

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**S.C. SUPREME COURT**

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

H. Steven DeBerry, IV, Circuit Court Judge

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Case No. 2022-001644

Jawan White,

Petitioner,

Vs.

State of South Carolina,

Respondent,

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PETITIONER'S REPLY TO RESPONDENT'S RETURN BRIEF

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## ARGUMENT

### I. Inaccurate Statement of the Law

Respondent argues in its return brief that White’s trial counsel was not ineffective for failing to object to the trial judge charging the jury with the verbatim language of the trafficking statute in its entirety because, “South Carolina law and other jurisdictions is clear that when a statute provides for alternative factual grounds for guilt, each being independently sufficient to convict on the charged offense, a court may define the offense to the jury by charging the full language of the statute.” (Respondent’s Return Brief, p. 8). This is not an entirely accurate statement of the law in South Carolina.

Respondent fails to acknowledge that South Carolina’s jurisprudence creates a distinction between charging the full, verbatim language of a complicated statute that involves technical legal terms not understood by a layman without simplification, versus a noncomplex statute that does not.<sup>1</sup> The South Carolina authorities cited and quoted by Respondent in support of its proposition involves the latter, with the exception of *City of Columbia v. Moser*, 280 S.C. 134, 311 S.E.2d 920 (1983).<sup>2</sup>

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<sup>1</sup> The trafficking statute in White’s case, Section 44-54-370(e), provides no less than eighteen independent ways a person can be convicted of trafficking: (1) knowingly sells, or (2) knowingly manufactures, or (3) knowingly cultivates, or (4) knowingly delivers, or (5) knowingly purchases, or (6) knowingly brings into South Carolina, or (7) knowingly provides financial assistance, or (8) knowingly aids, or (9) knowingly abets, or (10) knowingly attempts, or (11) knowingly conspires to sell, or (12) knowingly conspires to manufacture, or (13) knowingly conspires to cultivate, or (14) knowingly conspires to deliver, or (15) knowingly conspires to purchase, or (16) knowingly conspires to bring into this State, or (17) who is knowingly in actual or constructive possession or (18) who knowingly attempts to become in actual or constructive possession a control substance equal to or in excess of the threshold weight. S.C. Code Ann. § 44-53-370(3) (2011).

<sup>2</sup> Respondent’s brief also relied on four opinions from other jurisdictions in support of its argument: *U.S. v. Wills*, 346 F.3d 476 (4<sup>th</sup> Cir. 2003); *State v. Zichko*, 129 Idaho 259, 923 P.2d 966 (1996); *Llyod v. State*, 152 A.3d 1266 (Del. 2016); *People v. Fromuth*, 2 Cal. App. 5<sup>th</sup> 91, 206 Cal. Rptr. 3d 83 (Ct. App. 2016). The opinions of other jurisdictions are sometime used as persuasive guidance in circumstances where our Supreme Court has not address or ruled on a particular issue, which is not the condition in this case. *See, State v. Edwards*, 678 S.E.2d 405, 406, 383 S.C. 66 (S.C. 2009).

In support of its argument, Respondent cited or quoted five South Carolina opinions.<sup>3</sup> In *Fields v. Gregory*, an automobile driven by Fields and a truck owned by Gregory's Laundry and Cleaners collided at an intersection between two roads in 1953.<sup>4</sup> 230 S.C. at 41, 94 S.E.2d 16. (1956). Fields sued Gregory for negligently causing the accident, and Gregory alleged, among other defenses, that Fields was contributorily negligence in causing the accident because her conduct violated Section 46-421 of South Carolina law. *Id.* at 41-42. Section 46-421 governed the conduct of vehicles entering an intersection at the same time. *Id.* at 47-48. The trial court charged the jury with Section 46-421 as follows:

The driver of a vehicle approaching an intersection shall yield the right of way to a vehicle which has entered the intersection from a different highway. When two vehicles enter an intersection from different highways at approximately the same time the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

*Id.* at 47-48; *quoting*, S.C. Code Ann. § 46-421 (1956) (present codified as, S.C. Code Ann. § 56-5-2310 (2023)). The trial court rejected Gregory's request to additionally charge the jury that, "whether vehicles are approaching or entering an intersection at approximately the same time does not necessarily depend on which vehicle enters the intersection first but depends primarily upon the imminence of collision when the relative distances and speeds of the two vehicles (sic) are considered." *Id.* at 47. The jury found in favor of Fields, and Gregory appealed asserting, among other things, that the trial judge erred when it denied his requested charge. *Id.* at 41.

