

No. \_\_\_\_\_

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IN THE  
Supreme Court of the United States

THOMAS CHARLES FELTON JONES,  
*Petitioner.*

v.

STATE OF SOUTH CAROLINA,  
*Respondent.*

On Petition for a Writ of Certiorari  
to the Supreme Court of South Carolina

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APPENDIX

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Appendix A-1

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

The State, Respondent,

v.

Thomas Charles Felton Jones, Appellant.

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Appellate Case No. 2020-000108  
Appeal from Greenville County Robin B. Stilwell,  
Circuit Court Judge

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Opinion No. 28203  
Heard June 6, 2023 – Filed May 8, 2024

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**REVERSED**

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Assistant Public Defender Andre Ta Nguyen,  
Assistant Public Defender Jacob Goldstein, and  
Assistant Public Defender John Christopher  
Shipman, all of Greenville, for Appellant.

Attorney General Alan McCrory Wilson and  
Assistant Deputy Attorney General Mark Reynolds  
Farthing, both of Columbia, for Respondent.

## Appendix A-2

**JUSTICE FEW:** A Greenville County Sheriff's Deputy tased Thomas Jones until he lost consciousness before handcuffing and arresting him. The conduct that justified this? Jones asked questions of two deputies as he observed them carry out a traffic stop. Jones argues the Greenville County ordinance under which he was convicted was unconstitutionally applied to him. The State concedes Jones is correct. Jones also asks this Court to strike down the entire ordinance as unconstitutional under the First Amendment and the Due Process Clause of the United States Constitution. We reverse Jones's conviction because the ordinance is unconstitutional as applied to him. We decline to address his other arguments.

### **I. Facts and Procedural History**

In July 2018, deputies Jake Lancaster and Jonathan Cooper of the Greenville County Sheriff's Office pulled over a woman for failing to use a turn signal. The woman pulled her car to the side of the street in front of the home of the man she was driving to visit—Thomas Jones. From the deputies' body camera videos, it is apparent Jones walked from near his house to the side of the street to observe the stop. Standing at a distance with a flashlight pointing toward the officers, Jones observed the scene.

Jones briefly interacted with Lancaster and asked why Lancaster was calling for backup. Lancaster responded it was for safety in the event anyone else approached the scene. Jones next asked why his visitor was being pulled over, and Lancaster answered by stating it was because she had turned without using a turn signal and rolled through stop signs. Seemingly irritated by the questions, Lancaster then asked Jones, "Do you need anything man?" to which both Jones and his friend responded that she was

### Appendix A-3

visiting Jones for the night. The woman and Jones's interactions with the deputies were calm and respectful. Jones then took a few steps backward, away from both deputies and the woman, still observing with his flashlight on.

The entire exchange that followed lasted only seven to eight seconds. While Cooper questioned the friend, Jones continued to stand and watch. Lancaster then asked Jones, "Alright man, do you need to be here?" Jones responded, "Yeah, this is my house." Lancaster responded—pointing toward the house—"You can go back over there, or you can be arrested for interfering. Step back." Jones did not move. Two seconds later, Lancaster said, "Alright, turn around," and began approaching Jones. Both deputies rushed toward Jones, tackled him, tased him, handcuffed him, and then arrested him. During the altercation, Jones lost consciousness. Three minutes elapsed between Jones appearing on camera and the arrest.

Jones was convicted of interfering with a county law enforcement officer under a Greenville County ordinance but was found not guilty of resisting arrest with assault. He was sentenced to thirty days in jail and a \$1,000 fine, suspended upon ten days in jail over weekends and a \$500 fine. Jones appealed to the court of appeals and the case was transferred to this Court because Jones raises constitutional challenges to the validity of the ordinance. See S.C. Code Ann. § 14-8-200(b)(3) (2017); Rule 203(d)(1)(A)(ii), SCACR.

### **II. Analysis**

Subsection (b) of the ordinance under which Jones was convicted reads:

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It shall be unlawful for any person within the unincorporated area of the county to commit an assault, battery or by any act, physical or verbal, resist, hinder, impede or interfere with any law enforcement officer in the lawful discharge of his or her duty, or to aid or abet any such act.

Greenville County Ordinance § 15-10(b).

Jones asserts the ordinance is both unconstitutionally overbroad and void for vagueness. He also argues the prohibitions in the ordinance are preempted by state law. In the alternative, he argues the ordinance was unconstitutional as applied to his conduct in this case. In response, the State expressly conceded to this Court that "under the unique and specific facts of this case, the ordinance was improperly applied to [Jones]." The State asks this Court "to declare the arrest of [Jones] for violation of the ordinance invalid and reverse his conviction and sentence" and not reach the broader challenges Jones presents. The State argues this Court should decide the case on the narrowest possible grounds—its concession. We agree.

This Court has a "firm policy to decline to rule on constitutional issues unless such a ruling is required." *In re McCracken*, 346 S.C. 87, 92, 551 S.E.2d 235, 238 (2001) (citing *Fairway Ford, Inc. v. Cnty. of Greenville*, 324 S.C. 84, 86, 476 S.E.2d 490, 491 (1996)). Facial challenges like the ones Jones raises are "disfavored" due to the risk of interpreting a statute on a "factually barebones record[]." *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 450, 128 S. Ct. 1184, 1191, 170 L. Ed. 2d 151,

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161 (2008) (quoting *Sabri v. United States*, 541 U.S. 600, 609, 124 S. Ct. 1941, 1948, 158 L. Ed. 2d 891, 900 (2004)). The Supreme Court has explained, "Exercising judicial restraint in a facial challenge 'frees the Court not only from unnecessary pronouncement on constitutional issues, but also from premature interpretations of statutes in areas where their constitutional application might be cloudy.'" *Wash. State Grange*, 552 U.S. at 450, 128 S. Ct. at 1191, 170 L. Ed. 2d at 160-61 (quoting *United States v. Raines*, 362 U.S. 17, 22, 80 S. Ct. 519, 523, 4 L. Ed. 2d 524, 530 (1960)). Our state jurisprudence also reflects a preference for restraint, largely based on the same concerns. See, e.g., *State ex rel. Rawlinson v. Ansel*, 76 S.C. 395, 397, 57 S.E. 185, 186 (1907) ("It is the usual practice of this court not to consider questions which are merely speculative." (citing *Cantwell v. Williams*, 35 S.C. 602, 603, 14 S.E. 549, 550 (1892))); *Garrison v. Target Corp.*, 435 S.C. 566, 588 n.3, 869 S.E.2d 797, 809 n.3 (2022) (citing *McCracken*, 346 S.C. at 92, 551 S.E.2d at 238) (choosing to avoid a constitutional issue because it was "unnecessary" to resolve the case).

The facts in this case are appalling and tempt us to eschew restraint. This case certainly indicates the ordinance affords law enforcement officers discretion which can be grossly abused, as it was here. As Cooper testified at trial, his idea of "hindering" was anything that could make him lose focus. While many circumstances may require law enforcement officers to secure a scene to carry out their duties or secure their safety, what happened to Jones has left us deeply disturbed. However, we decline the temptation to go further than necessary solely because of the egregious behavior of the deputies in this case.

