

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

RECEIVED

APPEAL FROM CHARLESTON COUNTY Nov 09 2023  
Court of General Sessions

SC Court of Appeals

The Honorable Bentley Price., Presiding Judge

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INDICTMENT: 2023GS1003919  
WARRANT: 2021A1010203766

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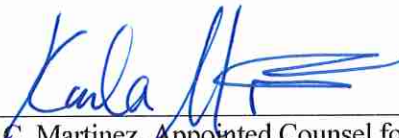
STATE OF SOUTH CAROLINA, RESPONDENT

VS.

KYLE NICHOLAS MOUZON, APPELLANT

NOTICE OF APPEAL

Kyle Nicholas Mouzon. appeals his convictions and sentence in this case. The defendant was found guilty of PWID Meth 1st on September 14, 2023. The Honorable Bentley Price sentenced him five (5) years on PWID Meth 1st on September 14, 2023. The Defendant filed a Motion to Reconsider his sentence on September 18, 2023. Subsequently, that motion was denied by the court on October 31, 2023.



---

Karla C. Martinez, Appointed Counsel for Kyle Nicholas Mouzon  
Charleston County Public Defender's Office  
101 Meeting Street, 5<sup>th</sup> Floor  
Charleston, SC 29401

Other counsel of record are:  
Sara B. Bozarth, Assistant Solicitor  
Office of the Solicitor, Ninth Judicial Circuit  
O.T. Wallace County Office Building  
101 Meeting Street, 4<sup>th</sup> Floor  
Charleston, SC 29401  
(843) 958-1900

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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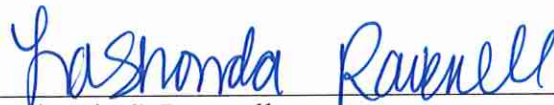
STATE OF SOUTH CAROLINA, RESPONDENT

VS.

KYLE NICHOLAS MOUZON., APPELLANT

**PROOF OF SERVICE**

I certify that I have served the Notice of Appeal on, Assistant Solicitor for Charleston County, by hand delivering a copy of it to the Charleston County Solicitor's Office at 101 Meeting Street, Charleston, South Carolina 29401, on November 08, 2023.



---

LaShonda C. Ravenell  
Paralegal to Karla C. Martinez  
Charleston County Public Defender  
O. T. Wallace County Office Building  
101 Meeting Street, 5<sup>th</sup> Floor  
Charleston, SC 29401  
(843) 958-1850

Dated: 11/8/2023

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY  
Court of General Sessions

The Honorable Bentley Price., Presiding Judge

INDICTMENT: 2023GS1003919  
WARRANT: 2021A1010203766

RECEIVED

Nov 09 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA, RESPONDENT

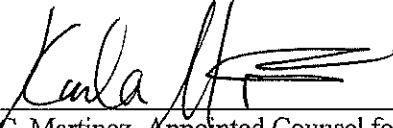
VS.

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FILED  
2023 NOV -8 PM 4:28  
CLERK OF COURT

  
Karla C. Martinez, Appointed Counsel for Kyle Nicholas Mouzon  
Charleston County Public Defender's Office  
101 Meeting Street, 5<sup>th</sup> Floor  
Charleston, SC 29401

Other counsel of record are:  
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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

Nov 09 2023

APPEAL FROM CHARLESTON COUNTY  
Court of General Sessions

SC Court of Appeals

The Honorable Bentley Price., Presiding Judge

INDICTMENT: 2023GS1003919  
WARRANT: 2021A1010203766

STATE OF SOUTH CAROLINA, RESPONDENT

VS.

KYLE NICHOLAS MOUZON., APPELLANT

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on, Assistant Solicitor for Charleston County, by hand delivering a copy of it to the Charleston County Solicitor's Office at 101 Meeting Street, Charleston, South Carolina 29401, on November 08, 2023.

