

VOLUME II OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL J. KENNEDY,

APPELLANT

APPELLATE CASE NO. 2022-001293

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBITS #1-#2 (CD); STATE’S EXHIBITS #6-#11 (PHOTOS);
STATE’S EXHIBITS #16-#18 (PHOTOS)**

1 what's going on, think about what I presented, think
2 about the facts, everything that I've stated inside
3 of my situation. Think about how I was not really,
4 you know, able to exercise my -- or live within the
5 constitution. I was not able to say certain things.
6 I was not able to bring up certain things. I was not
7 able to show y'all certain things without having to
8 check in with people who was going to make me give
9 so, so many reasons of why this, you know, should be
10 presented. Extensive amounts of reasons why I should
11 present this. I got to argue, you know, go to --
12 just do -- go out my way to be able to present things
13 that, you know, I was referring to related to my
14 situation. The State, they just -- yeah, this is
15 this. This is that. This is that. Every objection
16 I made, everything I made was completely disregarded.

17 Like I said, I haven't been able to live within
18 my constitution. Multiple reasons. You know, First
19 Amendment, Fourth Amendment, Fifth Amendment, 14th
20 Amendment. Every last one of my constitutional
21 rights has been, you know, suppressed or silenced.
22 So everything that I have that I can present to y'all
23 today is, you know, everything that I have. I don't
24 have -- I presented the law. I presented rulings of
25 higher courts, which is higher than these courts.

1 The Supreme Court, which are the ones who actually
2 make and create laws, have stated that just because
3 mere proximity or presence of a gun and drugs
4 together -- The State still has the burden of proof
5 to connect these items together and say that they
6 were used together.

7 Without somebody being able to testify and say
8 yeah, look, on this day, I went and purchased some
9 drugs from Mr.~Kennedy and he had an AR-15 rifle on
10 the table. Somebody actually testify and say that,
11 how could you connect drugs to guns? So possession
12 of a weapon during the commission of a violent crime,
13 I should not be found guilty for. I mean, it's just
14 -- according to the law and according to what I've
15 stated about the law, I don't know what The State
16 plans to introduce, but everything I stated about the
17 law is verbatim. Word for word. Down to the coal,
18 down to the breakdown.

19 As far as trafficking knowledge, I didn't ever
20 claim to have knowledge of methamphetamine, heroin or
21 Carfentanil. Knowledge -- possession with intent to
22 distribute, without somebody here present to say that
23 on this date, I purchased drugs from Mr.~Kennedy or
24 numerous people here to say so oh, yeah, I purchased
25 drugs from Mr.~Kennedy. He's also charged with

1 distribution of these drugs. We have evidence to
2 prove that he engaged in this distribution of
3 narcotics. You cannot prove that the possession of
4 anything was used for a specific reason. There's no
5 way to prove that. You have no way to prove that
6 besides what you believe and what you think and your
7 assertions based on non-illegal items.

8 Hydraulic press, not illegal. A blender is not
9 illegal. Scales are not illegal. Not only are they
10 not illegal, these officers failed to test these
11 items to see okay, well, let's see if there's drug
12 residue on there. If somebody was making bricks of
13 cocaine, I don't see anything white on this. I see
14 dirt on it. I see brown stuff, just like dirt. If I
15 was --

16 Could I grab this? I don't know if I can move
17 -- can I grab this and move this?

18 THE COURT: As long as it doesn't mess it up.

19 MR. KENNEDY: As you can see, there's nothing --
20 there's no type of white substance that would match
21 what they were saying would be used for that. So to
22 say that was used to do whatever with drugs, there's
23 no residue. There's nothing on it.

24 So to say that household regular item, which
25 were -- they were not tested. Anything could have

1 been placed there at the time. The blender, these
2 are household -- to say that oh, yeah, he sells drugs
3 because these items are normally used by people who
4 sell drugs. It's not -- The State did not meet its
5 burden to prove that I possessed -- knowingly
6 possessed illegal substance with the intentions of
7 trafficking, you know, to distribute, manufacture,
8 sell -- manufacture and sell go hand-in-hand
9 together. So manufacture, sell is like make a sell
10 for, you know, U.S. currency. The State has no
11 burden of proof.

12 The only way that The State or anybody could
13 prove that I possess something with the intentions to
14 distribute it is if somebody was here to say hey,
15 look, on this date, you know, I'm a confidential
16 informant or -- or, at least, even being charged with
17 a distribution. Or say that I bought drugs from
18 Mr.~Kennedy. Then that would give you probable
19 reason to believe, okay, well, you got somebody here
20 saying that they bought drugs from you and you got
21 caught with drug, yeah, you use those drugs to sell.
22 But to say based on my knowledge and experience and
23 training, just because you have these types of items
24 that they're used to sell narcotics. I mean, to find
25 me guilty, The State has not met its burden to fit

1 the two elements of trafficking, which is knowingly
2 possessing and possession with intent to distribute,
3 manufacture, sell, anything of that nature.

4 Like I say, once again, I'm not going to hold
5 y'all up. I appreciate just, you know, the duty that
6 y'all -- the diligent that y'all serve, you know, by,
7 at least, listening to my situation and my
8 circumstances. But to find me guilty of these
9 offenses would be -- it would be wrong. It would be
10 wrong for my peers to find me guilty for something
11 I've already, you know, proven based on law and
12 proven the ill intention and motive of officers who
13 are upset with me for some reason. You know, I've
14 got a record. They can probably -- they pull me
15 over, they can see my record. I got a record. I've
16 been charged with offenses that have been dismissed
17 against me.

18 Because Greenville County believes that whenever
19 somebody says something, that's what it is, that's
20 how they operate. They arrest you and lock you up.
21 So they probably look at me like a person like oh,
22 this individual, he's gotten away with something
23 before. We going to get him. Or oh, yeah, we almost
24 had him that night, he had to have something. We
25 couldn't find it. He had a large amount of money.

1 We know he's a drug dealer, let's go in his house
2 illegally. And guess what, if we don't find what
3 we're looking for, this is what we going to do. We
4 going to place whatever we want to place there. Me
5 claiming oh, yeah, whatever you find is mine and it
6 is what it is.

7 I know what you going to find. You're going to
8 find marijuana and you're going to find firearms. I
9 claimed it. It is what it is. I was confident.
10 That's why I was like, man, you know, all right, do
11 your thing. But if I knew that was there, automatic,
12 I be like, man, I don't know -- ain't nothing, I
13 don't know, you know what I'm saying? I claim
14 anything illegal because, you know, not only did I
15 want my girlfriend to get involved in anything
16 because she didn't have a record, but I didn't want
17 them to charge her with illegally possessing a
18 firearm or anything of that nature, marijuana,
19 anything because she has children. So, of course,
20 I'm going to be a man and I'll be like, that's mine.

21 But if I knew that this was going to be put
22 there or this was there, man, look, there's no way.
23 There's no way. I don't know nothing about this.
24 They put it there, that's what happened. But me not
25 knowing what's going on in the circumstances, that's

1 why he was on body cam when I said some weed. I'm
2 like some weed, man. That's the only thing to my
3 knowledge that I possessed. Everything else was put
4 there by these individuals.

5 I mean, I don't know what else I can do to prove
6 to you, you know, I been victimized. You know, my
7 constitutional rights haven't been honored or
8 respected and I don't know what else to do. The only
9 thing I can do is appreciate y'all for listening and
10 the ones who actually going to, you know, use
11 individuality to make their own determination and
12 decision based on what I presented. And everything
13 that has been presented by me and The State, just,
14 you know, fair probability and just, you know,
15 logical, just common sense. Keep in mind that what
16 happens, there are a lot of instances where law
17 enforcement do wrong things.

18 Law enforcement don't get held accountable for a
19 lot things they do because that badge makes them feel
20 that they're above the law. So by them feeling that
21 they're above the law, they feel like oh, this is a
22 black man, he's like 27. He don't know nothing about
23 the law. We fixing to violate his rights. We fixing
24 to go in his house. We fixing to get him because we
25 feel like he got away from us the first time. And

1 that's what happened. That's why that officer stated
2 that, do you remember me? Which these officers never
3 brought up. They all friends. I mean, they can say
4 they don't do whatever, they all drink coffee, they
5 do whatever they do. They maybe associate outside of
6 work, I don't know what they do, but they all know
7 each other. And all this comes from, you know, me
8 being targeted by Officer Lapek, who was not here.
9 These officers testified that she was present, but
10 she's not here. Her name is on the incident report
11 where I was pulled over days before. Other officers
12 were there, it was five or six of them. Matter of
13 fact, every officer that's part of the CRT was there
14 and responded to my knowledge. They the ones that I
15 observed on camera.

