricchio, Howe, Krell, Jacobson, Toporek, Theos & Keith P.A
17 1/2 Broad Street
Charleston, South Carolina 29401
Law Clerk

1990
Michael A. Uricchio
24 Broad Street
Charleston, South Carolina 29401
Law Clerk

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator in private practice.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

While studying for the South Carolina bar and during my time before joining the United States Attorney's Office, I clerked for Michael Uricchio and then for Uricchio, Howe, Krell, Jacobson, Toporek, Theos & Keith P.A. My responsibilities included general legal research and writing.

After admission to the South Carolina Bar, I began my legal career in earnest as an Assistant United States Attorney in 1991. I handled a wide variety of cases, including typical drug and firearms offenses, complex civil rights, and bank fraud conspiracies. I represented the United States in proceedings at all stages of litigation in federal court in South Carolina, and I also represented the United States on appeal before the United States Court of Appeals for the Fourth Circuit. I routinely evaluated evidence presented to me by law enforcement agencies to determine whether federal laws had been violated and, if so, whether to proceed with prosecution. I responded to and appeared for various and sundry pre-trial motions by defense counsel. If the case went to trial, I made all preparations necessary to present the Government's case in court. Preparation for trials included, but was not limited to, fully analyzing the facts and the applicable law, interviewing witnesses and agents, visiting the scene of the crime, preparing opening and closing statements, and preparing proposed jury instructions for submission to the trial judge. If the case proceeded to an appeal, I drafted briefs and argued before the United States Court of Appeals for the Fourth Circuit. In several cases, I was responsible for drafting the response to motions to vacate pursuant to 28 U.S.C. § 2255. I served as an Assistant United States Attorney from 1991 until I became a United States Magistrate Judge in 2002.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

As an Assistant United States Attorney, I always represented the interests of the United States. My practice was devoted exclusively to criminal law.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

The entirety of my practice was devoted to litigation. I appeared in court frequently.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|------|
| 1. federal courts: | 100% |
| 2. state courts of record: | 0% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|------|
| 1. civil proceedings: | 0% |
| 2. criminal proceedings: | 100% |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

While an Assistant United States Attorney, I tried 21 cases to verdict. I was chief, or sole, counsel in 14 of those cases.

- i. What percentage of these trials were:

- | | |
|--------------|------|
| 1. jury: | 100% |
| 2. non-jury: | 0% |

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. Cobb*, 2:95-cr-591 (D.S.C. May 30, 1996), *aff'd*, 144 F.3d 319 (4th Cir. 1998), before the Honorable David C. Norton, United States District Court for the District of South Carolina.

On November 16, 1995, a federal grand jury sitting in the District of South Carolina indicted Cobb for carjacking, use of a firearm during a crime of violence, and bank fraud. I represented the United States throughout the investigation, trial, and appeal. Following a jury trial in May 1996, the defendant was convicted. The defendant appealed, and the United States Court of Appeals for the Fourth Circuit affirmed.

Co-counsel:

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Moore & Van Allen
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843-579-7014

Counsel for the defendant:

Michael P. O'Connell
Stirling and O'Connell
109 Wappoo Creek Drive
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Charleston, SC 29412
843-577-9890

2. *United States v. Almon*, 9:98-cr-1194 (D.S.C. June 22, 1999), *aff'd*, 238 F.3d 415 (4th Cir. 2000) (unpublished table decision), before the Honorable Sol Blatt, Jr., United States District Court for the District of South Carolina.

On November 20, 1998, a federal grand jury sitting in the District of South Carolina indicted Almon for assault on a postmaster with intent to rob and for putting the life of the postmaster in jeopardy. I represented the United States

throughout the investigation, trial, and appeal. Following a jury trial in June 1999, the defendant was convicted. Almon appealed, and United States Court of Appeals for the Fourth Circuit affirmed.