FILED  
2023 NOV -8 PM 4:20  
JULIE A. APPELLO  
CLERK OF COURT  
BY

*LaShonda C. Ravenell*

LaShonda C. Ravenell  
Paralegal to Karla C. Martinez  
Charleston County Public Defender  
O. T. Wallace County Office Building  
101 Meeting Street, 5<sup>th</sup> Floor  
Charleston, SC 29401  
(843) 958-1850

Dated: 11/8/2023

STATE OF SOUTH CAROLINA )  
)  
COUNTY OF CHARLESTON )  
)  
)  
)  
)  
)  
)  
)  
)  
STATE OF SOUTH CAROLINA )  
)  
vs. )  
)  
KYLE NICHOLAS MOUZON, )  
)  
Defendant )  
\_\_\_\_\_ )

IN THE SOUTH CAROLINA COURT OF APPEALS

Indictment: 2018GS1004815  
Warrant: 2018A1011100119  
Charge: PWID Meth 1st

**RECEIVED**  
**Nov 09 2023**  
**SC Court of Appeals**

**REQUEST FOR REPRESENTATION  
ON APPEAL**

On behalf of the request of the above-named Defendant, to be represented by the South Carolina Commission of Appellate Defense, the undersigned attorney would show unto this Honorable Court that:

1. He is the attorney for the defendant-appellant in the above captioned case. The defendant has requested to file an appeal with the Clerk of Court and he is filing on his behalf.
2. The defendant-appellant was represented by the Charleston County Public Defender's Office as an indigent, pursuant to the Defense of Indigent Act.
3. The defendant-appellant has been informed that he may request assistance from the South Carolina Commission of Appellate Defense in perfecting his appeal.
4. A timely Notice of Intention to Appeal has been filed on the defendant's-appellant behalf.
5. The defendant-appellant has been informed that nothing requires that office to pursue this appeal unless that office's Chief Attorney is satisfied that there is arguable merit to this appeal and that he cannot afford to hire an attorney.

At this time, the defendant-appellant requests the aid of the South Carolina Commission of Appellate Defense in perfecting his appeal to the South Carolina Court of Appeals.

  
\_\_\_\_\_  
Karla C. Martinez, Appointed Counsel for  
Kyle Nicholas Mouzon

Charleston, South Carolina

Dated: 11/8/2023

RECEIVED

Nov 09 2023

SC Court of Appeals

STATE OF SOUTH CAROLINA )  
 ) VERIFICATION  
COUNTY OF CHARLESTON )

Personally appeared before me the above-signed attorney, who being first duly sworn, deposes and says that she has read the foregoing Request for Representation on Appeal and knows the allegations contained therein are true, except as to those which may be alleged to be upon information and belief, and as to those she believes them to be true.

SWORN to and subscribed before me

this 8 day of November, 2023

Goyce E. Gordon  
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 12-9-31

ARREST WARRANT

2021A1010203766

STATE OF SOUTH CAROLINA
County/ Municipality of

Charleston

THE STATE
against

Kyle Nicholas Mouzon

Address:

Phone: (000)000-0000

Sex: M Race: Height: 6 1 Weight: 180

DL State: SC DL #: 100583367

DOB: Agency ORI #: SC0100100

Prosecuting Agency: Charleston City Police Department

Prosecuting Officer: Jeremy E Bailey - S00351

Offense: Drugs / Distribution, etc. of methamphetamine, 1st
(Excludes manufacturing meth; see CDR Code

Offense Code: 3198

Code/Ordinance Sec: 44-53-0375 (B) (1)

This warrant is CERTIFIED FOR SERVICE in the
County/ Municipality of

is to be arrested and brought before me to be
dealt with according to the law. The accused

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Personally appeared before me the affiant
being duly sworn deposes and says that defendant
did within this county and state on or about
State of South Carolina (or ordinance of
in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Distribution, etc. of methamphetamine, 1st (Excludes manufacturing meth; see CDR Code
3776)

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:
PLEASE SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA
County/ Municipality of

Charleston

Affiant's Address
180 Lockwood Blvd.
Charleston, SC 29403-

Affiant's Telephone (843)577-7434

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

on or about 7/15/2021
did violate the criminal laws of the State of South Carolina (or ordinance of
County/ Municipality of Charleston ) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Distribution, etc. of methamphetamine, 1st (Excludes manufacturing meth; see CDR Code
3776)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me
on 7/15/2021

Signature of Issuing Judge
Richard L. Singleton-Brown
Judge Code: 7320
Judge's Address
2145 Melbourne Street, Suite 100
Charleston, SC 29405-
Judge's Telephone (843)745-2216
Issuing Court: X Magistrate Municipal Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

WITNESSES



FILED  
2021 JUL 19 PM 12:48  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

BAIL set by  
**Judge Richardine Singleton-Brown**

Judge \_\_\_\_\_  
on 7/15/2021  
Type and Amount: \$15,000.00 PR  
Name of Surety: \_\_\_\_\_