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<sup>3</sup> . *Keel v. Seaboard Air Line Ry.*, 108 S.C. 390, 95 S.E. 64 (1918); *State v. Taylor*, 323 S.C. 162, 473 S.E.2d 817 (1996); *State v. Ezell*, 321 S.C. 421, 468 S.E.2d 679 (S.C. App. Ct. 1996); *State v. Cherry*, 348 S.C. 281, 559 S.E.2d 297 (S.C. App. Ct. 2001); and *Fields v. Gregory*, 230 S.C. 39, 94 S.E.2d 15 (1956).

<sup>4</sup> The truck was being driven by an employee of Gregory at the time of the accident.

The Supreme Court of South Carolina rejected Gegory’s argument. The court reasoned that the trial judge charged the jury in the language of Section 46-421, and “[i]n doing so there was no error.” *Id.* at 47-48. Then, in the very next sentence, the court made a very important statement: “***[i]t should be observed that the language of the statute is not involved nor couched in words that are not understandable by a layman.***”<sup>5</sup> *Field v. Gregory*, 230 S.C. at 47, 94 S.E.2d at 20 (S.C. 1956). The Supreme Court asserted that its judgment on the issue was influenced by the fact that Section 46-421 was not a complicated statute, and it used words understandable to the average person.

*Fields* does not support Respondent’s purported declaration of the law, nor does it address the nuanced issue facing this court. *Fields* supports the proposition that it is not an error for a trial judge to track the language of a statute when charging a jury where the statute is not complicated nor couched in words not understandable to the average person. This interpretation is consistent with the South Carolina Supreme Court’s holding in *City of Columbia v. Moser*, 280 S.C. 134, 311 S.E.2d 920 (1983), where it affirmed a conviction of a defendant who objected to a trial judge charging the jury with the entire language of a criminal statute containing multiple independent elements of guilt, where two of the elements charged were irrelevant and inapplicable to the case. The *Moser* court reasoned, “[w]e hold that the language complained of is ***not so offensive or confusing that reasonable minds would be misled (sic) or prejudiced by the reading thereof.***” *Id.* at 137. The court affirmed that South Carolina law permits a trial judge to charge the entire language of a statute as long as the statute is not “involved nor couched in words that are

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<sup>5</sup> Word “involved” is defined as marked by extreme and often needless or excessive complexity, or difficult to deal with because of complexity or disorder. “Involved.” Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/involved>. Accessed 4 Sep. 2023.

not understandable by a layman,” or “not so ... confusing that reasonable minds would be misled (sic) or prejudiced.” *Field v. Gregory*, 230 S.C. at 47, 94 S.E.2d at 20 (S.C. 1956); *City of Columbia v. Moser*, 280 S.C. a 137, 311 S.E.2d at 921 (1983).

This interpretation would also be consistent with and respect the long line of South Carolina opinions quoted by White where our Supreme Court has consistently held that ***“[i]t is reversible error to charge a correct principle of law as governing a case when such principle is inapplicable to the issues on trial.”*** *Cole v. Raut*, 617 S.E.2d 740, 743, 365 S.C. 434 (S.C. 2005); *Wright v. Harris*, 228 S.C. 144, 148, 89 S.E.2d 97, 98 (S.C. 1955) (“[I]t is reversible error to charge a correct principle of law as governing a case when such principle is inapplicable to the issues on trial”); *State v. Washington*, 338 S.C. 94, 526 S.E.2d 709 (SC 2000) (“Jury instructions by the court of irrelevant and inapplicable principles may be confusing to the jury and can be reversible error.”); *Thomson v. Sexton*, 15 S.C. 93, 95 (S.C. 1881) (“Error may be committed not only by laying down to the jury incorrect general principles of law, but also by applying correct principles of law to cases in which they are not properly applicable.”); *Jennings v. Clearwater Mfg. Co.*, 172 S.E. 870, 875, 171 S.C. 498 (S.C. 134) (“A trial judge should take care not to confuse the jury by charging them on legal principles which are inapplicable to the case on trial.”); *McCullough v. The American Workmen*, 200 S.C. 84, 20 S.E.2d 640 (S.C. 1942) (“We are of the opinion that the complaint did not state an action for fraud in inducing the contract, and that the charge as to this question was irrelevant, immaterial, misleading, and prejudicial, and therefore erroneous.”); *Miller v. Schmid Laboratories, Inc.*, 307 S.C. 140, 142-143, 414 S.E.2d 126, 127 (S.C. 1992) (“The instructions by the court of irrelevant and

inapplicable principles of law was clearly erroneous and may have been confusing to the jury.”).