Counsel for the defendant:

Eduardo Kelvin Curry
Curry Law Firm
Post Office Box 42270
North Charleston, SC 29423
843-767-5284

3. *United States v. Wildes and Cameron*, 2:94-cr-931 (D.S.C. Aug. 16, 1995), *aff'd*, 120 F.3d 468 (4th Cir. 1997), before the Honorable Sol Blatt, Jr., United States District Court for the District of South Carolina.

On November 10, 1994, a federal grand jury sitting in the District of South Carolina indicted the defendants for conspiring against civil rights, interfering by force or threat of force with the occupation of a dwelling because of race, and using fire to commit a federal felony. The defendants in this case burned a cross in the yard of an African American family in Georgetown, South Carolina. I represented the United States throughout the investigation and trial, from November 1994 through July 1996. Following a jury trial in August 1995, the defendants were convicted on all charges. Although I did not participate in the appeal on this case, the defendants' convictions were affirmed by the Fourth Circuit.

Co-counsel:

The Honorable Deval Patrick (formerly Assistant Attorney General for the Civil Rights Division)
Governor of Massachusetts
Office of the Governor
Room 280
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Counsel for Cameron:

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Federal Public Defender's Office
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843-727-4148

Counsel for Wildes:

Lionel S. Lofton
Lofton and Lofton
225 Seven Farms Drive
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843-722-6372

4. *United States v. Diombera*, No. 2:99-cr-750, *aff'd*, 46 Fed. App'x 706 (4th Cir. 2002), before the Honorable Patrick Michael Duffy, United States District Court for the District of South Carolina.

On December 15, 1999, a federal grand jury sitting in the District of South Carolina indicted Diombera for conspiracy to possess with intent to distribute and for possession of heroin, marijuana, and cocaine. The indictment was superseded, such that Diombera was charged with conspiracy to possess with intent to distribute and to distribute heroin; simple possession of heroin, marijuana, and cocaine; and possession with intent to distribute heroin. Following a jury trial in December 2000, the defendant was acquitted on the charge of possession with intent to distribute heroin but was convicted on the charges of conspiracy to possess with intent to distribute and to distribute heroin as well as simple possession of heroin, marijuana, and cocaine. I represented the United States throughout the investigation and trial from December 1999 through December 2000. I did not represent the United States during the appellate process.

Counsel for the defendant:

Michael P. O'Connell
Stirling and O'Connell
109 Wappoo Creek Drive
Suite 2B
Charleston, SC 29412
843-577-9890

5. *United States v. Guerra*, No. 2:93-cr-387 (D.S.C Aug. 11, 1994), *aff'd*, 60 F.3d 826 (4th Cir. 1995), before the Honorable Sol Blatt, Jr., United States District Court for the District of South Carolina.

The defendants in this case were indicted on October 12, 1993, for various charges arising out of an escape attempt and jailhouse drug distribution that occurred at the Georgetown County Detention Center. Following a jury trial in April 1994, D. Guerra was convicted of conspiring to escape, attempting to escape, and obstructing justice. A. Guerra was found guilty of those same charges, as well as conspiring to distribute crack cocaine and possessing crack cocaine with intent to distribute. Canteen was convicted of conspiring to escape, conspiring to distribute crack cocaine, aiding in the escape of a federal prisoner, and obstructing justice. Johnson was convicted of conspiring to escape, aiding in the escape of a federal prisoner, obstructing justice, and possessing marijuana. The defendants appealed, and the United States Court of Appeals for the Fourth Circuit affirmed. *See United States v. Guerra*, 60 F.3d 826 (4th Cir. 1995) (unpublished table decision). On motions to vacate pursuant to 28 U.S.C. § 2255, the sentences of A. and D. Guerra were subsequently reduced. *See Guerra v. United States*, No. 2:97-cv-1194-SB; *Guerra v. United States*, No. 2:97-cv-1193-SB. I represented the United States throughout the investigation, trial, appeal, and motions to vacate.