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As is clear from both the body camera footage and the record before us, Jones was doing nothing more than observing and asking questions of the officers. Both of these actions are constitutionally protected conduct, and as such, cannot support a conviction under this ordinance.<sup>1</sup> See *City of Houston, Tex. v. Hill*, 482 U.S. 451, 461, 107 S. Ct. 2502, 2509, 96 L. Ed. 2d 398, 412 (1987) ("[T]he First Amendment protects a significant amount of verbal criticism and challenge directed at police officers."). Similarly, there is no indication Jones did anything beyond engage in protected speech. See *State v. Perkins*, 306 S.C. 353, 354, 412 S.E.2d 385, 386 (1991) ("To punish only spoken words addressed to a police officer, a statute must be limited in scope to fighting words that 'by their very utterance inflict injury or tend to incite an immediate breach of the peace.'" (quoting *Hill*, 482 U.S. at 461-62, 107 S. Ct. at 2509-10, 96 L.Ed.2d at 412)).

Jones stood on his own property merely questioning the deputies. When asked to step back from the location on his own property where he had been

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<sup>1</sup> Subsection (d) of the ordinance reads: "Exceptions. This section shall not apply to constitutionally protected conduct such as the peaceful questioning or protesting of government action." During oral argument, we explored whether this clause could save the ordinance in a broader challenge under different facts. The State argued this clause would prevent someone like Jones from being charged because a solicitor or judge would be aware that his conduct was clearly constitutionally protected. We are cognizant of the fact that in spite of this clause, Jones was nonetheless charged, tried, and convicted. We express no opinion on the import of this clause in a future facial challenge when a defendant is merely engaging in constitutionally protected speech or conduct. However, until that case arises, we expect solicitors and judges to heed the State's argument that this clause should prevent cases like Jones's.



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standing for the whole interaction, he refused. Seconds later, he was aggressively arrested after being tased. Under these facts, his conviction cannot stand.

**III. Conclusion**

For the reasons stated above, we reverse Jones's conviction. We choose to do so on the narrowest grounds—his as-applied challenge—and reserve judgment on the broader challenges to the ordinance for another case.

**REVERSED.**

**BEATTY, C.J., KITTREDGE, JAMES and HILL, JJ., concur.**

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**Original Transcript Page 4**

1 (WHEREUPON, State's Exhibits Nos. 1 & 2  
were  
2 marked for identification only.)  
3 THE COURT: Okay. All right. Let's call to  
bar  
4 The State v. Thomas Charles Jones, that's case  
No.  
5 2018-GS-23-7031.  
6 Is The State prepared to proceed?  
7 MS. HENDRICKS: We are, Your Honor.  
8 THE COURT: And The defense?  
9 MR. NGUYEN: Yes, Your Honor.  
10 THE COURT: Okay. All right. We have  
some  
11 pre-trial motions we need to put on the record?  
12 MR. NGUYEN: Yes, sir, Your Honor.  
13 THE COURT: Okay, Mr. Nguyen, I'll be  
happy to  
14 hear from you, sir.  
15 MR. NGUYEN: We would like to put a motion  
that  
16 we submitted to, Your Honor -- Section 15-10  
17 unconstitutional. I'll very briefly go over the  
18 statement of facts.  
19 THE COURT: Yes, sir.  
20 MR. NGUYEN: The Defendant was arrested  
on  
21 July 21, 2018 by Deputy Cooper for resisting  
arrest  
22 and with assault and violation of Section 15-10.  
23 That section reads, It shall be unlawful for the  
24 incorporated -- assault and battery or by any  
act,

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25 physical or verbal, resist or interfere with any  
law

**Original Transcript Page 5**

1 enforcement officer --  
2 THE COURT REPORTER: I'm sorry, you're  
going to  
3 have to repeat that. And please speak up, I  
can  
4 barely hear you.  
5 MR. NGUYEN: I apologize. And I'll slow  
down.  
6 THE COURT REPORTER: Please.  
7 MR. NGUYEN: Where should I start?  
8 THE COURT REPORTER: Just the last  
sentence is  
9 fine.  
10 MR. NGUYEN: The Section 15-10 of the  
Greenville  
11 County Ordinance reads, It shall be unlawful  
for any  
12 person with [indiscernible] assault and battery  
or by  
13 any act, physical or verbal, resist, hinder or  
14 interfere with any law enforcement officer in  
the law  
15 [indiscernible] duty.  
16 Now, this was an arrest that was based on an  
17 interaction between Deputy Cooper, Deputy  
Lancaster  
18 and the Defendant. Deputy Lancaster and  
Cooper  
19 initiated the traffic stop on Shauntana  
Williams,  
20 outside the residence of the Defendant's. The

### Appendix B-3

21 Defendant came out the rear of his house and  
22 approached the officers. As the Defendant  
23 approached, Officer Lancaster had requested  
backup.  
24 The Defendant peacefully asked the officers  
what was  
25 going on. And why Williams was pulled over.

### Original Transcript Page 6

1 Officers reply that she failed to use her turn  
2 signals.  
3 Now, at this point, Officer Lancaster inquired  
4 if the Defendant needed anything. The  
Defendant  
5 informed that they were friends and that  
Shauntana  
6 was coming to see him that night. She was  
staying at  
7 his place. They had a brief conversation about  
that.  
8 During all this brief conversation, the  
Defendant  
9 steps back a little bit and then a few minutes  
later  
10 the backup that the officer called for arrived.  
11 At this point, the Defendant made a statement  
a  
12 statement that, They know damn well there  
was no big  
13 group of people out here. Officer Lancaster  
demanded  
14 the Defendant to go away or he can go to jail  
for  
15 interfering. The Defendant refused saying he

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was at  
16 his own house. The officer proceeded to arrest  
him  
17 for interfering and they tackled him. There's  
body  
18 camera footage of this and the Defendant's cell  
phone  
19 of this incident.  
20 The issue here is whether or not the County  
21 ordinance should be declared basically  
22 unconstitutional, it's substantial and overbroad  
or  
23 vague. We think in this case it meets both.  
County  
24 ordinance meets both standards. The first test  
to  
25 determine is whether the enactment  
[indiscernible]

**Original Transcript Page 7**

1 constituting the freedom of speech. If it does,  
then  
2 the analysis turns on whether or not the  
enactment  
3 here is substantially broad or vague. Of  
course, you  
4 know, for it to be substantially overbroad, it  
can't  
5 be just -- it's not enough for that enactment to  
work  
6 on just a single permit application.  
7 But the purpose of the underlining overbreadth  
8 doctrine is to prevent vastly sweeping laws  
from  
9 people chilling -- chilling [verbatim] the

## Appendix B-5

expression  
10 of freedom of speech. The statute can also be  
11 invalidated for vagueness. Under two  
conditions.  
12 One, is if it fails to provide people of ordinary  
13 intelligence a reasonable opportunity to  
understand  
14 what conduct prohibits. Or two, authorize or  
15 encourages arbitrary discriminatory  
enforcement.  
16 Now, the First Amendment protects a  
significant  
17 amount of the liberties and challenges and that  
has  
18 been clear -- the case law has been clear  
throughout  
19 our country. We have, you know, the freedom  
to  
20 challenge statues without abuse and without  
risking  
21 arrest. That is what distinguishes us from a  
free  
22 nation -- distinguishes a free nation from a free  
23 state. All the criticism aimed at police can  
only be  
24 limited where it's shown to likely to produce a  
clear  
25 and present danger of serious substantive evil  
that

## Original Transcript Page 8

1 rises above, far above [indiscernible].  
2 Now, the Supreme Court struck down a  
ordinance  
3 that was very similar to the Greenville County

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4 ordinance out of the City of Houston. That  
ordinance  
5 was assaulting or interfering with police meant  
— it  
6 made it unlawful for any person in any manner  
to  
7 oppose, molest, abuse or interrupt any police in  
the  
8 commission of his duties. The Supreme Court  
move  
9 there that that ordinance was broad, was not  
narrowly  
10 tailored to be only -- disorderly conduct or  
fighting  
11 ordinance.  
12 THE COURT: Okay. Let me make sure, Mr.  
Nguyen,  
13 before you go any further. Right now we're  
talking  
14 strictly about the county ordinance. That is  
15 interfering with county officer, not resisting  
arrest  
16 with assault?  
17 MR. NGUYEN: We are not referring to the  
18 resisting arrest with assault.  
19 THE COURT: Okay.  
20 MR. NGUYEN: This is just in reference to the  
21 Section 15-10 of the Greenville County  
ordinance.  
22 THE COURT: Okay, fair enough.  
23 MR. NGUYEN: Now, Greenville County  
ordinance  
24 specifically states by any act physical or verbal.  
I  
25 think that's the key there. It says any act,

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**Original Transcript Page 9**

1 essentially, physical or verbal. There's no  
2 limitations on what acts the officer can deem,  
you  
3 know, as interfering. Essentially, if they deem  
it .  
  