16 I have nothing else to say to the jury.

17 THE COURT: All right, Mr. Grounsell.

18 CLOSING STATEMENT

19 MR. GROUNSELL: I'll try to be brief. I told
20 you at the beginning of the trial, Mr.~Kennedy chose
21 to represent himself and that's still the case. I
22 also told you there would be times -- that there's
23 rules of the court, courtroom procedure and there's
24 rules of evidence and that Mr.~Kennedy probably would
25 not be familiar with those and there would be times

1 that I would have to object. And that's exactly what
2 I did. I have to hold him to the same standard I
3 would hold a defense attorney. And that was his
4 choice and that's how we moved forward with this
5 case.

6 Two, The Judge, he is the arbiter of the law in
7 this courtroom. Anything that Mr.~Kennedy just read,
8 the case law, is not the law of this courtroom.
9 Whatever Judge Morgan gives you, that is what we're
10 following. The operative word in the indictment that
11 he wants to allege has to show manufacturing,
12 distribution and selling, in between each one of
13 these things, there's the word or. Knowingly sell,
14 manufacture, deliver or bring into the State of South
15 Carolina or did knowingly provide financial
16 assistance or otherwise aid, abet, attempt or
17 conspire to sell, manufacture, deliver or bring into
18 the state. And, finally, or was knowingly in actual
19 or constructive possession of 28 grams or more, but
20 less than 100 grams of methamphetamine, or was
21 knowingly in actual or constructive possession of 14
22 grams up to 28 grams of heroin. It's only about
23 showing constructive possession. The State doesn't
24 have any other burden than that.

25 Four, we've already talked about the marijuana

1 that was alongside the heroin and the meth in the
2 car. And, also, the marijuana was found right in
3 front of the bag of drugs that was on the window
4 sill. So him trying to explain conveniently that the
5 only thing that he's going to own up is marijuana is
6 sort of ridiculous.

7 Fifth thing, the testimony was clear where this
8 glove was found. This glove was found in that bag
9 with the rest of the dope. It was photographed as
10 soon as it was taken out and we know that from the
11 pictures that we have in front of us. And that the
12 officers testified as to how the search warrant is
13 taken place, things are photographed in place and
14 when something is opened, it's immediately
15 photographed after.

16 Now, it seems that Mr. Kennedy is upset with
17 people that didn't have body cams, but he also seems
18 to be upset with people who do have body cams. He's
19 not going to be satisfied regardless of what we give
20 him. Onto the previous traffic stop. We don't know
21 anything about that traffic stop. The State doesn't
22 know anything about that traffic stop, but it has
23 nothing to do with this case at hand. There's been
24 no testimony to that from anybody. The officers in
25 here who have testified don't have any knowledge

1 about what Mr. Kennedy is talking about. And he says
2 that he was a victim of police brutality, but from
3 his own admission, even if that story was true, he
4 wasn't arrested and he said no money was seized. It
5 sounds like he got to go home afterwards.

6 These baseless allegations against law
7 enforcement here today absent any proof is
8 infuriating. You have two different places that were
9 searched by two different officers who are part of
10 two different agencies. To pretend that the
11 corruption of our law enforcement in Greenville
12 County is that corrupt is absurd and it's ridiculous.
13 It's offensive to these people who risk their lives
14 everyday for us out in our community and it's
15 ridiculous to hear that in this courtroom. I hope
16 that you can see through his hollow arguments and
17 that you return a verdict of guilty. Thank you.

18 THE COURT: All right, ladies and gentlemen,
19 before I charge you the law, let's take a little
20 restroom break. We've been going at it a little bit.
21 Some of you may want to take just a quick restroom
22 break. So I'm going to excuse you to do that. It's
23 not going to be a long break, just a little short
24 one. Stretch your legs and use the restroom, then
25 I'll bring you back out here and instruct you on the

1 law.

2 (WHEREUPON, the jury left open court at
3 approximately 1:27 p.m.)

4 THE COURT: All right, we'll be in recess, I'll
5 come back and charge the law.

6 (WHEREUPON, a short break was taken.)

7 (WHEREUPON, the jury entered open court at
8 approximately 1:34 p.m.)

9 JURY CHARGE

10 THE COURT: All right, ladies and gentlemen, we
11 have now reached that part of the trial, which is the
12 last part before you deliberate on the case. And
13 that is my job of charging you the law in the case.
14 And let me preface it by saying that the law in the
15 case is derived from our appellate courts. That
16 includes the South Carolina Court of Appeals and the
17 South Carolina Supreme Court, as well as our
18 legislature, among other courts. So that is where
19 the law comes from. This is not my law. My job and
20 responsibility as the trial judge is to instruct you
21 on what the law is here in South Carolina. So with
22 that in mind, again, this is not my law that I have
23 created, I'm simply instructing you on what the law
24 is in South Carolina.

25 All right, in this case, the indictments charge

1 the Defendant with the following, trafficking
2 methamphetamine, trafficking heroin, possession of a
3 controlled substance with intent to distribute and
4 three indictments for possession of a weapon during
5 the commission of a violent crime.

6 I remind you that the fact The Defendant was
7 arrested, charged and indicted in this case is not
8 evidence and cannot be considered by you as evidence
9 of guilt in this case, nor does it create any
10 presumption of inference of guilt. These documents
11 are simply the formal written instruments which
12 contain the charges made against The Defendant. They
13 are the formal documents by which this case is
14 brought into court before you here today.

15 I want to remind you that during this trial, you
16 and I have had certain duties to perform. As the
17 trial Judge, it is my responsibility to preside over
18 the trial of this case. And I also have the duty to
19 rule on the admissibility of the evidence offered
20 during the trial. You are to consider only the
21 competent evidence before you. If there was any
22 testimony ordered stricken from the record in this
23 case during this trial, you must disregard that
24 testimony. You are to consider only the testimony
25 which has been presented from the witness stand and

1 any exhibits which may have been part of the record
2 in this case.

3 I have the additional duty to charge you the law
4 applicable to this case. As the presiding Judge, I
5 am the sole judge of the law of this case and it is
6 your duty as jurors to accept and apply the law as I
7 now state it to you. If you already have any idea as
8 to what the law is or what the law ought to be and it
9 does not agree with what I now tell you, then you
10 must abandon this idea because you are sworn to
11 accept the law and apply the law exactly as I state
12 it to you.

13 In every case tried in this court before a jury,
14 the jury becomes the sole and exclusive judge of the
15 facts. A trial judge cannot state, comment on or
16 make any statement to the jury about the facts in a
17 case. Since you, the jury, are the sole judges of
18 the facts in this case, you are not to infer from
19 what I have said during the progress of this trial in
20 ruling upon the admissibility of evidence or
21 otherwise or anything that I say now during this
22 instruction to you that I have any opinion about the
23 facts in this case. The law does not allow me to
24 have an opinion about the facts. This is a matter
25 solely for you, the jury, to determine. As jurors,

1 it is your duty to determine the effect, the value
2 and weight of evidence presented during the trial.
3 And because the law does not allow me to have any
4 opinion on the facts, I do not.

5 The indictments in this case, as I have stated
6 previously, there are six indictments for each of the
7 ones I have previously mentioned. Each of these
8 indictments is a separate and distinct offense. You
9 must decide each indictment separately on the
10 evidence and the law applicable to it uninfluenced by
11 your decision as to any other indictment. The
12 Defendant may be convicted or acquitted on any or all
13 of the offenses charged. You will be asked to write
14 a separate verdict of guilty or not guilty for each
15 indictment. And I will explain that to you when I go
16 over the verdict form at the end of my charge here.

17 Now, The Defendant has pled not guilty to these
18 indictments. And that plea puts the burden on The
19 State to prove The Defendant guilty. A person
20 charged with committing a criminal offense in South
21 Carolina is never required to prove himself innocent.
22 I charge you that it is an important rule of law that
23 a defendant in a criminal trial, no matter what the
24 seriousness of the charge may be, will always be
25 presumed to be innocent of the crime for which the

1 indictments were issued unless guilt has been proven
2 by evidence satisfying you of that guilt beyond a
3 reasonable doubt.

4 This presumption of innocence does not end when
5 you begin your deliberations, but it accompanies the
6 Defendant throughout his trial until you reach a
7 verdict of guilt based on the evidence satisfying you
8 of that guilt beyond a reasonable doubt. The
9 presumption of innocence is just like a robe of
10 righteousness placed about the shoulders of The
11 Defendant, which remains with The Defendant until it
12 has been stripped from The Defendant by evidence
13 satisfying you of The Defendant's guilt beyond a
14 reasonable doubt. The presumption of innocence is
15 not merely legal theory, it is not just a legal
16 phrase, it is a substantial right to which every
17 defendant is entitled unless you, the jury, are
18 satisfied from the evidence of the Defendant's guilt
19 beyond a reasonable doubt.

20 The State has the burden of proving The
21 Defendant guilty beyond a reasonable doubt. Some of
22 you may have served as jurors in civil cases where
23 you were told that it is only necessary to prove that
24 a fact is more likely true than not true, such as by
25 the greater weight of the evidence or by a

1 preponderance of the evidence.