Respondent interpretation of the law would result in a conflict or contradiction between these South Carolina judicial opinions. I believe the legal maxim that, “statutes touching upon the same subject matter must be read in harmony to give effect to each whenever possible, as it is presumed that the legislature is familiar with prior legislation and, if it intended to repeal an existing law, it would expressly do so,” also applies equally to the legal opinions of the judiciary. *Seels v. Smalls*, 437 S.C. 167, 176-177, 877 S.E.2d 351, 356 (S.C. 2022).

In *State v. Cherry*, Cherry was charged with possession with intent to distribute crack cocaine.<sup>6</sup> 348 S.C. 281, 284, 559 S.E.2d 297 (S.C. Ct. App. 2001). After the conclusion of the evidence phase of the trial, the judge instructed the jury with the applicable law, including a circumstantial evidence charge that there was no legal distinction between circumstantial evidence and direct evidence, based upon language that had been recently approved by the South Carolina Supreme Court in *State v. Grippon*, 327 S.C. 79, 483 S.E.2d 462 (1997). *Id.* at 286-287. The *Grippon* court also acknowledged that the traditional circumstantial evidence charge found in *State v. Edwards*, 298 S.C. 272, 379 S.E.2d 888 (S.C. 1989), which recognized a distinction between the two forms of evidence, was also a legally correct and appropriate instruction. *Id.* at 286-287. Cherry requested the jury also be given the traditional circumstantial evidence charge in *Edwards*, which was denied. *Id.* at 286.

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<sup>6</sup> Cherry was also charge with possession with intent to distribute within the proximately of a public park, which was dismissed the by the trial judge on Cherry’s motion for directed verdict.

The South Carolina Court of Appeals found no error by the trial judge. *State v. Cherry*, 348 S.C. at 286 (S.C. Ct. App. 2001). The court reasoned that the *Gippon* circumstance evidence charge was a correct statement of the law and that a judge properly instructs a jury if he or she adequately states the applicable law of the case. *Id.* at 287.

The error of law issue addressed in *Cherry* is not the same issue before the court in White's case. In *Cherry*, the court was confronted with whether it was an error to decline to charge a traditional definition of a legal principle, where the trial judge charged a new definition, and where the South Carolina Supreme Court had recently approved both definitions as correct statements of the law and appropriate instruction for a jury. The issue addressed, and the law declared, in *Cherry* have no application to the nuanced issue before the court in this case; and therefore, legal and factually distinguished.

In *Keel v. Seaboard Air Line Ry.*, a civil action was brought by the estates of two persons who were struck and killed by a train at a crossing. 108 S.C. 390, 391, 95 S.E. 64, 65 (1918). The estates alleged that Seaboard, the owner of the train, was negligent and reckless in some way not fully explained in the language of the opinion. *Id.* A jury returned a verdict in favor of Seaboard, and the estates appeal. *Id.* at 391, S.E. at 64.

The estates alleged seven grounds of error, of which the first five involved the judge's charge to the jury. The language of the opinion does not explain what the errors were but simply identifies them numerically. In addressing errors 3 and 4, the *Keel* court held that "[h]e (the trial judge) read the statute to the jury, and that was sufficient. He had the right to read the statute to the jury, or, if the language of the statute was embodied in his own language, this was sufficient." *Id.* at 393, S.E. at 65. The language of the opinion does not identify the statute charged, describe the language of the statute, or indicate if it

was charged verbatim. *Keel v. Seaboard Air Line Ry.*, 108 S.C. 390, 391, 95 S.E. 64, 65 (1918).

*Keels* does not support Respondent's argument nor address the issue before this court for the same reasons *Fields* and *Cherry* do not. The *Keels* court makes a general statement that reading the statute to the jury was sufficient, with no indication from the language of the opinion whether the statute was complex with multiple independent actions of guilt to be sorted through by the jury to determine each's application or relevancy.