Co-counsel:

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843-720-3184

Counsel for the defendant Don Guerra:

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William L. Runyon Jr. Law Office
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Counsel for the defendant Ashberth Guerra:

John Robert Haley
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843-727-4148

Counsel for the defendant Canteen:

Peter Dominick DeLuca, Jr.
DeLuca and Maucher

Post Office Box Nine
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843-572-1711

Counsel for the defendant Johnson:

Lawrence J. Rosintoski
Trident Technical College
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843-720-5617

6. *United States v. Sexton*, 2:97-cr-361 (Jan. 25, 2001), *aff'd*, 30 Fed. App'x 295 (4th Cir. 2002), before the Honorable David C. Norton, United States District Court for the District of South Carolina.

On January 9, 1997, a federal grand jury sitting in the District of South Carolina indicted Sexton for various firearms offenses, possession of cocaine with intent to distribute, and money laundering. Following a jury trial in November 2000, the defendant was convicted on all charges and was sentenced to life in prison. The defendant appealed, and the United States Court of Appeals for the Fourth Circuit affirmed. I represented the United States throughout the investigation and trial, from April 1997 through January 2001. I did not represent the United States on appeal.

Co-counsel:

Sean Kittrell
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Charleston, SC 29402
843-727-4381

Counsel for the defendant:

J. Joseph Condon, Jr.
3842 C Leeds Avenue
North Charleston, SC 29405
843-554-1000

7. *United States v. Duggins*, 2:00-cr-710 (D.S.C. Mar. 27, 2001), before the Honorable C. Weston Houck, United States District Court for the District of South Carolina.

On September 13, 2000, a federal grand jury sitting in the District of South Carolina indicted Duggins for conspiracy to obstruct interstate commerce by

armed robbery, obstruction of interstate commerce by armed robbery, using and carrying a firearm during a crime of violence, two counts of being a felon in possession of a firearm, conspiracy to commit armed bank robbery, armed bank robbery, and using and carrying a firearm during a crime of violence. Following a jury trial in November 2000, the defendant was convicted of conspiracy to commit armed bank robbery, armed bank robbery, using and carrying a firearm during a crime of violence, and one count of being a felon in possession of a firearm. All other counts were dismissed on the motion of the United States. I represented the United States throughout the investigation and trial, from September 2000 through March 2001.

Counsel for the defendant:

Diedreich P. Von Lehe, III
Diedreich P. Von Lehe III Law Office
Post Office Box 1140
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843-853-0011

8. *United States v. Coker*, 9:00-cr-997 (D.S.C. Feb. 20, 2002), *aff'd*, 39 Fed. App'x 939 (4th Cir. 2002), before the Honorable Sol Blatt, Jr., United States District Court for the District of South Carolina.

On December 13, 2000, a federal grand jury sitting in the District of South Carolina indicted Coker for carjacking and for use of a firearm in the commission of a crime of violence. Following a jury trial in September 2001, the defendant was convicted on those counts. Coker appealed, and the United States Court of Appeals for the Fourth Circuit affirmed. I represented the United States throughout the investigation and trial, from December 2000 through October 2001. I did not represent the United States during Coker's sentencing or his appeal.

Co-counsel:

M. Rhett DeHart
United States Attorney's Office for the District of South Carolina
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Counsel for the defendant:

John Robert Haley
Federal Public Defender's Office
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9. *United States v. Eubanks*, No. 2:97-cr-110 (D.S.C. Jan. 12, 1998), before the Honorable David C. Norton, United States District Court for the District of South Carolina. In an unpublished table decision, the United States Court of Appeals for the Fourth Circuit vacated his sentences and remanded for resentencing. *See United States v. Eubanks*, 166 F.3d 335 (4th Cir. 1998) (unpublished table decision). On appeal after resentencing, the Fourth Circuit affirmed. *See United States v. Eubanks*, 191 F.3d 449 (4th Cir. 1999) (unpublished table decision).