PRELIMINARY HEARING held by

Judge \_\_\_\_\_  
on \_\_\_\_\_  
Defendant Attorney: \_\_\_\_\_  
Decision: \_\_\_\_\_

DISPOSITION before

Judge \_\_\_\_\_  
on \_\_\_\_\_  
by \_\_\_\_\_  
(Indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: \_\_\_\_\_  
Sentence: \_\_\_\_\_

JURORS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CODEFENDANTS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, ROGER OWEN, who first being duly sworn deposed and says that, Kyle Nicholas Mouzon, did within this county and state on the 15 July 2021 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

PWID Methamphetamine
44.53.375 B

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

That on Thursday, July 15, 2021 at approximately 03:00 a.m. while at the intersection of Meeting Street and Lee Street, Charleston, South Carolina, 29403, which is located in the City and County of Charleston in the State of South Carolina, the defendant, Kyle Nicholas Mouzon, did knowingly, willingly, and unlawfully violate South Carolina State Statute 44-53-375 (B) (PWID Methamphetamine) in the following manner:

Sgt. Flaherty was notified of a domestic violence incident involving a black Chevy truck. Officers conducted a traffic stop on a black Chevy truck (SC tag REX577) for traffic violations at the above stated location. A check of the driver's license (later identified as the defendant) showed suspended. The defendant was lawfully detained. A search of the vehicle, incident to lawful arrest, was conducted, and 3.4 grams of methamphetamine was recovered from the defendant's center console. The Methamphetamine tested presumptive positive as such by Sgt. Scurry.

The defendant was informed of his Miranda Rights (on CPD BWC), and stated that he understood those rights. The defendant admitted to knowledge of the methamphetamine, but stated that it was not his.

The above facts are true and believable based on the post-Miranda statements by the defendant during audio and video recorded interviews, and the investigation of SPO J. Bailey of the Charleston Police Department.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 15 DAY OF JULY, 2020

[Handwritten signature of Judge]

(L.S.)

SIGNATURE OF JUDGE

COMPLAINT # 21-10444

WARRANT #

INVESTIGATING OFFICER: J. Bailey

[Handwritten signature of Affiant]

AFFIANT

180 Lockwood Blvd.
Charleston, SC 29403
843-577-7434

SBB/0380943  
WITNESSES

Charleston City Police Department

*Lancaster*

AGENCY CASE NUMBER

2021-10444

ARREST WARRANT NUMBER

2021A1010203766

DATE OF ARREST

07/15/2021

ACTION OF GRAND JURY

TRUE BILL

*ME Uzdelwaad*  
Foreperson of Grand Jury

AUG 07 2023

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2023-GS-10-03919

The State of South Carolina

County of Charleston

FILED

8/30/2023 8:33:12 AM

JULIE J. ARMSTRONG  
CLERK OF COURT

COURT OF GENERAL SESSIONS

AUGUST TERM 2023

THE STATE

VS.

KYLE NICHOLAS MOUZON

DOB: [REDACTED]

Indictment for

DIST/PWID METH 1ST

SC Code: § 44-53-0375 (B) (1)  
CDR Code: 3198

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

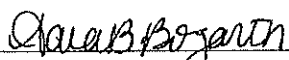
INDICTMENT

At a Court of General Sessions, convened August 2023, the Grand Jurors of Charleston County present upon their oath:

**PWID Methamphetamine**

The Defendant, Kyle Nicholas Mouzon, did on or about July 15, 2021, in Charleston County, South Carolina, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to distribute, dispense, deliver, or purchase, or possess with the intent to distribute, dispense, deliver, or purchase Methamphetamine in violation of the provisions of Section 44-53-0375 (B) (1) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
\_\_\_\_\_  
SARA B. BOZARTH  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE COURT OF GENERAL SESSIONS  
FOR THE NINTH JUDICIAL CIRCUIT

Warrant No.: 2021A1010203766

STATE OF SOUTH CAROLINA )

-versus-

**DEFENDANT'S MOTION  
TO SUPPRESS EVIDENCE  
FROM UNLAWFUL TRAFFIC STOP**

KYLE NICHOLAS MOUZON, )  
 )  
Defendant. )

FILED  
2023 SEP 11 AM 9:13  
CLERK OF COURT  
ALEXANDER

By and through undersigned counsel Defendant, Kyle N. Mouzon, respectfully requests that this Court conduct a pre-trial hearing and to suppress evidence of drugs seized from his vehicle as a result of an unlawful traffic stop, in violation of the Fourth Amendment of the U.S. Constitution and Article 1, Section 10 of the South Carolina Constitution.