2 Proof beyond a reasonable doubt is proof that
3 leaves you firmly convinced of the Defendant's guilt.
4 There are very few things in this world that we know
5 with absolute certainty. In criminal law -- or in
6 criminal cases, the law does not require proof that
7 overcomes every possible doubt. If based on your
8 consideration of the evidence, you are firmly
9 convinced that The Defendant is guilty of the crimes
10 charged, you must find the Defendant guilty. If on
11 the other hand, you think there is a real possibility
12 that The Defendant is not guilty, you must give The
13 Defendant the benefit of the doubt and find him not
14 guilty.

15 The following things are not evidence and you
16 must not consider them as evidence in deciding the
17 facts of this case. Any statements and arguments of
18 the parties in the case, any questions and objections
19 of the parties, or testimony that I have instructed
20 you to disregard.

21 There are two types of evidence which are
22 generally presented during a trial. Direct evidence
23 and circumstantial evidence. Direct evidence
24 directly proves the existence of a fact and does not
25 require deduction. Circumstantial evidence is proof

1 of a chain of facts and circumstances indicating the
2 existence of a fact. Crimes may be proven by
3 circumstantial evidence. The law makes no
4 distinction between the weight or value to be given
5 to either direct or circumstantial evidence.
6 However, to the extent The State relies on
7 circumstantial evidence, all of the circumstances
8 must be consistent with each other and when taken
9 together, point conclusively to the guilt of the
10 accused beyond a reasonable doubt. If these
11 circumstances -- or if these circumstances merely
12 portray the Defendant's behavior as suspicious, the
13 proof has failed. The State has the burden of
14 proving the Defendant guilty beyond a reasonable
15 doubt. And this burden rests with The State
16 regardless of whether The state relies on direct
17 evidence, circumstantial evidence or some combination
18 of both.

19 Necessarily, during this trial, you must
20 determine credibility of witnesses who have testified
21 in this case. Credibility simply means
22 believability. It becomes your duty, as jurors, to
23 analyze and to evaluate the evidence. In determining
24 the believability of witnesses who have testified in
25 this case, you may believe one witness over several

1 witnesses or several witnesses over one witness. You
2 may believe a part of the testimony of a witness and
3 reject the remaining part of the testimony of that
4 same witness. You may believe the testimony of a
5 witness in its entirety or reject the testimony of a
6 witness in its entirety. You may consider whether
7 any witness has exhibited to you any interest, bias,
8 prejudice or other motive in this case. You may also
9 consider the appearance and manner of a witness while
10 on the witness stand.

11 The rules of evidence ordinarily do not permit
12 witnesses to testify to opinions or conclusions. An
13 exception to this rule exist for witnesses we call
14 expert witnesses. A witness who by education and
15 experience has become expert in some art, science,
16 profession or calling -- any expert who has become an
17 expert in some art, science, profession or calling
18 may state an opinion as to any relevant and material
19 matters in which the witness claims to be a expert.
20 They may also state the reasons for the opinion.

21 You should consider any expert opinion received
22 as evidence in this case just like any other evidence
23 and give it the weight you think it deserves. If you
24 decide that the opinion of an expert witness is not
25 based on sufficient education and experience or if

1 you conclude that the reasons given in support of the
2 opinion are not sound or that the opinion is
3 outweighed by other evidence, you may disregard the
4 opinion entirely. An expert witness' testimony is to
5 be given no greater weight than that of other
6 witnesses simply because the witness is a expert.
7 Further, you're not required to accept an expert's
8 opinion even though it is not contradicted.

9 I instruct you and emphasize that the fact that
10 The Defendant in this case did not testify and is not
11 a factor to be considered by you in any way in your
12 deliberations and in your consideration on the
13 question of guilt or innocence of The Defendant. It
14 must be not be considered by you in any manner
15 whatsoever. A defendant has the constitutional right
16 to remain silent. And the assertion of this right
17 must not be considered by you in deliberations.

18 I repeat, under your oath, you're to draw no
19 conclusion whatsoever from the fact that The
20 Defendant in this case did not testify. The fact
21 that this Defendant did not testify should not be
22 even discussed in the jury room. The burden of
23 proof, as I have stated to you, is on The State. The
24 Defendant is not required to prove his innocence.
25 The burden of proof remains on The State to prove

1 guilt beyond a reasonable doubt.

2 The statement or statements alleged to have been
3 made by the Defendant in this case has been admitted
4 into evidence. The Court has determined that the
5 statements are admissible. I instruct you that you
6 make the ultimate decision of whether or not The
7 Defendant made the statement. If The Defendant did
8 make the statement, you must determine whether the
9 statement was made by The Defendant voluntarily and
10 of his own freewill. This means that the statement
11 was not caused by pressure, force, fear, threats,
12 coercion or intimidation or by hope or promise of
13 leniency or reward of any kind.

14 In determining whether the statement was
15 voluntary, you should consider both the
16 characteristics of The Defendant and the details of
17 the questioning. Some of the factors that you must
18 consider are the age of The Defendant, The
19 Defendant's education or lack of education, The
20 Defendant's mental ability or capacity, The
21 Defendant's intelligence or IQ, The Defendant's
22 background and environment, the place and length of
23 detention, the nature of the questioning and the
24 advice or lack thereof to The Defendant of his
25 constitutional rights. Including but not limited to

1 the right to remain silent, that any statement could
2 be used against him in a court of law, the right to
3 have a lawyer present, that if he could not afford a
4 lawyer, a lawyer would be appointed to represent him
5 without any costs and that he could stop making a
6 statement at any time.

7 You must carefully consider all the surrounding
8 circumstances before you give any weight to any
9 alleged statement. The State has the burden, as I've
10 said, of proving beyond a reasonable doubt that the
11 statement was voluntary. If you determine it was,
12 you may give the statement -- you may give the
13 statement any further consideration you deem proper.
14 You must decide what weight, if any, should be given
15 to the alleged statements. If you determine the
16 alleged statements were not free and voluntary
17 statements of The Defendant, you should not consider
18 the statements at all.

19 In order to establish criminal liability,
20 criminal intent is required. For example, the mental
21 state required to be proven by The State of a
22 particular crime might be purpose, intent, knowledge,
23 recklessness or criminal negligence. Criminal intent
24 must be proven by The State beyond a reasonable
25 doubt. Criminal intent is always a matter that must

1 be determined by the jury from the circumstances
2 surrounding the situation.

3 There's no way to prove intent to a mathematical
4 certainty. There's no way medical science can
5 dissect a person's brain and determine what the
6 person had in mind. So the law says that criminal
7 intent may be inferred from the circumstances shown
8 to have existed. This is how you make a
9 determination of whether or not the element requiring
10 intent was present. It is not necessary to establish
11 intent by direct and positive evidence. But intent
12 may be established by inference in the same way as
13 any other fact by taking into consideration the acts
14 of the parties and all of the facts and circumstances
15 of the case.

16 Criminal intent is a mental state, a conscious
17 wrongdoing. It is up to you to determine what The
18 Defendant intended to do, based on the circumstances
19 shown to have existed. Criminal intent can arise
20 from action or a failure to act. It may arise from
21 negligence, recklessness or an indifference to duty
22 or to consequences that is considered by the law to
23 be the equivalent of criminal intent.

24 The Defendant is charged with trafficking
25 methamphetamine. The State must prove beyond a

1 reasonable doubt that The Defendant knowingly sold,
2 manufactured, cultivated, delivered, purchased,
3 brought into the state, provided financial assistance
4 or otherwise, aided, abetted, attempted or conspired
5 to sell, manufacture, cultivate, deliver, purchase or
6 bring into this state and was knowingly in actual or
7 constructive possession. Knowingly attempted --
8 knowingly attempted to become in actual or
9 constructive possession of methamphetamine.

10 The State must also prove beyond a reasonable
11 doubt that the amount of methamphetamine was more
12 than 28 grams, but less than 100 grams. To have
13 possession, The State must prove beyond a reasonable
14 doubt that The Defendant had both the power and the
15 intent to control the disposition or use of the
16 methamphetamine.

17 Possession may be either actual or constructive.
18 Actual possession means that the methamphetamine was
19 in the actual physical custody of the Defendant.
20 Constructive possession means that the Defendant had
21 dominion control or the right to exercise dominion or
22 control over either the methamphetamine itself or the
23 property on which the methamphetamine was found.
24 Mere presence at the scene where the drugs were found
25 is not enough to prove possession. The Defendant's

1 knowledge and possession may be inferred when the
2 substance is found on the property under the
3 Defendant's control. However, this inference is
4 simply an evidentiary fact to be taken into
5 consideration by you, along with the other evidence
6 in the case and to be given the weight you decide it
7 should have. When determining the weight of a
8 controlled substance or drug, the weight of any drug
9 or controlled substance referenced is the weight of
10 that substance in pure form or a compound or a
11 mixture thereof.