In *State v. Taylor*, Taylor was on trial for trafficking in methamphetamine. 323 S.C. 162, 163, 473 S.E.2d 817, 817 (S.C. Ct. App. 1996). The trial judge charged the trafficking statute, which contained multiple independent acts that could solely support a conviction for trafficking, without objection from Taylor. *Id.* at 164-165, S.E.2d at 818. The judge also charged the jury that the prosecutor must prove beyond a reasonable doubt that Taylor's conduct was at least criminally negligent. *Id.* at 165, S.E.2d at 818. A jury convicted Taylor, and she appealed asserting two errors of law, one of which was the judge instructing the jury that she could be found guilty of trafficking if her conduct was at least negligent.<sup>7</sup> *Id.* at 165, S.E.2d at 818.

The South Carolina Court of Appeals reversed Taylor's conviction on the basis it was a reversible error to charge the jury her guilt could be found on negligent conduct. *Id.* at 165-166, S.E.2d at 818. The court reasoned that the trafficking statute expressly identified "knowingly" as the required state of mind, and that negligence is not equivalent

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<sup>7</sup> The other error of law was based on the judge declining to charge the jury that the government must prove beyond a reasonable doubt Taylor knew the amount of drugs she possessed was at least 10 grams, the threshold weight for trafficking under the statute she was charged. The appellate court rejected the Taylor's argument on the rationale that the amount not the conduct that distinguishes trafficking from a distribution or possession offense.

to knowingly, but a lower standard. *State v. Taylor*, 323 S.C. at 165-166, 473 S.E.2d at 818 (S.C. Ct. App. 1996).

*Taylor* is an erroneous charge case where the trial judge misrepresented to the jury that a principle of law applied when it did not. *Taylor* did not involve the issue of whether it is an error to charge a jury with the verbatim language of a complicated statute that creates multiple independent acts of guilt when most of those acts are inapplicable to the case. To the extent that *Taylor* is relevant, it supports White's proposition that it was erroneous for the trial judge to charge the jury that conspiracy was an applicable criminal act for its consideration in determining his guilt. This was wrong just as it was wrong for the judge in *Taylor* to instruct the jury that criminal negligence was an applicable state of mind it could consider in determining Taylor's guilt.

In *State v. Ezell*, Ezell was charged with trafficking in crack cocaine and possession with intent to distribute within a half mile of a school. 321 S.C. 421, 422, 468 S.E.2d 679, 679 (S.C. App. Ct. 1996). At trial, the judge charged the jury with Section 44-53-375(C) of the trafficking statute.<sup>8</sup> *Id.* at 425, S.E.2d at 681. Additionally, Ezell requested a charge from Judge Ervin's request to charge book:

Trafficking is defined, in addition to the statutory mandate finding of a certain quantity, by way of general information, as "engaging in commercial activity to buy and sell regularly." Trafficking imputes the carrying on or the engaging in a business. The word "traffic" has a popular meaning of an exchange or passing of goods or commodities for other goods or money.

*Id.* at 425, S.E.2d at 681. The trial judge denied the request, and Ezell was convicted on both offenses. *Id.* at 425-426, S.E.2d at 681. He appealed the denial of his request to charge, among other things. *Id.* at 425, S.E.2d at 681.

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<sup>8</sup> It is not certain whether the judge charged the full verbatim language of the Section 44-53-375(C) or a modified version.

The South Carolina Court of Appeals found no error and affirmed Ezell's convictions. *State v. Ezell*, 321 S.C. at 426, 468 S.E.2d at 681 (S.C. App. Ct. 1996). The court reasoned that it is not an error for a judge to reject to charge an accurate statement of the law as long as the charge as a whole was sufficient to cover the law applicable to the case.

Likewise, *Ezell* does not support Respondent's argument or its misstatement of the law. Like the court in *Cherry*, *Ezell* confirms that it is not an error for a judge to reject a request to charge where the judge's charge as a whole was sufficient to cover the applicable law of the case even if the requested charge is a correct statement of the law. To the extent that *Ezell* is relevant, it supports White's argument that it was an error for the trial judge to instruct the jury that conspiracy was a valid theory of guilt it could consider. The *Ezell* court stated that it would have been misleading to instruct the jury on the trafficking charge requested by Ezell because it, "would place undue emphasis on that portion of the statute which defines the selling and purchasing of the drugs as trafficking." *Id.* at 426, S.E.2d at 681.