**I. Background**

This case arose from a traffic stop conducted on Defendant, Kyle N. Mouzon, during the early morning hours (approximately 3:00 a.m.) of July 15, 2023. Based on information provided by the passenger, law enforcement conducted a search of the truck Defendant was driving and located drugs therein. Defendant was charged with Possession with Intent to Distribute Methamphetamine and taken into custody. Defendant will argue that law enforcement had no reasonable suspicion to conduct the initial traffic stop or probable cause for the subsequent search of his truck and therefore, the drugs were obtained as fruit of an illegal search and seizure.

## II. Authority

"The prosecution bears the burden of establishing probable cause as well as the existence of circumstances constituting an exception to the general prohibition against warrantless searches and seizures." *State v. Gamble*, 405 S.C. 409, 416 (2013).

A traffic stop is not unreasonable if conducted with probable cause to believe a traffic violation has occurred, or when the officer has a reasonable suspicion, the occupants are involved in criminal activity. *State v. Willard*, 374 S.C. 129, 134 (Ct. App. 2007) (quoting *State v. Butler*, 343 S.C. 198, 201 (Ct. App. 2000)).

"Probable cause is defined as a good faith belief that a person is guilty of a crime when this belief rests upon such grounds as would induce an ordinarily prudent and cautious person, under the circumstances, to believe likewise." *Gamble*, 405 S.C. at 417 (quoting *Wortman v. City of Spartanburg*, 310 S.C. 1, 4 (1992)).

Probable cause to conduct a search exists where "the known facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief that contraband or evidence of a crime will be found." *State v. Morris*, 411 S.C. 571, 580 (2015) (citing *Ornelas v. United States*, 517 U.S. 690, 696 (1996)).

The primary considerations to determine whether probable cause existed at the time of the stop or search will be "the events which occurred leading up to the stop or search, and then the decision whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount...to probable cause." *Id.* at 581. Therefore, determining whether an officer has probable cause to conduct a warrantless search depends on the totality of the circumstances. *Id.* (quoting *State v. Brannon*, 347 S.C. 85, 92 (Ct. App. 2001)).


With regard to information provided by a citizen, the Fourth Circuit has observed that "absent specific reasons for police to doubt his or her truthfulness, an ordinary citizen, who provides information to police at a crime scene or during an ongoing investigation, may be presumed credible without subsequent corroboration." *United States v. DeQuasie*, 373 F.3d 509, 523 n. 21 (4<sup>th</sup> Cir. 2004).

The remedy for evidence that is derived from an illegal search or arrest is exclusion of the evidence as it is considered "fruit the poisonous tree and is inadmissible." *State v. Adams*, 409 S.C. 641, 647 (2014) (citing *United States v. Najjar*, 300 F.3d 466, 477 (4<sup>th</sup> Cir. 2002)).

THEREFORE, Defendant respectfully requests that this Court:

1. Conduct a hearing to determine if there was reasonable suspicion or probable cause to conduct a traffic stop on Kyle Mouzon's vehicle; and
2. Suppress all evidence, specifically, methamphetamine, found in Kyle Mouzon's vehicle as a result of the unlawful traffic stop and search.

Respectfully Submitted,

  
\_\_\_\_\_  
Karla Martinez, Esq.  
Jason King  
Attorneys for Defendant

Charleston, South Carolina  
September 11, 2023

FILED  
2023 SEP 11 AM 9:13  
CLERK OF COURT  
BY ANN

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

IN THE COURT OF GENERAL SESSIONS  
FOR THE NINTH JUDICIAL CIRCUIT

Warrant No.: 2021A1010203766

STATE OF SOUTH CAROLINA )

-versus-

**DEFENDANT'S MOTION TO  
EXCLUDE BAD CHARACTER EVIDENCE  
AND OTHER CRIMES, WRONGS,  
AND BAD ACTS**

KYLE NICHOLAS MOUZON, )

Defendant. )

2023 SEP 11 AM 9:11  
JULIE J. ARMSTRONG  
CLERK OF COURT

FILED

This case is set for trial during the week of September 11, 2023, and Defendant faces prosecution for the charge of possession with intent to distribute methamphetamine.