12 The Defendant is charged with trafficking
13 heroin. The State must prove beyond a reasonable
14 doubt that The Defendant knowingly sold,
15 manufactured, cultivated, delivered, purchased,
16 brought into the state, provided financial assistance
17 or otherwise aided, abetted, attempted or conspired
18 to sell, manufacture, cultivate, deliver, purchase or
19 bring into the state and was knowingly in actual or
20 constructive possession and knowingly attempted to be
21 in actual or constructive possession of heroin. The
22 State must also prove beyond a reasonable doubt that
23 the amount of heroin was 14 grams or more, but less
24 than 10 grams.

25 I have previously defined for you what direct --

1 I mean, excuse me, actual and constructive
2 possession. And the same definition applied that
3 I've just instructed you of what actual and
4 constructive possession is for the methamphetamine
5 also applies to the heroin.

6 Again, I have also told you that when
7 determining the weight of a controlled substance, the
8 weight of any controlled substance or drug, is the
9 weight of that substance or drug in pure form or in
10 compound or mixture thereof.

11 The Defendant is charged with possession with
12 intent to distribute Carfentanil. The State must
13 prove beyond a reasonable doubt that The Defendant
14 possessed Carfentanil with the intent to distribute.
15 Again, I have defined for you what actual and
16 constructive possession is. The same definition
17 applies here.

18 The State must prove beyond a reasonable doubt
19 that The Defendant intended to distribute
20 Carfentanil. Distribute means to deliver, other than
21 by administering or dispensing a drug. Intent may be
22 shown by acts and conduct of the Defendant and other
23 circumstances from which you may naturally and
24 reasonably infer intent.

25 In determining whether The Defendant had the

1 intent to distribute Carfentanil, you may consider
2 the circumstances surrounding the Defendant's alleged
3 possession. You may consider the amount of the
4 substance to alleged to have been possessed, the
5 manner in which it was allegedly possessed, the place
6 where it was allegedly possessed and any other
7 factors that you consider to be important. You must
8 find that The Defendant did not intend to have the
9 Carfentanil solely for his own use.

10 The Defendant has also been charged under three
11 indictments with possession of a weapon during the
12 commission of or attempt to commit a violent crime.
13 He is charged with possession of a weapon during the
14 commission of a violent crime. The State must prove
15 beyond a reasonable doubt that The Defendant was in
16 possession of a firearm or visibly displayed what
17 appeared to be a firearm during the commission of a
18 violent crime. A firearm means any machine gun,
19 automatic rifle, revolver, pistol or any weapon which
20 will or is designed to or may be readily converted to
21 expel a projectile.

22 In order to find The Defendant guilty of
23 possession of a weapon during the commission of a
24 violent crime, you must first find The Defendant
25 guilty of either committing a violent crime or

1 attempting to commit a violent crime. Under the law,
2 trafficking heroin is a violent crime. The State
3 must prove beyond a reasonable doubt that the weapon
4 furthered, advanced or helped in the commission of
5 the crime.

6 Ladies and gentlemen, a verdict in this case
7 cannot be based upon sympathy, passion, prejudice or
8 emotion or some other consideration not found in the
9 evidence before you.

10 Let me say something about deliberations.
11 Deliberations has often been defined as careful
12 consideration weighing up with a view to a decision.
13 The genius of our jury system, ladies and gentlemen,
14 is that it allows 12 good men and woman from 12
15 different backgrounds, life experiences and
16 perspectives to consider the evidence in this case,
17 to talk about the evidence in this case and to,
18 ultimately, reach a verdict.

19 We call them deliberations for a reason. You
20 are to consider the evidence in this case carefully
21 and deliberately and discuss it in a calm, thorough
22 and courteous manner. Remember, you are not
23 partisans or advocates for either side. You don't
24 favor one side over the other. You are judges of the
25 facts. Listen to the views of all of your fellow

1 jurors, consider other people's points of view and
2 talk through and discuss the evidence. And remember,
3 if you are doing something deliberately, you're not
4 in a big hurry. And you should not be in a big hurry
5 here. This case is very important to both The State
6 and to Mr. Kennedy and this is their only day in
7 court.

8 When you retire to the jury room, you should
9 discuss the case with your fellow jurors and reach an
10 agreement if you can do so. Your verdict must be
11 unanimous. All 12 of you must reach the verdict.
12 Each of you must decide the case for yourself, but
13 you should do so only after you have impartially
14 considered all the evidence, discussed it fully with
15 the other jurors and listened to the views of your
16 fellow jurors. Do not be afraid to change your
17 opinion if the discussion persuades you and do not
18 come to a decision simply because other jurors think
19 it is right. It is important that you attempt to
20 reach a unanimous verdict, but, of course, only if
21 each of you can do so after having made your own
22 decision. Do not change an honest belief about the
23 weight and effect of the evidence simply to reach a
24 verdict. In other words, do not change your opinion
25 solely for the sake of reaching a unanimous verdict.

1 All right. There are two possible verdicts
2 which you may find in this case, guilty or not
3 guilty.

4 Mr. Preston, would you give a copy of that to
5 Madam Forelady? Thank you.

6 All right, Madam Forelady, a copy of the verdict
7 form is before you. You will see that it sets out
8 each of the six indictments. And under each
9 indictment, you will see guilty or not guilty. Let
10 me tell you this, there is no particular order of why
11 guilty is first or not guilty. Do not consider that.
12 Do not take that into consideration. It has to be
13 one or the other. That is solely why it is there.

14 So under the first -- paragraph number one, as
15 to the charge of trafficking methamphetamine, we, the
16 jury, unanimously find The Defendant, Michael Justin
17 Kennedy, and you will check one of those boxes.

18 And that will be the same for the next one,
19 trafficking heroin, for the next one, possession of a
20 controlled substance with intent to distribute, and
21 then the three separate indictments, all the same
22 charge, but three separate indictments for three
23 different weapons. And I have set out the indictment
24 numbers for each one of those. And you will check
25 the appropriate places on those. So once you -- the

1 jury has reached a verdict, if you have come to a
2 unanimous decision, then you will sign right there,
3 the foreperson, knock on the door and let the
4 bailiffs know that you have reached a verdict.

5 Now, I'm going to send you to your room right
6 now, jury room right now. I've got to just make sure
7 from the parties that I have instructed you properly.
8 They will let me know. If I have not, I may have to
9 bring you back in here. But if I don't, I will then
10 send word to the bailiffs to let you know that you
11 are ready to begin deliberations and we will provide
12 the evidence for you and bring it back to the jury
13 room.

14 We have ordered lunch. I hope all of you have
15 ordered lunch, so that should be coming to you,
16 hopefully, shortly here. So I'm going to excuse you
17 for now and if there are no exceptions, then I will
18 give word to you that you are free to start
19 deliberating. Thank you.

20 (WHEREUPON, the jury left open court at
21 approximately 2:03 p.m.)

22 THE COURT: All right, exception from The State?

23 MR. GROUNSELL: No, Your Honor.

24 THE COURT: Any exception from The Defendant?

25 MR. KENNEDY: No, sir.

1 THE COURT: All right. All right, if y'all
2 would check, make sure that we got all the evidence
3 here. Now, as far as the weapons, is there any ammo
4 up there?

5 MR. GROUNSELL: No, ammo in the box with each
6 one.

7 THE COURT: All right, I want you take the ammo
8 out of the boxes.

9 MR. GROUNSELL: Okay.

10 THE COURT: Send weapons back there. If they
11 want the see the ammo then we can send that back
12 there and bring back the weapons. I don't want the
13 weapon and the ammo back there at the same time.
14 Y'all make sure, start compiling, get the exhibits,
15 make sure everything is there so we can send it back
16 to them.

17 Mr.~Kennedy, you're free to look, make sure that
18 evidence is there, whatever you want to do.

19 MR. KENNEDY: Your Honor, can I get a copy from
20 the orders or the motions that you denied on my case?

21 THE COURT: Copies of the orders?

22 MR. KENNEDY: Yeah, you know, the motions that
23 were denied, the motion to suppress, motion from the
24 first hearing, motion in limine.

25 THE COURT: That is an oral -- it's in court --

1 the court reporter takes down everything. All of
2 your arguments that were made are on the record and
3 you're protected. It has the arguments you made and
4 the rulings that were made on it. So it's taken down
5 by the court reporter. There's nothing -- there's no
6 paper document.

7 MR. GROUNSELL: Your Honor, on the instructions,
8 I believe on the heroin, you said 14 to 100 grams. I
9 don't know if that -- should say 14 to 28. You may
10 have just misread that.

11 THE COURT: What do you think I read?

12 MR. GROUNSELL: You said 14 to 100 grams. It
13 might have been because you had just read the
14 methamphetamine 28 to 100.