4 so then they can make an arrest. In fact, any  
speech  
5 construed by the officer can be interfering.  
6 The Supreme Court's repeatedly invalidated  
laws  
7 that does not give police unfettered discretion  
to  
8 arrest individual for words or conduct that  
annoy or  
9 offend them. I think the City of Houston, the  
court  
10 noted that -- [indiscernible] -- expression  
because  
11 only those individuals chosen by the police in  
their  
12 unguided discretion are arrested. The  
Greenville  
13 County ordinance presents the exact same  
problem.  
14 Now, if the Greenville County ordinance does  
15 have an exception in it that says that is, you  
know,  
16 this section shall not apply to Constitutional  
17 protective conduct such as peaceful questioning  
or  
18 protesting government actions, I don't think  
that's  
19 enough to say that this is basically invalid.



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20 Essentially, that exception was written there,  
21 essentially, to prevent a potential challenge I  
22 think. But I don't think it's enough. Because  
then,  
23 essentially, if that were allowed, we could write  
any  
24 statute, you know, just say, well it's not, you  
know,  
  
25 unconstitutional -- but even if the statute  
written

**Original Transcript Page 10**

1 is unconstitutional. . .  
2 THE COURT: Do we know if the  
constitutionality  
3 of this ordinance, of this specific ordinance, or  
4 like ordinance has been challenged before?  
And that  
5 is has the caveat that you just referenced?  
6 MR. NGUYEN: I do not think there is a  
7 similar -- no, I don't think any of the other  
cases  
8 that I looked into had that specific caveat. But  
9 like I said, I don't think that's persuasive  
enough  
10 to the. . . The legislature, essentially,  
Greenville  
11 County council, can do without any county  
ordinance,  
12 you know, try to make it valid on that ground.  
But I  
13 don't think that's enough in this case.  
14 THE COURT: Okay. All right.  
15 MR. NGUYEN: Now, as far as the vagueness,

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16 Greenville County ordinance legally fails to  
provide  
17 ordinary intelligence or reasonable opportunity  
to  
18 understand what conduct prohibits and even to  
19 authorize, not even to issue discriminatory  
20 enforcement. Again, the ordinance provides no  
21 definition for what conduct, whether physical  
or  
22 verbal, that will constitute interference with  
the  
23 police. Without clear guidance, officers  
threaten  
24 jail for interfering when it simply is freedom of  
25 speech they deem annoying. .

**Original Transcript Page 11**

1 That was the case in the town of Honea Path in  
2 South Carolina, the Supreme Court, you know,  
the  
3 court noted that an arrest did occur upon  
nothing  
4 more than mere words uttered by a person.  
Which were  
5 not pleasing to local police officers who,  
obviously,  
6 did not like any questioning or challenge --  
anyone  
7 questioning or challenging their authority.  
And that  
8 ordinance was struck down for vagueness. In  
Columbia  
9 District Court vs. The City of Columbia, that  
10 statute, very similar to this, was policy deemed

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11 unconstitutionally vague. And out of  
Kirbyville --  
12 Bucannon in South Carolina, Charleston, also  
struck  
13 down that their county ordinance was vague.  
14 So I think there's enough case law throughout  
15 our state and even across the country show  
that these  
16 county ordinances that have interfering with  
police  
  
17 without clear guidance on what officers can or  
can't  
18 arrest for and vague and gives too much  
discretion to  
19 the officer to decide what -- you know it's hard  
to  
20 be on notice of what you can or can't do if  
there's  
21 no clear definition as to what you can't do,  
22 essentially. I mean, think this ordinance is  
pretty  
23 all in compensated.  
24 For those reasons we would ask that, you  
know,  
25 Section 15-10 of the Greenville County  
Ordinance be

**Original Transcript Page 12**

1 declared unconstitutional.  
2 THE COURT: Okay. Good, thank you very  
much.  
3 All right, Ms. Hendricks, I'll be happy to hear  
4 from you if there's anything you'd like to say in  
5 response.

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6 MS. HENDRICKS: Thank you, Your Honor,  
may it  
7 please the Court. I believe it was already  
mentioned  
8 that none of the cases that the Defense  
references in  
9 his brief contain the exception of the Greenville  
10 County ordinance contains. Testimony at trial  
will  
11 show that the Defendant was arrested for his  
actions  
  
12 and interfering with police, not for his words.  
And  
13 as far as vagueness, under South Carolina  
Department  
14 of Social Services vs. Michelle Gee, the  
Defendant  
15 must prove the challenge statute is vague as  
applied  
16 to his own conduct, regardless if it's potentially  
17 vague application of others. I don't think that  
has  
18 been done in this case.  
19 And then also under the United States  
Supreme  
20 Court case Michigan v. DeFillippo, an arrest  
made in  
21 good faith reliance on an ordinance, which at  
the  
22 time had not been declared unconstitutional,  
it's  
23 valid regardless of the subsequent  
determination of  
24 its unconstitutionality. So I think regardless  
of

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25 the ruling on the ordinance we will still be able  
to

**Original Transcript Page 66 (JONATHAN  
COOPER-DIRECT BY MS. HENDRICKS)**

1 Q Okay. Is that an unincorporated part of  
the

2 county?

3 A Yes, it is.

4 Q If I were to show you a blown-up map of  
that

5 area, would you recognize it?

6 A Yes, ma'am, I would.

7 Q Would that assist in your testimony?

8 A It would.

9 Q Can you see?

10 A Yes, ma'am.

11 Q And can you come down from the stand  
and point

12 out to the jury where the traffic stop was?

13 A Yes, ma'am. We were traveling this  
way when we

14 activated our emergency equipment. And we  
pulled and we

15 stopped in this area right here on B Street.

16 Q Thank you. Was the Defendant in this  
case in

17 the car that you stopped?

18 A No, ma'am.

19 Q Where did he come from?

20 A So, around number 20 on Lyncrest,  
there was a

21 large group of people gathered there. He  
walked up from

22 that direction toward the traffic stop.

23 Q Is the man who approached the traffic

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stop in  
24 the courtroom today?  
25 A Yes, he is.