The Defendant, Kyle N. Mouzon, moves this Court to exclude impermissible character evidence pursuant to S.C.R.E. 404 (a) and (b) at trial. In the alternative, the Court should exclude this evidence pursuant to S.C.R.E. 403.

**I. Issue**

On September 6, 2023, in preparation for this trial, the State and defense held separate in-person meetings with State's witness, Ms. Sonia Joe Herron. During her meeting with the defense team, Ms. Herron stated that the Defendant "always has drugs" and that he "probably has drugs right now." After Ms. Herron's meeting with the State, the State disclosed that Ms. Herron had made similar statements. Specifically, the State disclosed that Ms. Herron had referenced that Defendant "always [had] them on him," his drug(s) of choice, that he was a daily drug user, and always had a backpack with drugs. The defense believes that the State may attempt to introduce this evidence and requests that it not be permitted to do so, as it is impermissible character evidence.

## II. Argument

Character evidence of the accused is not admissible to prove criminal character or propensity to commit the offense for which he is charged. *State v. Nelson*, 331 S.C. 1, 6 (1998); S.C.R.E. 404 (a) (“Evidence of a person’s character or trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion.”). In a criminal case, the State cannot attack the character of the defendant unless the defendant first places his character in issue. *Nelson*, 331 S.C. at 7. “Character” has been defined as “a generalized description of a person’s disposition or a general trait such as honesty, temperance, or peacefulness.” *Id.*; see also *State v. Brown*, 344 S.C. 70 (2001).

If offered as evidence at trial, statements referring to Defendant’s use of drugs, choice of drugs, or always being in possession of drugs, will inevitably lead to the implication that Defendant had the disposition to commit the crime that he is charged with – possession with intent to distribute methamphetamine – or acted in conformity with such conduct on the early morning of July 15, 2021. See *German v. State*, 325 S.C. 25, 28 (1996) (evidence that police had several tips that [petitioner] was distributing or selling crack cocaine was impermissible character evidence); *State v. Day*, 341 S.C. 410, 421 (2000) (improper character evidence referring to defendant’s “outlaw” tattoo); *Mitchell v. State*, 298 S.C. 186, 189 (1989) (improper character evidence that defendant is into devil worship and in the mafia)..

Further, evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person to show action in conformity therewith. *State v. Lyle*, 125 S.C. 406 (1923); S.C.R.E. 404(b). Evidence of other crimes must be put to a rather severe test before admission. *State v. Timmons*, 327 S.C. 48, 52 (1997). If the prior bad act is not a conviction,

then it must first be established by clear and convincing evidence and the record "must support a logical relevance between the prior bad act and the crime for which the defendant is accused." *State v. Mathis*, 359 S.C. 450, 462 (Ct. App. 2004) (citing *State v. Braxton*, 343 S.C. 629, 634 (2001)).


Any evidence offered under *Lyle* or S.C.R.E. 404(b) evidence is equally inappropriate in this case to prove the Defendant acted in conformity with such character. If the State seeks to introduce this evidence through Ms. Herron, or any other witness, it must meet the legal requirements of S.C.R.E. 404(b) and controlling caselaw.

Any probative value of this evidence is substantially outweighed by the danger of undue prejudice. S.C.R.E. 403.

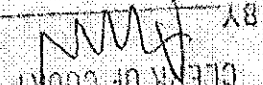
### Conclusion

The State should not be allowed to introduce character evidence or evidence of evidence of other crimes, wrongs, or acts regarding Defendant.

Respectfully Submitted,

  
Karla Martinez  
Jason King  
Attorney for Defendant

Charleston, South Carolina  
September 11, 2023

BY   
JULIE ARMSTRONG  
CLERK OF COURT  
2023 SEP 11 AM 9:14

FILED  
3

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE

INDICTMENT/CASE#: 2023-GS-10-03919

VS.