15 THE COURT: All right.

16 MR. GROUNSELL: I just want to make sure the
17 actual instructions were correct on the paper.

18 THE COURT: Well, I tell you what I'm going to
19 do. I probably did say 100 grams, so I think I need
20 -- it's 14 -- all right, I think I'm going to bring
21 them in and clarify that it's got to be between 14
22 grams less that 28 grams.

23 MR. GROUNSELL: Thank you, Your Honor. That's
24 the only thing I caught.

25 THE COURT: All right.

1 (WHEREUPON, the jury entered open court at
2 approximately 2:15 p.m.)

3 THE COURT: All right, ladies and gentlemen, I
4 just need to correct one thing. I charged you on
5 trafficking methamphetamine, The State must also
6 prove beyond a reasonable doubt that the amount of
7 methamphetamine was more than 28 grams, but less than
8 100 grams. As far as the heroin, the trafficking
9 heroin, The State must prove beyond a reasonable
10 doubt that the amount of the heroin was 14 grams or
11 more, but less than 28 grams. I had previously said
12 100 grams on the heroin. But the heroin is 14 grams
13 or more, but less than 28 grams and the
14 methamphetamine is more than 28 grams, but less than
15 100 grams. So that's the only change. And you are
16 free to deliberate.

17 The alternate would please stay with us, if you
18 stay right there.

19 I'll excuse the 12 and you may begin your
20 deliberations.

21 (WHEREUPON, the jury left open court and began
22 deliberations at approximately 2:16 p.m.)

23 THE COURT: All right, sir, well, you're now
24 excused from this trial. Unfortunately, or maybe
25 fortunately, whichever way you are looking at it, you

1 will not be deliberating, you're not able to
2 deliberate. But you have been a very important part
3 in this case because, oftentimes, a juror may -- we
4 may have to excuse a juror, so an alternate is
5 extremely important. In those situations, we have to
6 substitute. That could have happened in this case if
7 we had to excuse a juror and we may have had to
8 substitute you. So -- but nobody was excused and
9 those first 12, our jury, have remained here for the
10 trial, so, therefore, you will, unfortunately, not
11 get an opportunity to deliberate.

12 I will excuse you for the day. You are free to
13 go for the rest of the day. If you will report back
14 tomorrow morning to the jury room. If you would be
15 there --

16 Have y'all been reporting at 9:00 in the
17 morning? Not this trial, but --

18 THE CLERK: 9:15, Your Honor.

19 THE COURT: 9:15. If you would report back
20 downstairs tomorrow morning at 9:15. All right,
21 thank you.

22 PROSPECTIVE JUROR: Okay, thank you.

23 THE COURT: All right, be in recess until a
24 verdict.

25 (WHEREUPON, court was in recess awaiting a

1 verdict.)

2 THE COURT: All right, we have a question from
3 the jury. The jury question is, Can we have the body
4 camera footage?

5 So we've got a laptop right there, I believe,
6 that we can send in there. They've got the disks.
7 So we can send that in there with them to view the
8 footage.

9 All right. Anything from The State?

10 MR. GROUNSELL: Got no issue with that.

11 THE COURT: Anything from The Defendant?

12 MR. KENNEDY: No, sir.

13 THE COURT: All right. Take it on in there.

14 Thank you.

15 We'll be in recess.

16 (WHEREUPON, Court's Exhibit No. 2 marked for
17 identification.)

18 (WHEREUPON, court was in recess awaiting a
19 verdict.)

20 THE COURT: All right, question from the jury
21 is, If we find him guilty of the drug charges, by law
22 is he by default guilty of the charges four through
23 six? And those are the possession of a weapon during
24 the commission of a violent crime.

25 Mr. Grounsell?

1 MR. GROUNSELL: Your Honor, I don't believe so.
2 They're all separate matters.

3 THE COURT: All right. So we can do one or two
4 things --

5 Mr. Kennedy, do you have any response? Did you
6 understand what their question was?

7 THE CLERK: No, I don't understand.

8 THE COURT: All right. Says, If we find him
9 guilty of drug charges, by law is he by default
10 guilty of the charges four through six? And those
11 are the possession of a weapon during the commission
12 of a violent crime.

13 So what they're asking is if they were to find
14 you guilty -- they have not found you guilty, but if
15 they were to find you guilty of the drug charges,
16 does that mean you are automatically guilty of the
17 gun charges? And you are not. That is the case, you
18 are not automatically guilty of that.

19 So any suggestion? My thought was just to write
20 back on there no.

21 MR. GROUNSELL: I think that suffices.

22 THE COURT: I can put on there no, that they
23 still have to -- trying to think how I can word it.
24 I can put no or either bring them back and recharge
25 them on possession of a weapon during the commission

1 of a violent crime.

2 Well, what does The State propose?

3 MR. GROUNSELL: Your Honor, simple response
4 would just be no. I don't think it necessarily has
5 to be further instruction to do that.

6 THE COURT: Mr. Kennedy, do you agree? I mean,
7 the answer is no. You are not guilty by default of
8 those charges if they find you guilty of the others.
9 So my inclination was to just write no, you were not
10 guilty by default. Do you have any objection to
11 that?

12 MR. KENNEDY: No, no, sir.

13 THE COURT: Is that fine with you?

14 Is that fine with everybody?

15 MR. GROUNSELL: That's fine with me.

16 THE COURT: All right, what I'm going to do
17 right now is I'm writing no, signing my name to it.

18 All right. All right, Mr. Preston, Mrs. Fryer,
19 one of y'all.

20 (WHEREUPON, Court's Exhibit No. 3 marked for
21 identification.)

22 THE COURT: All right, we'll be in recess.

23 (WHEREUPON, court was in recess awaiting a
24 verdict.)

25 THE COURT: We have two questions. All right,

1 first question, Is he allowed legally to have
2 possession of the firearms? Question number one.
3 Question number two, Does just having the guns in the
4 house act as the inference for the charge of
5 possession of a weapon during the acting commission
6 of a violent crime?

7 Mr. Grounsell, hear from you.

8 MR. GROUNSELL: Your Honor, the first one is
9 kind of difficult because I think Mr.~Kennedy is
10 lawfully prohibited from having a firearm. Legally,
11 they're probably not supposed to be in his house, but
12 for the sake of this case, I mean, that's --

13 THE COURT: Mr.~Kennedy, do you have any
14 response?

15 MR. KENNEDY: No, sir.

16 THE COURT: Okay. I think what my inclination
17 to do is recharge them on possession of a weapon
18 during the commission of a violent crime. I think
19 that's -- I think that will answer -- I think will
20 answer those questions.

21 So Mr.~Kennedy, do you understand what I'm
22 doing? I'm going to tell them the law again about
23 possession of a weapon during the commission of a
24 violent crime. Do you understand that?

25 MR. KENNEDY: All right.

1 THE COURT: All right, let's bring them on in.

2 Thank you, sir -- or ma'am.

3 (WHEREUPON, Court's Exhibit No. 4 marked for
4 identification.)

5 (WHEREUPON, the jury entered open court at
6 approximately 3:37 p.m.)

7 THE COURT: All right, Madam Forelady, I
8 received another two questions. First question, Is
9 he allowed legally to have possession of the
10 firearms? And question number two, Does just having
11 the guns in the home act as the inference for the
12 charge of possession of a weapon during the acting
13 commission of a violent crime?

14 Did I read those questions correctly? All
15 right, ladies and gentlemen, I'm going to recharge
16 you what the law is on this charge. So if you would
17 just give me your attention.

18 The Defendant is charged with possession of a
19 weapon during the commission of or attempt to commit
20 a violent crime. The State must prove beyond a
21 reasonable doubt that The Defendant was in possession
22 of a firearm or visibly displayed what appeared to be
23 a firearm during the commission of a violent crime.
24 A firearm means any machine gun, automatic rifle,
25 revolver, pistol or any weapon which will or is

1 designed to or may be readily converted to expel a
2 projectile.

3 In order to find The Defendant guilty of
4 possession of a weapon during the commission of a
5 violent crime, you must first find The Defendant
6 guilty of either committing a violent crime or
7 attempting to commit a violent crime. Under the law,
8 trafficking heroin is a violent crime. The State
9 must prove beyond a reasonable doubt that the weapon
10 furthered, advanced or helped in the commission of
11 the crime.

12 So I hope that answers it or helps. If it
13 doesn't, just simply write me another question and
14 we'll handle it. I hope that helped and I'll ask you
15 to return.

16 (WHEREUPON, the jury left open court at
17 approximately 3:40 p.m. and continued
18 deliberations.)

19 THE COURT: All right, we'll be in recess until
20 then.

21 (WHEREUPON, court was in recess awaiting a
22 verdict.)

23 THE COURT: All right, next question is, Can we
24 have clarity on which firearm matches which
25 indictment number? Again, Can we have clarity on

1 which firearm matches which indictment number?