**Original Transcript Page 67**

1 Q Could you point him out for us?  
2 A He's sitting right over there.  
3 Q Thank you. And you referenced a  
party going on  
4 by a house nearby. Would you mind coming  
down and  
5 pointing out for the jury where that party  
was?  
6 A Yes, ma'am. There was approximately  
20 to 30  
7 subjects in the front yard of this house right  
here. So  
8 just right up from where we were stopped.  
9 Q Did the Defendant know the female  
who was  
10 stopped originally?  
11 A Yes, he did.  
12 Q And were you able -- were you in a  
marked car at  
13 this time?  
14 A Yes, ma'am, we were.  
15 Q Were you wearing a uniform?  
16 A Yes, ma'am.  
17 Q And so, did you actually see the  
Defendant walk  
18 up?  
19 A So when the Defendant walked up I  
was in the  
20 vehicle. I had already made my initial  
contact with the

Appendix B-14

21 female that we had pulled over. I got back in  
the vehicle  
22 while my partner was still out of the vehicle.  
And I was  
23 running her through DMV or whatnot,  
making sure the  
24 license is good, when I hear my partner  
having somewhat of  
25 a confrontation, I guess, you could say with  
somebody. So

**Original Transcript Page 68**

1 I just kind of look over and I do see the  
Defendant  
2 standing outside her car.  
3 Q Okay. And did you get out of the car at  
some  
4 point?  
5 A Yes, ma'am. Once I completed running  
the  
6 initial female that we had stopped, I got back  
out of the  
7 car.  
8 Q And what happened next?  
9 A At that point, I was hearing Deputy  
Lancaster.  
10 He was telling the Defendant, you know,  
what you're doing,  
11 recording is fine but step away, you're too  
close, you're  
12 interfering. Because at that point, not only  
are we  
13 having to focus on our traffic stop, we're  
having to focus  
14 on the subject who was interfering with us.

Appendix B-15

And at that  
15 point it's a risk to us.  
16 So Deputy Lancaster was telling him to step  
17 away. The Defendant wouldn't do it,  
wouldn't do it.  
18 Finally, he was told, You're under arrest, put  
your hands  
19 behind your back. At this point, we had  
already requested  
20 other units for backup. But at this point, we  
went hands  
21 on. I was on -- when you're looking at the  
Defendant from  
22 my point of view, would be the left or the  
right side of  
23 his body. At that point, I attempted to grab  
the  
24 Defendant's right arm. At which point, he  
pulled back,  
25 forced back forward and hit me in the nose.

Original Transcript Page 69

1 Q So after the Defendant hit you, was  
he -- would  
2 you consider that resisting at that point?  
3 A Yes, ma'am. With him just pulling  
away after  
4 he's being told that he's under arrest, then  
him pulling  
5 away, trying to flee from a lawful arrest,  
that's  
6 resisting.  
7 Q And after he hit you in the nose, did  
he stop  
8 resisting?



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9     A     No, ma'am, he did not. At that point,  
other  
10    deputies were arriving on the scene. And we  
were able to  
11    take the Defendant to the ground. However,  
he was still  
12    not complying. He wouldn't give us his  
hands, his hands  
13    were tucked underneath his person. I didn't  
know if the  
14    Defendant had a weapon in his waistband  
that he was trying  
15    to go to, you know. There are a variety of  
factors there.  
16    He was being told by all the deputies to put  
your hands  
17    behind your back, you're under arrest, you're  
resisting,  
18    stop resisting. Nothing we were doing was  
working.  
19    At that point, I unholstered my issued  
20    taser, gave the command that I was going to  
tase the  
21    subject, which I did. And the taser was  
effective. And  
22    after that we were able to apprehend the  
suspect -- or  
23    excuse me, the Defendant.  
24    Q     So after you tased the Defendant he  
stopped  
25    resisting, you were able to get him in  
handcuffs?

Original Transcript Page 70

1     A     Correct.

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2 Q Did the Defendant lose consciousness  
after being  
3 tased?

4 A So he did. After we got him in  
handcuffs, we  
5 went to sit him up. We sat him up against  
the patrol car,  
6 he was unconscious at that point. And any  
time you tase  
7 somebody, especially in a scenario as that, we  
immediately  
8 called for EMS to come on scene to check on  
him.

9 Q Do defendants typically lose  
consciousness when  
10 they're tased?

11 A No, ma'am, that's very uncommon.

12 Q Did the Defendant get checked out by  
EMS?

13 A Yes, ma'am. EMS came out and he  
came back to.

14 EMS cleared him. So on and so forth.

15 Q Can you tell the jury the normal  
procedure for  
16 placing someone under arrest?

17 A Yes. So, of course, when we have  
probable cause  
18 to make an arrest. There's no such thing as  
a routine  
19 arrest. But you're average arrest that we  
deal with day  
20 in and day out. You broke the law, I've got  
probable  
21 cause to say that yes you did that.  
Therefore, I'm

Appendix B-18

22 placing you under arrest. And normally, it's  
you put your  
23 hands behind your back, you go in handcuffs  
and off to  
24 jail you go.  
25 Q Is that what was attempted to be done  
in this

Original Transcript Page 71

1 case?  
2 A Yes, it was.  
3 Q So is a traffic stop considered a police  
4 investigation?  
5 A It is.  
6 Q When conducting an investigation does  
the  
7 Greenville County Sheriff's Office have  
policies and  
8 procedures regarding how close somebody  
can be to your  
9 investigation?  
10 A It's in written -- you know, word for  
word I  
11 can't say that, but he can be five feet or he  
can be 10  
12 feet or so on and so forth. But it's a  
reasonable mean.  
13 If somebody steps in to my investigation  
where I'm having  
14 to take my attention off what I'm there to do,  
it hinders  
15 me from doing my job. That's when we can  
say, you know,  
16 you're too close, you need to back up.  
17 Q Is this of extra concern when the

Appendix B-19

bystander, who  
18 may or may not be interfering, knows who's the  
subject of  
19 your investigation?  
20 A Yes, it absolutely is.  
21 Q So when people get within a certain  
distance of  
22 your investigation, what do you do to protect  
yourself and  
23 your investigation?  
24 A So at that point, when the Defendant  
walked up  
25 and also the individuals that I spoke of  
earlier having a

**Original Transcript Page 72**

1 house party, they get agitated. So to protect  
ourselves,  
2 of course, first thing we have to do is get  
more deputies  
3 on scene. You know, 20 to 30 people against  
five still  
4 isn't great numbers. But that's where we  
have to start  
5 first. You know, get more deputies there.  
Retake control  
6 of the situation and try to get the individual  
causing the  
7 issue or instigating the issue away, taking  
away from the  
8 scene.  
9 Q Do any of your policies change if your  
on  
10 someone's own property or are you still  
allowed to ask

Appendix B-20

11 them to back up?

12 A We're still allowed to ask them to  
back up.

13 Q Do these policies change when  
investigations are  
14 being video recorded?

15 A No, ma'am.

16 Q Are members of the public allowed to  
record  
17 police interactions?

18 A Yes, they are.

19 Q Can you tell us about the charge of  
interfering

20 with a law enforcement officer?

21 A Yes. So interfering is when a  
defendant,

22 person, whoever, if they take my attention  
away from the

23 investigation. So therefore, they're hindering  
me from

24 doing my job.. So in this situation, like I said,  
I'm

25 there for a traffic stop. It's a routine thing,  
we make

**Original Transcript Page 83 (JONATHAN  
COOPER-CROSS BY MR. NGUYEN)**

1 necessarily hear but you heard them having a  
discussion

2 about what was going on?

3 A Yeah, I have no idea what they said  
but I could

4 hear them talking.

5 Q Okay. Well at that point, you didn't  
ask him to

Appendix B-21

6 step away?

7 A I was not patrolling the outside of the vehicle.

8 At that point, there's a concept of a contact and a cover

9 officer. And at that point, I'm the contact. I stopped

10 the car, I'm doing all the information, checking all the

11 DMV records or whatnot for what I'm there for. As to

12 where Deputy Lancaster was my cover officer, trying to

13 patrol everything else outside that vehicle where I could

14 conduct my primary investigation.