On January 15, 1997, a federal grand jury sitting in the District of South Carolina indicted Eubanks for armed bank robbery and possession of a firearm during a crime of violence. A superseding indictment was returned, charging the defendant with armed bank robbery, possession of a firearm during a crime of violence, and possession of a weapon by a convicted felon. Following a jury trial in August 1997, Eubanks was convicted of all three charges. The defendant appealed, and in an unpublished opinion, the Fourth Circuit affirmed the convictions but vacated Eubanks' sentences and remanded for resentencing. Eubanks was resentenced, and he again appealed. The Fourth Circuit affirmed. Eubanks was one of the first defendants in the District of South Carolina to be sentenced pursuant to the "three strikes" rule set forth in 18 U.S.C. § 3559. I represented the United States throughout the investigation, trial, and both appeals.

Co-counsel:

The Honorable Terry L. Wooten (formerly Assistant United States Attorney for the District of South Carolina)
Chief United States District Judge
United States District Court
901 Richland Street
Columbia, SC 29201
803-253-6427

Counsel for the defendant:

Dale Thomas Cobb, Jr.
Belk Cobb Infinger and Goldstein
Post Office Box 71121
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843-554-4291

10. *United States v. Williams et al.*, No. 2:01-cr-388 (D.S.C. Sept. 3, 2003), before the Honorable Patrick Michael Duffy, United States District Court for the District of South Carolina.

In April 2001, a federal grand jury sitting in the District of South Carolina indicted 14 individuals on various drug charges. Before the case was completed, a total of 48 defendants were indicted in this case. All of the defendants ultimately pled guilty. I represented the United States throughout the investigation and through guilty pleas, from April 2001 until I became a United States Magistrate Judge.

Co-counsel:

Miller W. Shealy, Jr.
Charleston School of Law
Post Office Box 535
Charleston, SC 29402
843-329-1000

Counsel for the lead defendant Adolpho Williams:

David Paul McCann
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Nancy A. Chiles
Nancy A. Chiles Law Office
102 Wappoo Creek Drive
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18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

In my role as a United States Magistrate Judge, I was appointed as presiding and supervisory judge over our District's first drug court program on November 1, 2010. The program identifies criminal defendants whose presence in the prosecutorial system is principally a function of substance abuse or addiction as opposed to independently motivated criminal behavior. In conjunction with the United States Attorney for the District of South Carolina, the United States Probation Office for the State of South Carolina, and the Federal Public Defender's Office, my chambers developed the program over a six-month period, including all governing and enabling documentation and

processes. The above-described program team visited various other similar programs in federal and state jurisdictions, participated in training with a national drug court institute, and worked cooperatively to its completion. The drug court is an intensive rehabilitation process that relies on the existing probation infrastructure for drug screening and monitoring and the volunteerism of community businesses and organizations to provide substance abuse training and mentoring, vocational placement, and wellness education. The program is a substantial commitment by my chambers above and beyond my regular duties, on a weekly—even daily—basis. I preside over biweekly staffing meetings and in-court hearings with the program participants, who must account to me for their progress. Since its inception, the program has saved court resources and taxpayer dollars and produced numerous successful graduates.

I have worked as a board member for the Federal Bar Association. My participation has included planning and contribution to Continuing Legal Education programming. I have hosted various groups at the courthouse on behalf of the Federal Bar Association, including student groups and summer law clerks. I have also participated in the organization's charitable work.

I have never been involved in lobbying activities or registered as a lobbyist.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

In the spring of 2000, I served as an Adjunct Professor at the College of Charleston and taught a course entitled "Law and the Legal System in the United States." This course focused on the three branches of government, the structure of the federal court system, the structure of the state court system, the differences between federal and state court, and the role of the various participants in the legal system. I do not have a copy of the syllabus.

In the spring of 2001, I again served as an Adjunct Professor at the College of Charleston and taught a course entitled "Civil Processes and Procedures." This course explained the rules and standards that courts use when adjudicating civil lawsuits. Major topics taught included the filing of a civil action, pleadings and motions, service of process, discovery, and the trial and appellate processes. I do not have a copy of the syllabus.