2 Now, I'll hear from you, but my inclination is
3 to write on the note which indictment matches what.
4 And I have just -- when I got the question, I looked
5 at it. These are obviously questions number four,
6 five, and six on the verdict form. Under question
7 number four is the indictment number
8 2021-GS-23-000619, I wrote the FN nine millimeter
9 handgun. Under number five, which is indictment
10 number 2021-GS23-00538A, I wrote Ruger AR56. And
11 then number six, which 2021-GS-23-000537A, the Ruger
12 380.

13 But I'll hear you, Mr. Grounsell?

14 MR. GROUNSELL: That's correct, Your Honor.
15 That's fine with me.

16 THE COURT: All right, Mr.~Kennedy?

17 (There was no response.)

18 THE COURT: Do you have any objection to me--

19 MR. KENNEDY: No, no, sir.

20 THE COURT: All right. What I'll do is I'll
21 write on the return note and I'll let y'all look at
22 it before I submit it back to them. Just give me a
23 minute.

24 (WHEREUPON, Court's Exhibit No. 5 marked for
25 identification.)

1 THE COURT: If y'all would take a look. I have
2 written on the question the indictment number
3 corresponding to the weapons, so if you would take a
4 look.

5 (WHEREUPON, Mr. Grounsell and Mr.~Kennedy
6 reviewed Court's Exhibit No. 5.)

7 THE COURT: All right, both parties in
8 agreement? Consent to me sending this note back to
9 the jury?

10 MR. GROUNSELL: Yes, sir, Your Honor.

11 MR. KENNEDY: Yes, sir.

12 THE COURT: All right. All right, be in recess.

13 (WHEREUPON, court was in recess awaiting
14 verdict.)

15 THE COURT: Understand we have a verdict.

16 THE BAILIFF: All right, we'll bring them in.

17 (WHEREUPON, the jury entered open court at
18 approximately 4:20 p.m.)

19 THE COURT: So understand you have a unanimous
20 verdict?

21 MADAM FORELADY: Yes, sir.

22 THE COURT: All right, if you would hand it to
23 the bailiff, please.

24 All right, Mr. Clerk, if you would publish the
25 verdict, please.

1 THE CLERK: This is The State vs. Michael Justin
2 Kennedy, Indictment numbers 2021-GS-23-0620,
3 2021-GS-23-0539A, 2021-GS-23-3572, 2021-GS-23-0619,
4 2021-GS-230538A and 2021-GS-23-0537A. As to the
5 charge of trafficking methamphetamine, we, the jury,
6 unanimously find The Defendant, Michael Justin
7 Kennedy, guilty. As the charge of trafficking
8 heroin, we, the jury, unanimously find The Defendant,
9 Michael Justin Kennedy, guilty. As to the charge of
10 possession of a controlled substance with intent to
11 distribute, we, the jury, unanimously find The
12 Defendant, Michael Justin Kennedy, guilty. As to the
13 charge of possession of a weapon during the
14 commission of a violent crime under indictment number
15 2021-GS-23-0619, we, the jury, unanimously find The
16 Defendant, Michael Justin Kennedy, guilty. As to the
17 charge of possession of a weapon during the
18 commission of a violent crime under Indictment number
19 2021-GS-23-0538A, we, the jury, unanimously find The
20 Defendant, Michael Justin Kennedy, not guilty. And
21 as to the charge of possession of a weapon during the
22 commission of a violent crime under indictment number
23 2021-GS-23-0537A, we, the jury, unanimously find The
24 Defendant, Michael Justin Kennedy, not guilty.

25 THE COURT: All right, from The State, any

1 polling of the jury from The State?

2 MR. GROUNSELL: No, Your Honor.

3 THE COURT: Any polling of the jury from The
4 Defense?

5 MR. KENNEDY: No, sir.

6 THE COURT: All right. Ladies and gentlemen,
7 that concludes your service in this case. I want to
8 thank you for your attention and your hard work and
9 efforts in this case. And that will end your service
10 here today.

11 Unfortunately, I will have to ask you to come
12 back tomorrow. There may be another case tomorrow,
13 just a small case. So if you would report to the
14 jury room tomorrow morning at 9:15. I'm going to let
15 you step back in the jury room and I'm going to come
16 back and speak to you in just a minute and thank you
17 for your service.

18 (WHEREUPON, the jury left open court and was
19 excused at approximately 4:24 p.m.)

20 THE COURT: All right, we'll have sentencing.
21 I'm going to step back and speak with the jury and
22 give time on the sentencing, then we'll do
23 sentencing.

24 (WHEREUPON, a short break was taken.)

25 SENTENCING

1 THE COURT: All right, I'll hear from The State
2 on sentencing.

3 MR. GROUNSELL: Yes, Your Honor, Mr.~Kennedy
4 does have a prior record that I would like to give
5 you at this time. He has a 2011, burglary second
6 degree times two, grand larceny. 2012, petit
7 larceny. 2013, auto breaking and financial
8 transaction card fraud and burglary second degree.
9 2017, auto breaking, financial transaction card
10 fraud. And 2018, federal charge of possession of a
11 firearm by a felon.

12 Your Honor, obviously, the trafficking heroin
13 charge carries a mandatory minimum of 25 years. That
14 is a substantial sentence. Obviously, Mr.~Kennedy
15 definitely does have a record and the fact that he
16 has sat here for the past couple of days and
17 slandered law enforcement, obviously, is not taken
18 lightly by The State. We will, obviously, leave it
19 in your discretion, Your Honor.

20 THE COURT: All right, Mr.~Kennedy.

21 MR. KENNEDY: As you can see, based on my
22 record, Your Honor, I don't have any previous record
23 of any type -- of no drug offenses. And I was not
24 convicted of auto breaking in 2017. I don't know
25 what The State is referring to. I don't know what

1 he's talking about.

2 But outside of that, you know, I understand that
3 trafficking heroin has a mandatory minimum of 25
4 years. So it's not too much, you know, I can ask you
5 to do. You know, I just deal with the appeal.

6 THE COURT: All right, thank you. As you
7 correctly stated, Mr. Kennedy, I do not have any
8 discretion on that. It is a mandatory sentence for
9 that charge.

10 All right, anything else from The State?

11 MR. GROUNSELL: No, Your Honor.

12 THE COURT: All right, sentence of the Court
13 under 2021-GS-23-00539A is 25 years with the
14 Department of Corrections. Under 2021-GS-23-00620,
15 the sentence of the Court is 25 years, that is to run
16 concurrent. Under 2021-GS-23-03572, the sentence of
17 the Court is 15 years. That is to run concurrent.
18 And finally, under 2021-GS-23-00619, the sentence of
19 the Court is five years. Those all three -- I mean,
20 all four of these will run concurrent. The Defendant
21 has credit --

22 Do we have any idea what his credit is?

23 MR. GROUNSELL: Yes, Your Honor, he has credit
24 for 698 days.

25 THE COURT: All right. All right, The Defendant

1 has credit for 698 days.

2 Is there anything else?

3 MR. GROUNDSELL: Not from The State, Your Honor.

4 THE COURT: All right, good luck to you, sir.

5 (WHEREUPON, the proceedings were concluded.)

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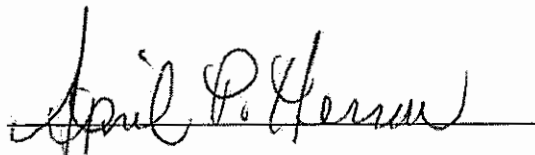
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 29TH day of August, 2022.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

February 15, 2023



APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA

County of

Greenville

South Carolina

SEARCH WARRANT

Date

September 24, 2020

Officer

Inv. J. McWhita

GCMDEU

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE



AFFIDAVIT

Personally appeared before me, one Inv. J. McWhite
who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Any evidence of illegal drug sales to include any items and/or materials used in the manufacturing, packaging or distribution of illegal drugs to include but not limited to any organic and/or synthetic opioids, cutting agents, scales, bags, containers and any other items related to such sales. Any US currency with serial numbers matching Greenville County Drug Enforcement Unit records and currency or items believed to be the actual proceeds of illegal drug sales. Any papers, records, ledgers, or account records relating to the sale of illegal drugs/proceeds of illegal drug sales and any electronic devices that could be used to store such data. Any electronic communication devices belonging to Michael Kennedy found on/in his person, vehicle, or residence(s).

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)

TO BE SEARCHED

11 Century Drive, Apartment 1304, is an apartment within the Woodside Eleven Apartment complex, located on Century Drive in Greenville, South Carolina. Apartment 1304 is located on the third floor of the left side, of the first building on the right, when entering the complex from Century Drive. The entry door to Apartment 1304 is white with its door hardware on the right side of the door, a metallic knocker in the upper center of the door, and a blue placard with the numbers "1304" displayed in white that is situated on the adjoining wall to the right of the door when facing the door from the breezeway.

2007 Ford Mustang VIN: 1ZVFT84N075298307, registered to Michael Justin Kennedy.

Any individuals located on this property at the time of the service of this warrant.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

See "Attachment A"

Sworn to and Subscribed before

me 24th day of September, 2020

Signature of Judge (LS.)