15 Q Okay. So for you, you weren't really interfered

16 with in your investigation, you specifically? I'm not

17 saying Lancaster but you specifically?

18 A No, I was. Because him walking up and then

19 talking and hearing that, I'm now having to take my

20 attention off just her and now trying to run everything on

21 my computer so on and so forth. Well now, I have some

22 random person just walking up that I don't know from Adam.

23 So therefore, my attention is divided away from what I

24 need to be doing.

25 Q Okay. I want to briefly go over, I guess, the

Appendix B-22

**Original Transcript Page 86 (JAKE  
LANCASTER-DIRECT BY MS. HENDRICKS)**

1 witness.  
2 MS. HENDRICKS: Thank you, Your Honor.  
The  
3 State calls Jake Lancaster to the stand.  
4 JAKE LANCASTER, {}after being duly  
5 Sworn{}testified as follows:{F}  
6 THE CLERK: Please take a seat and state  
your  
7 name.  
8 THE WITNESS: Jake Lancaster.  
9 DIRECT EXAMINATION  
10 BY MS. HENDRICKS:  
11 Q Mr. Lancaster where do you work?  
12 A I'm currently employed by  
Spartanburg water.  
13 Q And where did you work prior to your  
position  
14 with Spartanburg water?  
15 A The Greenville County Sheriff's  
Office.  
16 Q What was your position at the  
Greenville County  
17 Sheriff's Office?  
18 A I was uniform patrol deputy assigned  
to Delta  
19 platoon, area nine.  
20 Q How long were you with the sheriff's  
office?  
21 A Two years and seven months.  
22 Q Were you working for the sheriff's  
office on  
23 July 21, 2018?

Appendix B-23

24 A Yes, I was.

25 Q And what were you -- what were you  
doing that

**Original Transcript Page 87**

1 night?

2 A We were involved in a street level  
crime unit.

3 Which is why me and Deputy Cooper were in  
the same

4 vehicle. Usually, we're not. We weren't  
assigned to a

5 certain beat area that night. It was just kind  
of a side

6 of town that we were working. Not  
necessarily responding

7 to calls for service unless they were  
emergencies.

8 Q Okay. And did you attempt a traffic  
stop that  
9 night?

10 A I did. I was the passenger in the  
vehicle but

11 yes, we did attempt a traffic stop.

12 Q Where was that?

13 A Lynhurst [verbatim] Drive in area  
seven of

14 Judson Mills.

15 Q Is that in Greenville County?

16 A Yes, it is.

17 Q Is that in a unincorporated portion of  
the

18 county?

19 A Yes, it is.



Appendix B-24

- 20 Q All right. If I were to show you a  
blown-up map  
21 of that area, would you be able to recognize  
it?  
22 A Yes.  
23 Q Would that help in your testimony?  
24 A Yes.  
25 Q The map is actually already up here.  
Does it

**Original Transcript Page 88**

- 1 actually depict the area of the traffic stop?  
2 A Yes, it does.  
3 Q Would you mind--  
4 A Yes, it does.  
5 Q Would you mind stepping down and  
pointing out  
6 where y'all were stopped?  
7 A If I'm looking at this correctly, we had  
the  
8 vehicle stopped somewhere right here in the  
front yard.  
9 I'm not exactly sure where but it was in the  
front of this  
10 house.  
11 Q On B Street?  
12 A On B Street, yes.  
13 Q All right, thank you. Was the  
Defendant in the  
14 car that you stopped?  
15 A No.  
16 Q And do you remember what reason  
that car was  
17 stopped?

Appendix B-25

- 18 A I believe it was a turn signal. And they  
were  
19 driving very erratically. We observed them  
traveling at a  
20 high rate of speed through the mill village.  
21 Q And so, did the Defendant walk up to  
the scene?  
22 A Yes, he did.  
23 Q Were you able to see where he was  
coming from?  
24 A Yes, I did.  
25 Q Is the person who walked up to the  
scene in the

**Original Transcript Page 89**

- 1 courtroom today?  
2 A Yes, he is.  
3 Q Could you point him out for the jury?  
4 A Yes, he's right there.  
5 Q Were there other people outside beside  
the  
6 Defendant?  
7 A In front of the house where we stopped  
the  
8 vehicle, no. But there was a large crowd at  
the house,  
9 not directly to the right, but the one behind  
it.  
10 Q Would you step out and point the jury  
to where  
11 the crowd was?  
12 A So we had the vehicle stopped here in  
front of  
13 his house. The large group of people were  
right here in

Appendix B-26

- 14 his front yard. In front of this house here, or  
to the  
15 side.  
16 Q How many people would you say were  
outside?  
17 A It was very dark, it was nighttime.  
But due to  
18 the loud volume, I would say five to ten,  
maybe more.  
19 Q And were members of the public able  
to tell you  
20 were a law enforcement officer that night?  
21 A Yes, we were in a marked uniform  
patrol vehicle.  
22 We were both wearing matching uniforms.  
23 Q So you weren't in a suit like you are  
today --  
24 A No.  
25 Q You had a uniform on?

Original Transcript Page 90

- 1 A Correct. Uniform like they got on  
today.  
2 Q Were you able to see the Defendant  
walk up?  
3 A Yes.  
4 Q Could you tell where he came from?  
5 A Yes. So I observed -- so initially, when  
we  
6 stopped the vehicle, because I was the  
passenger and not  
7 the contact officer, where Deputy Cooper was  
focused on  
8 the vehicle, when we stopped it I noticed that  
the front

Appendix B-27

9 vehicle kept going and I saw the break lights  
somewhere  
10 around that other house. So I assumed that -  
- assuming  
11 that the Defendant came from that house or  
that vehicle  
12 because he walked up the road. I could see  
the flashlight  
13 coming up the road.  
14 Q So did the Defendant have a  
flashlight?  
15 A I believe it was his phone. Looking  
back on it,  
16 it was probably his phone. But that night it  
just looked  
17 like light to me, I thought it was a flashlight.  
18 Q And what happened once he walked up  
to the  
19 scene?  
20 A So he walked up the road and got in  
our  
21 investigation and began questioning what we  
were doing,  
22 why we were there and why we had stop that  
vehicle.  
23 Q And so what did you do next?  
24 A Because I was the cover officer and not  
no the  
25 contact officer, Deputy Cooper was the  
contact officer

**Original Transcript Page 91**

1 because he was the driver. He was talking to  
the suspect

Appendix B-28

2 that we had initially stopped. And I was  
there for his  
3 scene, for safety. I'm just watching, making  
sure nothing  
4 happens while he talks and does he thing.  
Can you repeat  
5 the question? I'm sorry.  
6 Q It was a broad question, I apologize. It  
was  
7 just what happened after the Defendant  
walked up and you  
8 described him as interfering with your  
investigation.  
9 What did you direct the Defendant to do next?  
10 A Oh, yes. He began questioning what  
we're doing,  
11 why we were there. And I, honestly, can't  
remember if I  
12 told him at first why we stopped her or not.  
But I  
13 remember giving multiple verbal warnings of  
look, you can  
14 go over there, you don't need to be questioning  
what we're  
15 doing here, this is, essentially, a crime scene,  
we're  
16 investigating a crime that occurred, you need  
go back over  
17 to where you came from. You don't need to be  
asking us  
18 any questions at this time.  
19 Q And did the Defendant follow your  
command to  
20 back up?  
21 A No, that's why we had to give multiple,  
multiple

Appendix B-29

22 commands that he needed to back away from  
our scene.

23 Q And were any of those commands  
because he was

24 filming?