In the spring and fall of 2001, I taught another College of Charleston course, entitled "Criminal Justice," also in an adjunct capacity. This course provided an overview of the criminal justice system, including its history and philosophy. Major topics taught included constitutional issues arising under the Fourth, Fifth, and Sixth Amendments; theories of crime causation; and goals of corrections. I do not have a copy of the syllabus.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all

anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

My only source of deferred income arises from my participation in the Thrift Savings Plan (TSP).

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

None.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

The only potential conflicts of interest for me involve those individuals currently on my recusal list maintained by the Clerk of Court. More generally, I would handle any matters involving actual or potential conflicts of interest in conformity with the Code of Conduct for United States Judges and any other relevant statutes, ethical canons, and rules. Specifically, I would recuse myself from any case that I worked on, supervised, or on which I was consulted as an Assistant United States Attorney. Furthermore, as in the past, upon learning of any situation that a party or observer might perceive or identify as an actual or potential conflict of interest, I would alert the parties to the situation and invite their view and concern, if any.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

In resolving potential conflicts of interest, I would consult the Code of Conduct for United States Judges and the published Advisory Opinions issued by the Committee on Codes of Conduct.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

While serving as an Assistant United States Attorney, I was a founding member and past Chairman and Advisory Committee Member of the Lawyer Referral/Legal Assistance Program at the College of Charleston. The program, which was available to students, staff, and faculty, was a volunteer service project that was designed to offer the College of Charleston community access to legal assistance at a reduced fee or on a *pro bono* basis from members of the legal profession who are alumni or friends of the College of Charleston. I also participated in the Department of Justice's "Weed and Seed" program, which actively supported community service and community efforts in areas where our local office was also attempting to remove, through prosecution, the destructive criminal element. I also participated in a related federal program called "Project Jump Shot." In addition, I was active in several organizations that aid the disadvantaged, including the Boys & Girls Club in Charleston, South Carolina. I collaborated with the City of Charleston and the College of Charleston to launch an after-school program for the Boys & Girls Club. I devoted numerous hours to developing the program, which provided food and tutoring for disadvantaged children.

As a United States Magistrate Judge, I am precluded from the practice of law and ethically unable to personally accept any *pro bono* assignments. However, I still stay active in community charitable concerns. I have served on the Board of Directors for the YMCA and the Alumni Board of the College of Charleston. In Greenville, South Carolina, I remained an active contributor to the area Boys & Girls Club, participated in the development of a marching band for an area high school, and have collaborated with Coaches 4 Character. I have served as a judge for numerous moot court and mock trial competitions and, with regularity, hosted elementary and high school groups, summer law clerks, and bar groups at the courthouse and in chambers to share with them about the judicial system.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so,

please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In January 2013, I met briefly with Congressman James E. Clyburn in Columbia, South Carolina, to discuss my interest in the anticipated vacancies on our federal bench. I was later informed by Congressman Clyburn's office that my name was submitted to the White House for consideration. Since April 9, 2013, I have been in contact with officials at the Office of Legal Policy at the Department of Justice. On May 13, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On June 26, 2013, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

**FINANCIAL DISCLOSURE REPORT
NOMINATION FILING**

*Report Required by the Ethics
in Government Act of 1978
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Hendricks, Bruce H.	2. Court or Organization United States District Court, District of South Carolina	3. Date of Report 06/26/2013
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) United States District Judge, Active Status	5a. Report Type (check appropriate type) ☒ Nomination Date 6/26/2013 ☐ Initial ☐ Annual ☐ Final	6. Reporting Period 1/1/2012 to 6/26/2013
	5b. ☐ Amended Report	
7. Chambers or Office Address P.O. Box 835 Charleston, SC 29402		
IMPORTANT NOTES: <i>The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.</i>		

I. POSITIONS. *(Reporting individual only; see pp. 9-13 of filing instructions.)*

☐ NONE *(No reportable positions.)*

POSITION

NAME OF ORGANIZATION/ENTITY

- | | |
|---------------------------------|---|
| 1. Member of Board of Directors | Federal Bar Association, South Carolina Chapter |
| 2. Member of Board of Directors | YMCA of Greenville, South Carolina |
| 3. | |
| 4. | |
| 5. | |

II. AGREEMENTS. *(Reporting individual only; see pp. 14-16 of filing instructions.)*

☒ NONE *(No reportable agreements.)*

DATE

PARTIES AND TERMS

- | | |
|----|--|
| 1. | |
| 2. | |
| 3. | |

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Hendricks, Bruce H.