KYLE NICHOLAS MOUZON

A/W#: 2021A1010203766

AKA:

Date of Offense: 07/15/2021

Race: White

Sex: M

Age: [REDACTED]

S.C. Code §: 44-53-0375 (B) (1)

DOB: [REDACTED]

SS#: [REDACTED]

CDR Code #: 3198

Address: [REDACTED]

City, State,

Zip: [REDACTED]

SENTENCE SHEET

DL#\* [REDACTED] SID# SC02432062

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the above indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Dist/PWID Meth 1<sup>st</sup>; carries 0-15 years

In violation of § 44-53-0375 (B) (1) of the S.C. Code of Laws, bearing CDR Code # 3198

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  § 17-25-45  
(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

<u>Sara B. Bozarth</u> Sara B. Bozarth, Assistant Solicitor	02196 SC Bar #	Defendant	Attorney for Defendant	102987 SC Bar #
--	-------------------	-----------	------------------------	--------------------

WHEREFORE, the Defendant is committed to be  State Department of Correction  County Detention Center,

for a determinate term of 5 Months in P.C.P.  Youthful Offender Act not to exceed \_\_\_ years

and/or to pay a fine of \$\_\_\_; provided that upon the service of 100 days in ACDC and or payment

of \$\_\_\_; plus costs and assessments as applicable\*; the balance is ~~suspended~~ with **probation** for 2

months and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run  CONCURRENT or  CONSECUTIVE to sentence on:

- The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.
- To include time spent on monitored house arrest prior to trial and sentencing.
- The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

STATE KYLE NICHOLAS INDICTMENT/CASE#: 2023-GS-10-03919  
 VS. MOUZON

PTUP after \_\_\_\_\_ months/years

**And Other Terms Listed Below:**

- Substance Abuse Counseling       Completion of GED       Random Drug/Alcohol Testing  
 Attend Voc. Rehab. Or Job Corp       No Contact with Victim       Domestic Violence Intervention Program  
 Mental Health Counseling       May serve W/E beginning: \_\_\_\_\_  
 Sex Offender Registry pursuant to S.C. Code § 23-3-430       Public Service Employment \_\_\_\_\_ days/hours  
 Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.  
 Other: \_\_\_\_\_

RESTITUTION:     Deferred     Def. Waives Hearing     Ordered

Total \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

Recipient: \_\_\_\_\_

*Fine:		\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning _____
§14-1-206 (Assessments 107.5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§14-1-213 (Drug Court Surcharge)	\$150	\$ 150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ 23.25
<input checked="" type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ 500
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
<b>TOTAL</b>		<b>\$ 798.25</b>

Clerk of Court/Deputy Clerk: L Helm  
 Court Reporter: Caressa Johnson, DCRP

Presiding Judge: \_\_\_\_\_  
 Judge Code: 2766  
 Sentence Date: 9/14/23

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

IN THE COURT OF GENERAL SESSIONS  
FOR THE NINTH JUDICIAL CIRCUIT

Warrant No.: 2021A1010203766

STATE OF SOUTH CAROLINA )

-versus-

**DEFENSE REQUESTS TO CHARGE**

KYLE NICHOLAS MOUZON, )

Defendant. )

**RECEIVED**

**Nov 09 2023**

**SC Court of Appeals**

**DEFENSE REQUESTS TO CHARGE**

By and through undersigned counsel, Kyle N. Mouzon, hereby requests the following jury instructions be charged to the jury.

/s/Karla Martinez

Karla Martinez, Assistant Public Defender  
Jason King, Assistant Public Defender  
Charleston County Public Defender's Office  
101 Meeting St., 5<sup>th</sup> Floor  
Charleston, SC 29401  
(843) 958-1850

Charleston, South Carolina  
September 13, 2023

## **Possession**

To prove possession, the State must first prove beyond a reasonable doubt that the defendant had the right and power to control the disposition or use of the drugs. The State may satisfy this first element by showing the defendant had either actual possession of the methamphetamine or constructive possession of the methamphetamine. Actual possession means that the methamphetamine was in the actual physical custody of the defendant. To prove constructive possession, the State must prove by other evidence the defendant had the right and power to exercise control over the methamphetamine.

Second, the State must also prove beyond a reasonable doubt the defendant had knowledge of the methamphetamine and the intent to control the disposition or use of the methamphetamine. The mere existence of evidence that the defendant had control over the property where the methamphetamine was found does not equate to a finding of constructive possession. It remains the burden of the State to convince the jury beyond a reasonable doubt that the defendant had the requisite knowledge and intent.

*State v. Stewart*, 433 S.C. 382 (2021).

## **Direct & Circumstantial Evidence- Definitions**

“There are two types of evidence which are generally presented during a trial—direct evidence and circumstantial evidence. Direct evidence directly proves the existence of a fact and does not require deduction. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact.