25 A No, filming was irrelevant. Like I said  
before,

**Original Transcript Page 92**

1 I didn't even realize that that was a phone. I  
mean, I

2 thought it was a flashlight because it was  
dark out there.

3 Q So what happened next after you  
commanded him to  
4 back up and he refused?

5 A I eventually told him why I was telling  
him to

6 back up. I said he was interfering. I made it  
known to

7 him, look, you're interfering with our  
investigation, you

8 need to go back over there or you're going to  
go to jail

9 for interfering. So I instructed him, look  
we're going to

10 take you to jail if you continue to interrupt our  
11 investigation.

12 Q And did he back up?

13 A No, he did not. So at that point I  
informed

14 him, okay, you're not going to back up, you're  
under

15 arrest for interfering with an investigation.

16 Q Were you able to get him in handcuffs at

Appendix B-30

that  
17 point and place him under arrest?  
18 A No. Luckily, initially, when I saw --  
when I  
19 observed him coming up and I heard the  
crowd. Just  
20 because of the time of night with people  
walking up, I  
21 knew that we had some other vehicles in the  
area because  
22 we were working on that, you know, like,  
street crimes.  
23 So I knew they were in the area so I went  
ahead and  
24 requested them to come over there. Luckily,  
they had  
25 pulled up as soon as we attempted to effect  
the arrest.

**Original Transcript Page 99 (JAKE  
LANCASTER-CROSS BY MR. NGUYEN)**

1 was resisting arrest?  
2 A Other than put his arms up. Not -- not  
put his  
3 arms up, other than shoving his hands out  
towards my face  
4 and then just being, I guess, it's passive  
resisting where  
5 he's pulling away from me. He's just  
constantly trying to  
6 get away from me, wouldn't let me effect the  
arrest. But  
7 he didn't strike me in any way.  
8 Q Did he successful shove you?  
9 A No, he missed me.

Appendix B-31

10 A No, he missed me.  
11 All right, I have no further questions.  
12 Please answer any that The Defense may  
have.  
13 CROSS-EXAMINATION  
14 BY MR. NGUYEN:  
15 Q You stated earlier in -- earlier in your  
16 testimony that you told him, as he came up,  
you answered  
17 his question and you told him to go away;  
correct?  
18 A Correct.  
19 Q That he needed to go away. As soon as  
he walked  
20 up?  
21 A Correct.  
22 Q That's what you testified, correct?  
23 A I believe I did.  
24 MR. NGUYEN: I want to play this again.  
1:45  
25 mark.

**Original Transcript Page 100**

1 (WHEREUPON, State's Exhibit No. 2 was  
2 published.)  
3 BY MR. NGUYEN:  
4 Q Did you ask him to go away at this  
point?  
5 A Not immediately, no.  
6 Q All right.  
7 (WHEREUPON, State's Exhibit No. 2 was  
continued  
8 to be published.)  
9 BY MR. NGUYEN:



Appendix B-32

- 10 Q We're a minute later, a little over a  
minute  
11 later, you asked him to go away yet?  
12 A No, I was just questioning while he was  
there  
13 but I hadn't instructed him to leave yet.  
14 Q Sorry, say that again.  
15 A No, I was just questioning why he was  
there, I  
16 hadn't instructed him to leave yet.  
17 Q But earlier you said you instructed him  
to go  
18 away right away, right?  
19 A Well, I mean, it's all -- I did instruct him  
to  
20 leave.  
21 Q Okay.  
22 (WHEREUPON, State's Exhibit No. 2 was  
continued  
23 to be published.)  
24 A Can you pause it right quick? I want to  
point  
25 something out. If you didn't see how close he  
was

**Original Transcript Page 101**

- 1 standing to me. I had move over to the other  
side. Just  
2 to go off your question earlier about how close  
he was,  
3 that was less than 15 feet. Where he was  
standing.  
4 That's why I had to move over to that other  
side of the  
5 vehicle.

Appendix B-33

- 6 Q But again, you didn't ask him to go  
away yet?
- 7 A No, I haven't.
- 8 (WHEREUPON, State's Exhibit No. 2 was  
continued  
9 to be published.)
- 10 BY MR. NGUYEN:
- 11 Q During all this time, you don't ask him  
to go  
12 away.
- 13 (WHEREUPON, State's Exhibit No. 2 was  
continued  
14 to be published.)
- 15 BY MR. NGUYEN:
- 16 Q At this point, I understand you stated  
earlier  
17 you were worried about distance or whatnot,  
right?
- 18 A Correct.
- 19 Q But you never asked him, hey, I need  
more  
20 distance at this point? That hasn't come up  
yet, right?
- 21 A Correct. I just did it on my own. As  
officer's  
22 safety, I just went ahead and separated  
myself far enough  
23 to where I thought I was okay.
- 24 (WHEREUPON, State's Exhibit No. 2 was  
continued  
25 to be published.)

Original Transcript Page 115

- 1 THE COURT: Okay. All right. Good  
enough. So

Appendix B-34

2 you're going to call one witness?  
3 MR. NGUYEN: Just the one, yes, sir.  
4 THE COURT: Okay. All right, good enough.  
5 All right, ladies and gentlemen, you heard  
that.  
6 So what I want you to do is be back at 2:30.  
And the  
7 reason that's a little bit longer is we got to  
8 conduct some business while y'all are gone  
and I want  
9 to make sure that the court staff personnel  
gets a  
10 full hour for their lunch. So please don't  
discuss  
11 the case, I'll see y'all back at 2:30, all right.  
12 (WHEREUPON, the jury left open court at  
13 approximately 1:12 a.m.)  
14 THE COURT: Okay. All right. Motions?  
15 MS. HENDRICKS: None from The State,  
Your Honor.  
16 THE COURT: From The Defense?  
17 MR. NGUYEN: Yes, Your Honor. We would  
move to  
18 renew our motion that the Greenville County  
ordinance  
19 is basically unconstitutional as well as it  
applies  
20 to the Defendant. I think there was ample  
evidence  
21 from the officers statements that, essentially,  
22 placed physical presence with interfering. I  
don't  
23 see how, you know, as applied to him that, you  
know,  
24 his physical presence was enough to say he  
was

Appendix B-35

25 interfering with their investigation. In  
addition --

**Original Transcript Page 116**

1 in addition, there was the, I believe, it was  
2 officer -- deputy -- former Deputy Lancaster --  
3 sorry, Your Honor, one minute.  
4 THE COURT: That's all right.  
5 MR. NGUYEN: So I think throughout the  
testimony  
6 from the various deputies, that they don't  
have an  
7 understanding themselves of what the  
interfering with  
8 police ordinance is. I guess, they equate it to  
9 physical presence. To me, it would appear  
that, you  
10 know, egregious speech as well as applied to  
him.  
11 Lancaster really didn't have a problem with  
his  
12 presence until the speech. To me, they're  
going  
13 to -- The State is going to say is that, you  
know,  
14 it's only because he's refusing to go away.  
There's  
15 no obligation for him on his own property. I  
don't  
16 this he necessarily has to go away. But it's  
applied  
17 to him and I think it's unconstitutional.  
18 THE COURT: Okay. all right. Good enough.  
19 Any response from The State?  
20 MS. HENDRICKS: Yes, Your Honor. I think

Appendix B-36

there  
21 was ample testimony that their concern was  
not  
22 anything that he said verbally, I think the  
concerns  
23 were for officers safety, public safety and  
dividing  
24 the attention of officers. You can tell from the  
25 video it's very dark. They all -- well, the first

**Original Transcript Page 119**

1 enforcement officer. And I think that is  
2 quintessentially a question of fact for the jury  
to  
3 determine.  
4 So what I intend to do is if I find that the --  
5 and I'm going to read that. But if I find that  
6 the -- that the code is constitutional, I will  
read  
7 them not only prohibition as relaid under this  
code  
8 but also the exception as well. We'll talk a  
little  
9 bit more about charge as well before we take  
off for  
10 lunch, okay. Not in court but we'll have a  
charge  
11 conference, okay.  
12 All right, so on that basis I'm taking under  
13 advisement the constitutionality and I  
respectfully  
14 deny the motion for directed verdict based on  
15 whether, in fact, it was impeded or interfering  
with  
16 a law enforcement officer.

