

**FILED**

DEC 10 2004

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION**

LARRY W. PROPPS, CLERK  
FLORENCE, SC

**ENTERED**  
**12-10-04**

Southern Holdings, Inc.; James Spencer; )  
Rodney Keith Lail; Irene Santacrose; Ricky )  
Stephens; Marguerite Stephens; and Doris Holt, )  
Plaintiffs, )

C/A NO.: 4-02-1859-27

vs.

Horry County, South Carolina; Horry County )  
Sheriff's Department; Horry County Police )  
Department; James Albert Allen, Jr., )  
Individually and in his official capacity as an )  
officer with the Horry County Sheriff's )  
Department; Sidney Rick Thompson, )  
Individually and in his official capacity as an )  
officer with the Horry County Sheriff's )  
Department; Jeffrey S. Caldwell, Individually )  
and in his official capacity as an officer with the )  
Horry County Sheriff's Department; Charles )  
McClendon, Individually and in his official )  
capacity as an officer with the Horry County )  
Police Department; Jay Brantly, Individually )  
and in his official capacity as an officer with the )  
Horry County Police Department; Andy )  
Christensen, Individually and in his official )  
capacity as an officer with the Horry County )  
Police Department; Michael Steven Harness, )  
Harold Steven Harness, Ancil B. Garvin, III; )  
David Smith; and John Does, )  
Defendants. )

**ORDER**

This matter comes before me with the consent of the parties. At issue in this case, among other things, is the arrest and stop of Plaintiffs James Brian Spencer and Rodney Keith Lail by the Horry County Police Department on August 6, 2000. There are three original videotapes of the stop made from the video equipment in the two Horry County police vehicles. The Plaintiffs have alleged that the videotapes may have been altered or edited and have retained an expert to inspect

*[Handwritten initials]*

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**DEFENDANT'S EXHIBIT**  
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and analyze the tapes. The original tapes have previously been delivered to the Plaintiffs' expert; however, he did not complete his analysis. Since the tapes were first inspected by the Plaintiffs' expert, they have been turned over to the State Law Enforcement Division ("SLED") by Horry County so that either the Federal Bureau of Investigation ("FBI") could investigate or analyze the tapes as well.

The Plaintiffs deserve the opportunity to have their expert conduct a full analysis of the subject videotapes prior to trial. Accordingly, I am ordering that the following guidelines be adhered to so that SLED and/or the FBI can investigate and/or review the tapes, but that the tapes are also timely returned and the Plaintiffs' expert can complete his analysis:

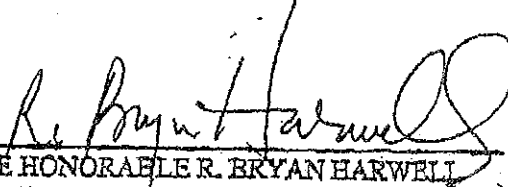
1. Within three days of the execution of this Order a certified copy of this Order will be delivered to SLED by the Horry County Police. Within two days after service of this Order upon SLED, SLED will deliver the videotapes together with a certified copy of this Order to the FBI.
2. On or before January 3, 2005 the FBI will return the videotapes at issue to SLED together with their report. A copy of the FBI's report will also be delivered to this Court on or before January 3 and a copy of the report will be disseminated to all counsel of record in this case.
3. The original videotapes will be produced to the Plaintiffs' expert, Steve Cain, to complete his analysis during the week of January 3, 2005 under the directions of this Court.
4. There is to be no destructive testing performed on the videotapes or equipment by any person or entity.

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5. Horry County will review their files to identify any paperwork concerning the whereabouts of Officer Brantley's video recorder and produce any such documentation to Plaintiffs' counsel by December 20, 2004.
6. If it is determined that Horry County still has possession of Officer Brantley's video recorder and can identify the same, it will be produced to the Plaintiffs' expert, Steve Cain, by January 10, 2005.
7. If any part of this Order cannot be complied with by the parties or entities subject to this Order, this Court is to be notified immediately.

IT IS SO ORDERED.

*Harwell, SC,  
Dec 10, 2004*

  
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 THE HONORABLE R. BRYAN HARWELL  
 JUDGE FOR THE U. S. DISTRICT COURT,  
 DISTRICT OF SOUTH CAROLINA

*[Handwritten initials]*

**PLAINTIFFS' REQUEST FOR INSPECTION AND COPYING  
TO DEFENDANT HORRY COUNTY POLICE DEPARTMENT**

COME NOW plaintiffs in the above-referenced civil action and hereby serve this request for inspection and copying to defendant Horry County Police Department pursuant to Federal Rules of Civil Procedure 34 and request the inspection and copying of the following tangible items to be performed at the Horry County Police Department or other suitable premises on or before January 15, 2004.

1. Inspection of the police vehicle and video equipment used by Officer Brantley during the arrest of James Brian Spencer on August 6, 2000, for the purpose of examining the equipment and making an identifier videotape using the equipment;
2. Inspection of the police vehicle and video equipment used by Officer McClendon during the arrest of James Brian Spencer on August 6, 2000, for the purpose of examining the equipment and making an identifier vidcotape using the equipment;
3. Original videotape(s) from Officer McClendon's vehicle which depict the arrest of James Brian Spencer on August 6, 2000, for the purpose of making a pristine copy from the original;
4. Original videotape(s) from Officer Brantley's vehicle which depict the arrest of James Brian Spencer on August 6, 2000, for the purpose of making a pristine copy from the original;
5. Original audio cassette of the dispatch communications from the Horry County Police Department during the time span of the arrest of James Brian Spencer on August 6, 2000, for the purpose of making a pristine copy from the original.

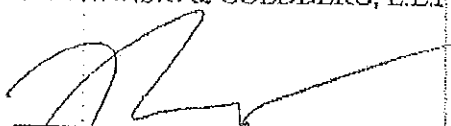
Respectfully submitted,

COOPER, COFFAS, MOORE & GRAY, P.A.



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