Crimes may be proven by circumstantial evidence. The law makes no distinction between the weight or value to be given to either direct or circumstantial evidence, however, to the extent the State relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together, point conclusively to the guilt of the accused beyond a reasonable doubt. If these circumstances merely portray the defendant's behavior as suspicious, the proof has failed.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two.”

*State v. Logan*, 405 S.C. 83 (2013)

## APPELLATE DEFENSE CHECKLIST

The documents forwarded with this letter have had a check mark placed by them. Documents not applicable to this case have been marked N/A. All other documents will be forwarded at a later date.

1. Copy of Appeal papers sent to S.C. Court of Appeals
2. Copy of Warrants and accompanying Affidavits
3. Copy of Indictments
4. Copy of written Motions
5. Copy of written Request to Charge
6. Copy of Defendant's Statement
7. Copy of Written Exhibits introduced at trial
8. Copy of Sentencing Sheet

CHARLESTON COUNTY PUBLIC DEFENDER  
O. T. WALLACE COUNTY OFFICE BUILDING  
101 MEETING STREET  
CHARLESTON, SOUTH CAROLINA 29401

(843) 958-1850

FAX (843) 958-1860

November 8, 2023

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina, 29211

RECEIVED

Nov 09 2023

SC Court of Appeals

**Re:** *State of South Carolina vs. Kyle Nicholas Mouzon*  
Indictment: 2023GS1003919  
Warrant: 2021A1010203766  
Charges: PWID Meth 1st

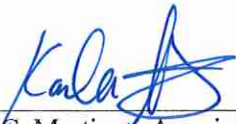
Dear Ms. Kitchings:

Enclosed is the Notice of Intent to Appeal in the above-referenced case, together with appropriate Proof of Service upon the Circuit Solicitor and Proof of Filing with the local Clerk of Court. Also enclosed is a Request for Representation on Appeal and a copy of the Court's sentence. The Defendant-Appellant was represented by our office as an indigent, pursuant to the Defense of Indigents Act. By copy of this letter, I am forwarding a duplicate set of these documents to the South Carolina Commission of Appellate Defense.

The Request for Representation on Appeal, and the Affidavit in support thereof, have been signed by me as attorney for the Defendant-Appellant.

As proof of filing for my records, I would appreciate it if one of your Clerks would clock the enclosed copy of this letter and return it to me in the envelope I have provided. Thank you.

Sincerely,



Karla C. Martinez, Appointed Counsel for Kyle Nicholas MouzoN  
Charleston County Public Defender's Office  
101 Meeting Street, 5<sup>th</sup> Floor  
Charleston, SC 29401

Enclosures as stated above

cc: South Carolina Commission of Appellate Defense

CHARLESTON COUNTY PUBLIC DEFENDER  
O. T. WALLACE COUNTY OFFICE BUILDING  
101 MEETING STREET  
CHARLESTON, SOUTH CAROLINA 29401

(843) 958-1850

FAX (843) 958-1860

November 8, 2023

South Carolina Office of Appellate Defense  
Attn: Ms. Paula Murdugh  
PO Box 11589  
Columbia, South Carolina 29211

**RECEIVED**

**Nov 09 2023**

**SC Court of Appeals**

**Re:** *State of South Carolina vs. Kyle Nicholas Mouzon*  
Indictment: 2023GS1003919  
Warrant: 2021A1010203766  
Charges: PWID Meth 1st

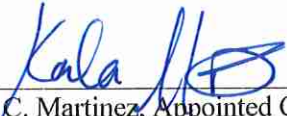
Dear Ms. Murdugh:

Enclosed herein is a duplicate set of the Appeal papers which I have forwarded to the Clerk of the South Carolina Court of Appeals concerning the above-subject defendant. This defendant was represented by our office as an indigent, pursuant to the Defense of Indigents Act. It is requested that your office assume the Appeal of this case.

The name of the Court Reporter is Caressa Johnson, DCRP. I have enclosed documents usually requested by your office. Documents listed but not applicable to this particular case have been marked "N/A."

I thank you in advance for your cooperation in this matter. If you have any questions or comments concerning this matter, please do not hesitate to contact me.

Sincerely,

  
\_\_\_\_\_  
Karla C. Martinez, Appointed Counsel for Kyle Nicholas Mouzon  
Charleston County Public Defender's Office  
101 Meeting Street, 5<sup>th</sup> Floor  
Charleston, SC 29401

Enclosures as stated above