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III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)***A. Filer's Non-Investment Income**☒ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1.		
2.		
3.		
4.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.**(Dollar amount not required except for honoraria.)*☐ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2013	self-employed in real estate
2. 2012	self-employed in real estate
3.	
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.**(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*☐ NONE *(No reportable reimbursements.)*

<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1. Exempt				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Hendricks, Bruce H.

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V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*☐NONE *(No reportable gifts.)*

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1.	Exempt		
2.			
3.			
4.			
5.			

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*☐NONE *(No reportable liabilities.)*

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.	First Federal of Charleston	Mortgage on Rental Property #3 (See Section VII)	M
2.	First Federal of Charleston	Mortgage on Rental Property #2 (See Section VII)	M
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Hendricks, Bruce H.

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VII. INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Rental Property #1, Charleston, SC	D	Rent	M	W	Exempt				
2. Rental Property #2, Charleston, SC	E	Rent	M	W					
3. Rental Property, #3, Charleston, SC	E	Rent	N	W					
4. Bank of America Checking Account		None	J	W					
5. Federated Kaufmann Fund	A	Int./Div.	J	W					
6. First Federal Checking Account		None	J	W					
7. United Missouri Bank Checking Account		None	J	W					
8. Trust #1	A	Distribution	K	W					
9. -Aviva USA Whole Life Policy									
10. -Wells Fargo Cash Account									
11. Phoenix Variable Life: Virtus Capital Growth		None	J	W					
12. Wells Fargo Checking Account		None	J	W					
13.									
14.									
15.									
16.									
17.									

1. Income Gain Codes:
(See Columns B1 and D4)

A = \$1,000 or less
F = \$50,001 - \$100,000

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000

D = \$5,001 - \$15,000
H2 = More than \$5,000,000

E = \$15,001 - \$50,000

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000

K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000

M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes
(See Column C2)

Q = Appraisal
U = Book Value

R = Cost (Real Estate Only)
V = Other

S = Assessment
W = Estimated

T = Cash Market

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Hendricks, Bruce H.

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VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Hendricks, Bruce H.

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IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: s/ **Bruce H. Hendricks**

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		13	500	Notes payable to banks-secured (auto)		20	565
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		1	500	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others		46	779	Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		96	954
Real estate owned – see schedule		960	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		63	000	Education loans		48	170
Cash value-life insurance		3	317				
Other assets itemize:							
Thrift Savings Plan		115	559				
				Total liabilities		165	689
				Net Worth	1	037	966
Total Assets	1	203	655	Total liabilities and net worth	1	203	655
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

Federated Kaufmann Fund	\$ 1,500
Total Listed Securities	<u>\$ 1,500</u>

Real Estate Owned

Rental property #1	\$ 80,000
Rental property #2	260,000
Rental property #3	620,000
Total Real Estate Owned	<u>\$ 960,000</u>

Real Estate Mortgages Payable

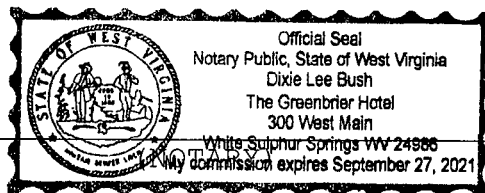
Rental property #2	\$ 53,359
Rental property #3	43,595
Total Real Estate Mortgages Payable	<u>\$ 96,954</u>

AFFIDAVIT

I, Bruce Howe Hendricks, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

June 28, 2013
(DATE)

Bruce Howe Hendricks
(NAME)



Dixie Lee Bush
Dixie Lee Bush