[Signature] V12*1837
Affiant
Address 4 McGee Street
Greenville, SC 29601

Phone 864-848-2151

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

} AFFIDAVIT

Attachment A

I, Investigator J. McWhite, am a sworn law enforcement officer of the Greer Police Department and an Investigator assigned to the Greenville County Multi-Jurisdictional Drug Enforcement Unit (GCMDEU). Since 2013, I have been assigned to special units designed to investigate illegal drug and vice-related crimes. Over the course of my law enforcement career I have investigated hundreds of criminal cases relating to the possession, distribution, and trafficking of illegal drugs. Over the span of my law enforcement career I have received formal and professional criminal justice education degrees and certifications and have completed numerous police training courses specializing in illegal drug investigations. These include Associate's and Bachelor's Degrees in Criminal Justice and a Basic Law Certification from the South Carolina Criminal Justice Academy as well as basic, advanced, and undercover narcotics investigations courses designed for active law enforcement investigators.

Within the past month, I received a tip from a confidential informant that the subject, Michael Justin Kennedy, was selling heroin from and around his Greenville apartment. According to this informant, he/she has witnessed Michael Kennedy sell illegal drugs on multiple occasions in recent months. I researched this subject and found him to have a criminal history which listed prior arrests for larceny, burglary, armed robbery, kidnapping, possessing a weapon during a violent crime, attempted murder and possession of illegal drugs.

Within the past 72 hours, I conducted an undercover operation wherein the subject, Michael Justin Kennedy, distributed a quantity of heroin to a confidential informant working under the direction and supervision of the Greenville County Multi-Jurisdictional Drug Enforcement Unit. Prior to beginning this operation, I met with the informant at a predetermined location. The informant and the informant's property were searched and nothing illegal was located. I provided the informant with electronic surveillance equipment and US currency from the GCMDEU Evidence Procurement Fund, of which the serial numbers of the bills were recorded. While in my presence, the informant made contact with Kennedy via cellular telephone communication and the two arranged to meet at a nearby location in order for Kennedy to sell a quantity of heroin to the informant. The informant met with Kennedy at the prescribed location and Kennedy sold a quantity of heroin to the informant in exchange for the money provided by the DEU. Immediately following this transaction, I met with the informant and recovered the drugs sold to him/her by Kennedy. The suspected drugs field-tested positive for the presence of heroin. The Informant and his/her property were searched again and nothing illegal was located. The informant provided a statement of the event, which was consistent with audio and visual surveillance. The informant was also able to positively identify Michael Kennedy as the individual who sold him/her drugs by use of a six-person photo line-up.

During this incident, Kennedy was observed arriving in his 2007 Ford Mustang, which is registered to him at an old home address. Kennedy was followed from the incident location to the Woodside Eleven Apartments where he was observed parking and entering the apartment building that contains Apartment 1304. After observing Kennedy enter the breezeway that leads to Apartment 1304, Woodside Eleven Apartments management confirmed that Michael Justin Kennedy was the current lease holder of Apartment 1304 as of September 7, 2020.

Based on the recent information provided by a confidential informant, and Kennedy's criminal history, I had reason to believe that Michael Kennedy was engaged in illegal drug activity. Based on the aforementioned undercover operation, I confirmed this belief to be true. Based on my law enforcement training and my experience investigating criminal drug cases, I know illegal drug dealers to keep the items listed in the "DESCRIPTION OF PROPERTY SOUGHT" section of this warrant in their homes and vehicles, along with records of such activity on their cellular communication devices. Based on my training and experience, I know individuals related to the sale of illegal drugs to commonly possess illegal drugs, drug paraphernalia, and concealable weapons on and/or about their persons.

Sworn to and Subscribed before me this 24th day of Sept 2020

[Signature] (L.S.)
Signature of Judge 6:53 pm

[Signature] V12 *1837
Affiant

Address 4 McGee St. Greenville, SC 29601

Phone 864-848-2151

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

SEARCH WARRANT

Form Approved by S.C. Attorney General Section 17-13-160 March 18, 1919

ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OF THE MUNICIPALITY OF GREENVILLE

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

11 Century Drive, Apartment 1304, is an apartment within the Woodside Eleven Apartment complex, located on Century Drive in Greenville, South Carolina. Apartment 1304 is located on the third floor of the left side, of the first building on the right, when entering the complex from Century Drive. The entry door to Apartment 1304 is white with its door hardware on the right side of the door, a metallic knocker in the upper center of the door, and a blue placard with the numbers "1304" displayed in white that is situated on the adjoining wall to the right of the door when facing the door from the breezeway.

2007 Ford Mustang VIN: 1ZVFT84N075298307, registered to Michael Justin Kennedy.

Any individuals located on this property at the time of the service of this warrant.

Now, therefore, you are hereby authorized to search the subject premises for the property described below, and to seize such property if found:

DESCRIPTION OF PROPERTY

Any evidence of illegal drug sales to include any items and/or materials used in the manufacturing, packaging or distribution of illegal drugs to include but not limited to any organic and/or synthetic opioids, cutting agents, scales, bags, containers and any other items related to such sales. Any US currency with serial numbers matching Greenville County Drug Enforcement Unit records and currency or items believed to be the actual proceeds of illegal drug sales. Any papers, records, ledgers, or account records relating to the sale of illegal drugs/proceeds of illegal drug sales and any electronic devices that could be used to store such data. Any electronic communication devices belonging to Michael Kennedy found on/in his person, vehicle, or residence(s).

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

this residence and/or Michael Kennedy

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

GREENVILLE, S.C.
September 24, 20 20

Signature of Judge (handwritten signature)

(L.S.)

6:53 pm

RETURN

I received the attached Search Warrant October 2nd 20 20, and have executed it as follows:
On October 2nd 20 20 at 2 o'clock P. M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with _____
Name of person searched or at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

- TW1 - Ruger AR-556 SN: 85421352 w/magazine containing rounds Room Heath
- TW2 - FN magazine containing Rounds - Room I - Closet
- TW3 - K110 press - Room I Closet - Heath
- TW4 - Black Ruger .380 Handgun SN: 380058489 - McGrath - Room I
- TW5 - Black Fobon (no case) - Room I closet - McGrath
- TW6 - Two bags of Green plant material - Room I closet - McGrath
- TW7 - Bag of crystal substance - Room I - Moore
- TW8 - Bag of white powder - Room I - Moore
- TW9 - Bag of Gray powder - Room I - Moore
- TW10 - Bag of Gray powder - Room I - Moore
- TW11 - Rubber Glove containing Brown Rock like substance Room I - Moore
- TW12 - Bag of white pills - Room I - Moore
- TW13 - Bag of Green plant material - Room I - Moore
- TW14 - Green plant material - Room I - Moore
- TW15 - FN - 9mm SN: 6K5006 w/ 11ght w/magazine ammo - Room I - Moore

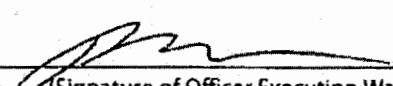
This inventory was made in the presence of JM Heath / JNV McGrath

AND _____

I swear that this Inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this _____
day of _____ 20 _____

Signature of Judge (L.S.)



(Signature of Officer Executing Warrant)

RETURN

I received the attached Search Warrant October 2nd 20 20, and have executed it as follows:
On October 2nd 20 20 at 2 o'clock P. M, I searched
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Owner/Occupant/Resident
Name of person searched or at the place of search" with.
Together with a receipt for the items seized.

4 McGee Street
The following is an inventory of property taken pursuant to the warrant:

- TW16 - bag of Ammo - Room I - moore
- TW17 - Unlimited Green dot carz Tommie Pratt - Room I - moore
- TW18 - power cash carz 4026 4200 3123 8605 - Room I moore
- TW19 - Bundle of counte fat cash - Room I - moore
- TW20 - Black LG phone - Room I - moore
- TW21 - Verizon 2T phone - Room I - moore
- TW22 - Red leather backpack - Room I - mcwhite - mustang
- TW23 - US Currency - mcwhite - mustang
- TW24 - Bag of Green dot material - mcwhite - mustang
- TW25 - Shopping bag containing substance - mcwhite - mustang
- TW26 - bag of Crystal like substance - mcwhite - mustang
- TW27 - bag of brown powder - mcwhite - mustang
- TW28 - US Currency - mcwhite - Kennedy person
- TW29 - Ledger - mcwhite mustang
- TW30 - 6mm weapon w/ Crystal substance - mcwhite - mustang
- TW31 - 40 magazines - Room I Bathroom - mcwhite - mustang
- TW32 - w/ GKT card - moore Room I
- TW33: Misc Drug case Throughout House
- TW34: Small iPhone
- TW35: Big iPhone - mcwhite / Kennedy person