In White's case, in addition to instructing the jury on the full language of the trafficking statute, the judge charged the jury that, "[u]nder trafficking in heroin, twenty-eight grams or more, the presence of only imitation heroin at the transaction is irrelevant if the State proves, beyond a reasonable doubt that the Defendant "conspired or attempted" to purchase more than twenty-eight grams of real heroin." (App. pp. 163, 323-324). The same concern expressed in *Ezell* applies here where the additional charge placed emphasis on the conspiracy and attempt elements of the trafficking statute, especially where the conspiracy element was irrelevant and inapplicable to the case.

## II. Misleading or Confusing to the Jury

The issue not before the court is the general question of whether a judge can charge the full language of a criminal statute at issue in a case because *Fields* and *Moser* state a judge can if the statute is not difficult to comprehend nor use words not understandable by a layman, or if doing so would mislead or confuse a jury, or prejudice a party. *Fields v. Gregory*, 230 S.C. at 47, 94 S.E.2d at 20 (S.C. 1956); *City of Columbia v. Moser*, 280 S.C. at 137, 311 S.E.2d at 921 (1983). Make no mistake, the specific issue before the court in White's case is whether charging the jury with the full and verbatim language of the trafficking statute could have been misleading or confusing to the jury, or prejudiced White, when considering the trafficking statute created no less than 18 independent criminal actions of guilt, with the state only needing to prove one to convict, and where 17 of the 18 criminal actions were irrelevant and inappropriate to the case, and where the judge instructed the jury it could consider 6 of the 17 irrelevant and inappropriate criminal actions based on conspiracy in evaluation White's guilt, and where the court used a general verdict form which does not identify whether the jury's verdict against White was based one of the 6 inappropriate criminal acts of conspiracy or one of the 11 other criminal actions irrelevant and inappropriate to the case.

There is no reasonable doubt that a jury of laypersons could have been misled or confused in believing White was guilty of one of the criminal acts of conspiracy in the statute because it was told to them by the judge conspiracy was fair game in their deliberation, and because Assistant Solicitor Martin Spatlin ("Assistant Solicitor Spratlin"), a seasoned jurist and prosecutor with approximately 17 years of experience testified that there was a "real possibility" and "reasonably possible" based upon his

reading of the judge's charge on trafficking the jury could have found White's guilt on acts of conspiracy. (App., pp. 213-214, 222, 223).

### III. Prejudice

Finally, Respondent argued that “[e]ven if counsel was ineffective, White has not shown prejudice,” because “[t]he State's case was extremely strong,” and “White was caught red-handed attempting to purchase heroin.” This statement is not accurate and an oversimplification of the challenges before the jury for two reasons. First, Assistant Solicitor Spratlin, who was no advocate for White, admitted that there was a reasonable probability that the jury found that White conspired with the two confidential informants in the case because the language of the trafficking charge lends itself to that interpretation. (App., pp. 213-214, 223). Furthermore, that interpretation of the trafficking charge was highly probable because the jury was never instructed by the judge that the two confidential informants used in the control drug operation could not be counted for the purpose of reaching two or more persons necessary to form a conspiracy. (App., pp. 157-165); *see also, State v. Holmes*, 277 S.C. 232, 233, 285 S.E.2d 353 (S.C. 1981).

Second, the State's successful prosecution of White solely on the attempt element of the trafficking statute was far from certain, and the jury questioned where it had proven that White attempted to purchase the threshold weight of 28 grams or more of heroin to sustain a conviction for trafficking in that amount. White argued in closing at trial that he was entrapped into purchasing four ounces (over 113 grams) of imitation heroin because it was the State that determined the drug's weight. (App., pp. 154-157).