Appendix B-37

17 MR. NGUYEN: Okay. I move for a directed  
18 verdict on everything.  
19 THE COURT: Sure, I gotch you. I gotch you.  
20 And I respectfully deny the motion for directed  
21 verdict under the applicable standard. I  
think that  
22 The State has presented sufficient evidence  
upon  
23 which a motion for directed verdict could be  
24 overcome, has been overcome.  
25 MR. NGUYEN: All right. Thank you, Your  
Honor.

**Original Transcript Page 150**

1 THE FOREPERSON: Both of them?  
2 THE COURT: Yes, sir. Thank you.  
3 Okay, you may publish the verdict.  
4 THE CLERK: In the case of The State of  
South  
5 Carolina vs. Thomas Charles Jones, we, the  
jury, by  
6 unanimous agreement, find the Defendant not  
guilty of  
7 resisting arrest with assault. Guilty of  
interfering  
8 with a county law enforcement officer.  
9 THE COURT: Okay. All right, anything  
further  
10 from this jury from The State?  
11 MS. HENDRICKS: Nothing from The State,  
Your  
12 Honor.  
13 THE COURT: From The Defense?  
14 MR. NGUYEN: No, Your Honor.

Appendix B-38

15 THE COURT: Okay. All right. So, ladies  
and  
16 gentlemen, I appreciate your service on this  
jury.  
17 If you return to your jury room I'll come back  
and  
18 I'll dismiss you informally, give you the  
opportunity  
19 to ask me any questions that you may have or  
give me  
20 any constructive criticism that you may have  
as well.  
21 I won't keep you very long, I promise you. I  
know  
22 that y'all are ready to get outside and play in  
this  
23 nice weather we're having today. But I will  
give you  
24 the opportunity to ask me any questions that  
you  
25 might have. So, if you'd return to your jury  
room,

**Original Transcript Page 154**

1 MR. JONES: It would still allow me to keep  
my  
2 job. Due to the fact that I travel.  
3 MR. NGUYEN: I think it would be hard for  
him to  
4 keep up. Because he does -- as I discussed, I  
call  
5 for appointments to talk with him, he could be  
on his  
6 way back from Charleston. I just think it  
would be

Appendix B-39

7 hard for him.  
8 THE COURT: All right, well, let me ask you  
9 this, you can pay a fine? Because I can do -- I  
can  
10 do -- you don't know who Monty Hall is but  
I'm not  
11 here to make a deal with you or anything. I'm  
just  
12 trying to find something that's fair to you,  
okay.  
13 MR. JONES: Yes, sir.  
14 THE COURT: You can pay a fine?  
15 MR. JONES: If I can work out some payment  
plans  
16 so I don't go to jail.  
17 THE COURT: Yeah, to avoid going to jail for  
30  
18 days, y'all can get together, okay?  
19 UNIDENTIFIED FEMALE: Yes, sir. Yes,  
sir.  
20 THE COURT: All right, here's what I'm  
going to  
21 do. I'm going to sentence you to 30 days.  
And a  
22 fine of \$1,000, provided upon the service of ten  
23 days, weekend time; and a fine of \$500, the  
balance  
24 is suspend. Okay. So, all you have to do is  
ten  
25 days weekend time and pay a fine of \$500. If  
you



Appendix C-1

**§ 15-10 INTERFERING WITH A COUNTY LAW ENFORCEMENT OFFICER.**

(a) *Purpose.* The purpose of the section is to make it unlawful and to provide a penalty for interfering with any county law enforcement officer in the lawful discharge of his or her duty.

(b) *Prohibition.* It shall be unlawful for any person within the unincorporated area of county to commit an assault, battery or by any act, physical or verbal, resist, hinder, impede or interfere with any law enforcement officer in the lawful discharge of his or her duty, or to aid or abet any such act.

(c) *Penalty.*

(1) A violation of this section shall constitute a misdemeanor and shall be punished within the jurisdictional limits of magistrate's court.

(2) Each day or portion thereof during which any violation of the provisions of this section is committed or continued shall constitute a separate offense.

(d) *Exceptions.* This section shall not apply to constitutionally protected conduct such as the peaceful questioning or protesting of government action.

(e) *Severability.* If any section, subsection, or clause of this section shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

(f) *Effective date.* This section shall take effect upon the date of its adoption.

(Ord. 4053, passed 10-17-2006)

Appendix D-1

STATE OF SOUTH )	IN THE COURT OF
CAROLINA )	GENERAL SESSIONS
	THE THIRTEENTH
	JUDICIAL CIRCUIT
COUNTY OF )	
GREENVILLE )	
	) Warrant Number(s):
THE STATE )	2018A2330206756;
	2018A2330206758
	)
v. )	Indictment Number(s):
	2018-GS-23-07031
THOMAS CHARLES )	
FELTON JONES )	
	) DEFENDANT'S MOTION
	TO DECLARE
	) GREENVILLE COUNTY
	ORDINANCE
_____ )	§ 15-10
	UNCONSTITUTIONAL

COMES NOW, Defendant, by and through his Attorney, respectfully submits his Motion to Declare Greenville County Ordinance § 15-10 Unconstitutional. Defendant respectfully requests that § 15-10 of the Greenville County, South Carolina Code of Ordinances be declared "facially" unconstitutional under the Constitution of the United States and the Constitution of the State of South Carolina.

**Statement of Facts**

Defendant was arrested on July 25, 2018 by Officer Jonathan Cooper for resisting arrest with assault and violation of § 15-10 of the Greenville County Ordinance. That ordinance states as follows:

#### Appendix D-2

It shall be unlawful for any person within the unincorporated area of county to commit an assault, battery or by any act, physical or verbal, resist, hinder, impede or interfere with any law enforcement officer in the lawful discharge of his or her duty, or to aid or abet any such act.

The Defendant's arrest was based on an interaction between Defendant and Officer Charles Lancaster. Officers Jonathan Cooper and Lancaster initiated a traffic stop on Shontona Enicha Williams outside the residence of Defendant. Defendant came out at the rear of his house and approached the officers. As Defendant approached, Officer Lancaster requested back up. Defendant peacefully asked officers what was going on and why Williams was pulled over. Officer Lancaster responded that Williams failed to use her turn signals while making turns. At this point, Officer Lancaster inquired if Defendant needed anything. Defendant informed Officer Lancaster that he and Williams are friends, and that Williams was staying at his place for the night. Further conversations ensued regarding the traffic stop between Officer Cooper and Williams. During this time, Defendant stepped back a little. A few minutes later, more officers arrived from the earlier call for back up. Defendant made a verbal statement. Defendant stated, "they know damn well there was no big group of people out here." Officer Lancaster appeared to become agitated and demanded that Defendant go away or he can go to jail for interfering. Defendant refused stating no this was his house. Officers proceeded to arrest him for "interfering." Subsequently, officers gang tackle and tase him.

### Appendix D-3

There is body worn camera footage and Defendant's cell phone footage of this incident.

#### Issue

Should § 15-10 of the Greenville County Ordinance be declared facially unconstitutional because it is substantially overbroad and vague?

#### Law

The "first task is to determine whether the enactment reaches a substantial amount of constitutionally protected conduct." *Hoffman Estates v. Flipside, Hoffman Estates*, 455 U.S. 489, 494, 102 S. Ct. 1186, 1191 (1982). If it does, the analysis turns to whether the enactment is substantially overbroad and/or vague.

"Only a statute that is substantially overbroad may be invalidated on its face." *City of Houston v. Hill*, 482 U.S. 451, 458, 107 S. Ct. 2502, 96 L. Ed. 2d 398 (1987). It is not enough that an enactment evokes only a "single impermissible application" to show facial overbreadth. *Id.* at 457. The purpose underlying the overbreadth doctrine is to prevent vastly sweeping laws from repeatedly chilling the exercise of free expression. *New York v. Ferber*, 458 U.S. 747, 772, 102 S. Ct. 3348, 73 L. Ed. 2d 1113 (1982). As the Court has explained, "the requirement of substantial overbreadth stems from the underlying justification for the overbreadth exception itself—the interest in preventing an invalid statute from inhibiting the speech of third parties who are not before the Court." *City Council of Los Angeles v. Vincent*, 466 U.S. 789, 802, 104 S. Ct. 2118, 80 L. Ed. 2d 772 (1984).

A statute or ordinance can also be invalidated for vagueness if the law (1) "fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits" or (2)

#### Appendix D-4

“authorizes or even encourages arbitrary and discriminatory enforcement.” *City of Houston*, 482 U.S. at 461.

Vague laws offend several important values. First, because we assume that man is free to steer between lawful and unlawful conduct, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws may trap the innocent by not providing fair warning. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law impermissibly delegates basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application. . .

*Grayned v. City of Rockford*, 408 U.S. 104, 108-09, 92 S. Ct. 2294, 33 L. Ed. 2d 222 (1972). “A statute is ‘void for vagueness’ when its ‘terms are so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application.” *Fitts v. Kolb*, 779 F. Supp. 1502, 1516 (D.S.C. 1991) (citing *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 46 S. Ct. 126, 70 L. Ed. 322 (1925)).

#### Analysis

1. *Constitutionally Protected Conduct/Substantially Overbroad*

#### Appendix D-5

"The First Amendment protects a significant amount of verbal criticism and challenge directed at police officers." *City of Houston*, 482 U.S. at 461. "Freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state." *Id.* at 462-63. Verbal criticism aimed at police can only be limited where it is "shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest." *Terminiello v. City of Chicago*, 337 U.S. 1, 4, 69 S. Ct. 894, 93 L. Ed. 1131 (1949).

In *City of Houston v. Hill*, the Supreme Court struck down an ordinance like the Greenville County Ordinance at issue. The City of Houston's ordinance, "Assaulting or interfering with policemen," made it "unlawful for any person to . . . in any manner oppose, molest, abuse or interrupt any policeman in the execution of his duty." *City of Houston*, 482 U.S. at 461. The Supreme Court noted that the ordinance's scope was broad and not "narrowly tailored to prohibit only disorderly conduct or fighting words." *Id.* at 462-63, 465. The Supreme Court also held that the language "in any manner . . . oppose, molest, abuse or interrupt" dealt with speech. *Id.* at 460-61. Though the City of Houston did not specifically mention speech, the Supreme Court interpreted "in any manner" to prohibit both physical and verbal acts.

The Greenville County Ordinance is similar in nature to the City of Houston ordinance and is overly broad. Unlike the ordinance in the City of Houston, the Greenville County Ordinance specifically states, "by any act, physical or verbal." Therefore, the scope of the ordinance covers speech. Much like City of

#### Appendix D-6

Houston, however, the ordinance is not narrowly tailored to prohibit specific speech such as fighting words. Practically any speech could be construed by police to be interfering.

The Supreme Court has also "repeatedly invalidated laws that provide the police with unfettered discretion to arrest individuals for words or conduct that annoy or offend them." *City of Houston*, 482 U.S. at 465. The City of Houston ordinance was "susceptible of regular application to protected expression" because only those individuals "chosen by the police in their unguided discretion" are arrested. *Id.* at 466-67. The Greenville County Ordinance presents the very same problem. The ordinance gives the police free reign on what speech constitutes interference with their duties. Unique to the Greenville County Ordinance, however, is a provision that states, "*Exceptions.* This section shall not apply to constitutionally protected conduct such as the peaceful questioning or protesting of government action." Though this is better than the City of Houston ordinance, the problem remains. Police ultimately have unfettered discretion as to what is constitutionally protected conduct.

Since the Greenville County Ordinance governs speech, is not restricted to obscene language or fighting words, and gives officers "unfettered discretion" to make arrests for constitutionally protected speech, it should be concluded that it is unconstitutionally overbroad on its face.

#### 2. Vagueness

The Greenville County Ordinance both (1) "fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits" and (2) "authorizes or even encourages arbitrary and discriminatory enforcement." *City of Houston*, 482

#### Appendix D-7

U.S. at 461. Under the first test, the ordinance provides no definition for what conduct, whether physical or verbal, would constitute an interference with police. Under the ordinance, practically any speech could interfere with police if deemed so by the police. This leads us to the second test, the authorization of any arbitrary enforcement of the law. Without clear guidance from the Greenville County Ordinance, officers can threaten jail for interfering when they simply disapprove of speech, they deem annoying. Much like the analysis above for overbreadth, the ordinance gives unfettered discretion to the police allowing arbitrary enforcement. In a similar ordinance in *Town of Honea Path v. Flynn*, 255 S.C. 32, 176 SE.2d 564 (S.C. 1970), the ordinance had no guidance for the police in determining what conduct constituted interference. An arrest could occur "upon nothing more than mere words uttered by [a person] which were not pleasing to the local police officers who obviously did not like anyone questioning or challenging their authority." *Town of Honea Path*, 176 S.E.2d at 567-68. That ordinance was struck down for vagueness by the South Carolina Supreme Court.

In addition to the above cases, there are two other cases in South Carolina of local ordinances being declared unconstitutional because they were vague. In *McCoy v. City of Columbia*, 929 F. Supp. 2d 541 (D.S.C. 2013), the District of South Carolina found the city's interfering with police ordinance unconstitutionally vague. Its ordinance read "it shall be unlawful for any person to interfere with or molest a police officer in the lawful discharge of his duties." In *Baker v. Cannon*, 2016 U.S. Dist. LEXIS 132987, the District of South Carolina also struck down a similarly vague statute. The statute read "it shall be



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unlawful for any person or persons willfully to approach nearer than twenty (20) feet to any town employee for the purpose of interfering or stopping that employee from carrying out his/her duties.”

Since the Greenville County Ordinance is similar to numerous other local ordinances that have been declared unconstitutionally vague, is not clear on what conduct is prohibited, and arbitrarily allows police to decide what violates the law, it should be concluded that it is unconstitutionally vague.

**Prayer for Relief**

Defendant respectfully requests that the Court declare § 15-10 of the Greenville County, South Carolina Code of Ordinances be declared unconstitutional.

IT IS SO MOVED.

Respectfully Submitted,

S/Andre Ta Nguyen

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January 13, 2020  
Greenville, South Carolina

**Appendix E-1**

**State's Exhibit # 2  
Body Worn Camera Footage of Deputy Lancaster  
Digital File Provided by Greenville County Clerk of  
Court**