What do you know about Jawan White? You don't know whether he's in the drug business of (sic) not.... [W]hen you talk about entrapment, and whether the Defendant, Jawan White, is predisposed to commit the crime, what don't you have? You don't have an existing course of criminal conduct

by the Defendant similar to the crime charged. You have haven't hear[d] a word about that.... An Already formed plan by the defendant to commit the crime. A willingness to commit the crime charged as shown by the defendant's ready response to the inducement.... What witness would you have liked to have heard from that's not hear (sic)?... How about the guy who set up the deal?... We know that this deal was set up before the informant that testify came into this case at all.... The whole thing was put together by a paid informant who never showed up in court. You can't know what the paid informant said to Jawan White.... They brought the case, why didn't they bring that guy?... [T]he paid informant selected the amount of heroin that he was going to sell. We know for certain, based on the testimony of the police officer, that it was the government's informant that created this transaction, the four ounces of heroin was a decision made by the government paid informant on behalf of the government.

(App., pp. 153-154). Agent Miller, the drug enforcement agent who managed the drug operation, and the State CI both testified at trial that the weight was set by the Federal CI prior to them becoming involved in the case. (App., pp. 97-98, 102, 129-130); (*See also*, Appellant's Writ of Certiorari Brief, p. 1.) Specifically, Agent Miller testified that when he and the State CI entered the operation, he was only told that White wanted to purchase a large sum of heroin but had no knowledge of a specific amount. (App., pp. 129-130). Agent Miller also testified that the informant was instructed to tell White that he didn't deal in less than four ounces of heroin. (App., pp. 129-130). Agent Miller and the State CI had never met White prior to that controlled operation. (App., pp. 94-95, 129). Furthermore, Assistant Solicitor Spratlin admitted in this testimony at the PCR hearing that entrapment was an important issue to White's defense at trial, and could have resulted in his acquittal if accepted by the jury. (App., pp. 246-249).

The trial judge gave the following entrapment charge to the jury:

The Defendant in this case has raised the defense of entrapment. Entrapment is shown if one, the crime was conceived and planned by an officer or someone acting as a agent of law enforcement, two, the officer or agent induced, solicited, purposed, initiated, suggested, or persuaded the Defendant to commit the crime, and three, the Defendant would not have

committed the crime without the trickery, persuasion or fraud of the officer or agent. The state is required to prove, beyond a reasonable doubt, that the Defendant was predisposed to commit the crime without the inducement of the officer or agent.

Predisposed to commit the crime means the Defendant had the intent, purpose, readiness, or willingness to commit the crime, without inducement or persuasion of the law officer or agent. The fact that the officer or agent merely presented opportunities or facilities for the commission of the crime is not entrapment. If you find that Defendant had any predisposition, without inducement and influence to commit the crime the defense of entrapment would not apply. In deciding whether the Defendant had any predisposition to commit the crime you may consider evidence such as, number one, an existing course of criminal conduct by the Defendant similar to the crime charged. Number two, an already-formed plan by the Defendant to commit the crime, and three, a willingness to commit the crime charge as shown by Defendant's ready response to the inducement. If you find that Defendant was entrapped into committing the crime you must find the Defendant not guilty.

(App., pp. 163-164). During deliberation, the jury presented questions to the court for clarification that were relevant to White's entrapment argument:

"We want to know that the penalty is for twenty-eight grams."

"Did the State – why did the State say he (White) had to buy four ounces?"

"Did the State say he (White) had to buy twenty-eight grams or more?"

(App., pp. 168-170). It was clear from the trial testimony of Agent Miller and the State CI that White had not set the drug's weight, and that the Federal CI had set the weight before they appeared in the operation. (App., pp. 97-98, 102, 129-130). White requested the judge to inform the jury that the State did say that White had to buy twenty-eight grams or more, but the judge declined his request. (App., p. 171).

The jury was obviously struggling with whether the State had proven beyond a reasonable doubt that White was predisposed to buying at least twenty-eight grams of heroin, which was the threshold weight the State had to prove. *Sandstrom v. Montana*, 442

U.S. 510, 99 S. Ct. 2450 (1979). The argument that White was not prejudiced because the State had a strong case on the “attempted” conduct of the trafficking alone is not supported by the facts. Had the jury simply remembered that it was the State that had set the drug’s weight, it could have reasonably concluded that there was no evidence presented at trial that White was predisposed to purchasing at least twenty-eight grams of heroin, which would have resulted in his acquittal, and he would be home today with his family instead of lingering in prison on a twenty-five-year sentence.

CONCLUSION

White’s trial was ineffective in failing to object to the charge on trafficking, which was confusing and misleading, and White was prejudiced because of that error.

Respectfully submitted,

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Florence, SC

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