This inventory was made in the presence of Inv. Hunt / Inv. mustang

AND

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 2nd
day of October 20 20

[Signature] (L.S.)
Signature of Judge

[Signature]
(Signature of Officer Executing Warrant)

1715 hrs



Greenville County Department of Public Safety

4 McGee Street
Greenville SC 29601

CHAIN OF CUSTODY REPORT



IMPOUNDING OFFICER: WORKMAN, TYLER - 1534 GSO	CASE #: 012020156203
SUBMITTING OFFICER:	Case Type:NARCOTICS INVESTIGATION
INVESTIGATING OFFICER: WORKMAN, TYLER - 1534 GSO	SEALED: Yes
DATE & TIME IMPOUNDED:10/2/2020 1400	SUBMITTED At:Locker 002
IMPOUND ADDRESS: 11 CENTURY DRAPT 1304 GVILLE SC	SUSPECT:KENNEDY MICHAEL

 1479187	Item #:TW26 BAG W/ CRYSTAL SUBSTANCE SUBSTANCE 56.9 GRAM	CRYSTAL
-------------	---	---------

Date/Time	Logged in User	Item moved to this Location
10/5/2020 1:32:42PM	Kathy Lance	GREENVILLE DPS EVIDENCE INTAKE
10/5/2020 3:08:42PM	Kathy Lance	COUNTY/CITY STAGING DRAWER
10/6/2020 10:50:35AM	Kathy Lance	SO HARD DRUGS (STAGING LAB)
10/13/2020 3:55:40PM	TAMMY MICNHIMER	COLLINS, SEAN F. - 8009 DPS
DRUG ANALYSIS -		 COLLINS 8009
10/20/2020 8:45:49AM	Kathy Lance	GREENVILLE DPS EVIDENCE INTAKE
10/23/2020 3:30:23PM	Kathy Lance	VAULT-FLOOR

End Chain of Custody for Item with Barcode #: 1479187 related to Case # 012020156203

NOTES:





Greenville County Department of Public Safety

4 McGee Street
Greenville SC 29601

CHAIN OF CUSTODY REPORT

IMPOUNDING OFFICER: WORKMAN, TYLER - 1534 GSO	CASE #: 012020156203
SUBMITTING OFFICER:	Case Type:NARCOTICS INVESTIGATION
INVESTIGATING OFFICER: WORKMAN, TYLER - 1534 GSO	SEALED: Yes
DATE & TIME IMPOUNDED:10/2/2020 1400	SUBMITTED At:Locker 002
IMPOUND ADDRESS: 11 CENTURY DR APT 1304 GVILLE SC	SUSPECT:KENNEDY MICHAEL

	Item #:TW27 BAG W/ BROWN POWDER	POWDER
1479188	SUBSTANCE 6.7 GRAM	

Date/Time	Logged in User	Item moved to this Location
10/5/2020 1:33:01PM	Kathy Lance	GREENVILLE DPS EVIDENCE INTAKE
10/5/2020 3:08:42PM	Kathy Lance	COUNTY/CITY STAGING DRAWER
10/6/2020 10:50:35AM	Kathy Lance	SO HARD DRUGS (STAGING LAB)
10/13/2020 3:55:41PM	TAMMY MICNHIMER	COLLINS, SEAN F. - 8009 DPS
DRUG ANALYSIS -		 COLLINS 8009
10/20/2020 8:45:49AM	Kathy Lance	GREENVILLE DPS EVIDENCE INTAKE
10/23/2020 3:30:23PM	Kathy Lance	VAULT-FLOOR

End Chain of Custody for Item with Barcode #: 1479188 related to Case # 012020156203

NOTES:





Greenville County Department of Public Safety

4 McGee Street
Greenville SC 29601

CHAIN OF CUSTODY REPORT

IMPOUNDING OFFICER: WORKMAN, TYLER - 1534 GSO	CASE #: 012020156203
SUBMITTING OFFICER:	Case Type:NARCOTICS INVESTIGATION
INVESTIGATING OFFICER: WORKMAN, TYLER - 1534 GSO	SEALED: Yes
DATE & TIME IMPOUNDED:10/2/2020 1400	SUBMITTED At:Locker 002
IMPOUND ADDRESS: 11 CENTURY DR APT 1304 GVILLE SC	SUSPECT:KENNEDY MICHAEL

 1479172	Item #:TW7 BAG W/ CRYSTAL SUBSTANCE SUBSTANCE 28 GRAM	CRYSTAL
--	--	---------

Date/Time	Logged in User	Item moved to this Location
10/5/2020 1:19:51PM	Kathy Lance	GREENVILLE DPS EVIDENCE INTAKE
10/5/2020 3:08:42PM	Kathy Lance	COUNTY/CITY STAGING DRAWER
10/6/2020 10:50:35AM	Kathy Lance	SO HARD DRUGS (STAGING LAB)
10/13/2020 3:55:33PM	TAMMY MICNHIMER	COLLINS, SEAN F. - 8009 DPS
DRUG ANALYSIS -		 COLLINS 8009
10/20/2020 8:45:49AM	Kathy Lance	GREENVILLE DPS EVIDENCE INTAKE
10/23/2020 3:30:23PM	Kathy Lance	VAULT-FLOOR

End Chain of Custody for Item with Barcode #: 1479172 related to Case # 012020156203

NOTES:





Greenville County Department of Public Safety

4 McGee Street
Greenville SC 29601

CHAIN OF CUSTODY REPORT

IMPOUNDING OFFICER: WORKMAN, TYLER - 1534 GSO	CASE #: 012020156203
SUBMITTING OFFICER:	Case Type:NARCOTICS INVESTIGATION
INVESTIGATING OFFICER: WORKMAN, TYLER - 1534 GSO	SEALED: Yes
DATE & TIME IMPOUNDED:10/2/2020 1400	SUBMITTED At:Locker 002
IMPOUND ADDRESS: 11 CENTURY DR APT 1304 GVILLE SC	SUSPECT:KENNEDY MICHAEL

 1479173	Item #:TW8 BAG W/ WHITE POWDER SUBSTANCE 262.3 GRAM	POWDER
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Date/Time	Logged in User	Item moved to this Location
10/5/2020 1:20:11PM	Kathy Lance	GREENVILLE DPS EVIDENCE INTAKE
10/5/2020 3:08:42PM	Kathy Lance	COUNTY/CITY STAGING DRAWER
10/6/2020 10:50:35AM	Kathy Lance	SO HARD DRUGS (STAGING LAB)
10/13/2020 3:55:34PM	TAMMY MICNHIMER	COLLINS, SEAN F. - 8009 DPS
DRUG ANALYSIS -		 COLLINS 8009
10/20/2020 8:45:49AM	Kathy Lance	GREENVILLE DPS EVIDENCE INTAKE
10/23/2020 3:30:23PM	Kathy Lance	VAULT-FLOOR

End Chain of Custody for Item with Barcode #: 1479173 related to Case # 012020156203

NOTES:





Greenville County Department of Public Safety

4 McGee Street
Greenville SC 29601

CHAIN OF CUSTODY REPORT

IMPOUNDING OFFICER: WORKMAN, TYLER - 1534 GSO	CASE #: 012020156203
SUBMITTING OFFICER:	Case Type:NARCOTICS INVESTIGATION
INVESTIGATING OFFICER: WORKMAN, TYLER - 1534 GSO	SEALED: Yes
DATE & TIME IMPOUNDED:10/2/2020 1400	SUBMITTED At:Locker 002
IMPOUND ADDRESS: 11 CENTURY DR APT 1304 GVILLE SC	SUSPECT:KENNEDY MICHAEL

 1479174	Item #:TW9 BAG W/ GRAY POWDER SUBSTANCE 22.6 GRAM	POWDER
--	--	--------

Date/Time	Logged in User	Item moved to this Location
10/5/2020 1:20:31PM	Kathy Lance	GREENVILLE DPS EVIDENCE INTAKE
10/5/2020 3:08:42PM	Kathy Lance	COUNTY/CITY STAGING DRAWER
10/6/2020 10:50:35AM	Kathy Lance	SO HARD DRUGS (STAGING LAB)
10/13/2020 3:55:35PM	TAMMY MICNHIMER	COLLINS, SEAN F. - 8009 DPS
DRUG ANALYSIS -		 COLLINS 8009
10/20/2020 8:45:49AM	Kathy Lance	GREENVILLE DPS EVIDENCE INTAKE
10/23/2020 3:30:23PM	Kathy Lance	VAULT-FLOOR

End Chain of Custody for Item with Barcode #: 1479174 related to Case # 012020156203

NOTES:

Item TW26: Bag containing crystal substance
Results: Methamphetamine (C-II) found 55.55 grams

Item TW27: Bag containing chunks of powder substance
Results: Heroin (C-I) found 5.75 grams

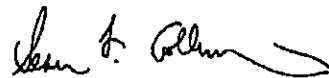
Item TW30: Foil and paper wrapper with crystal substance
Results: Methamphetamine (C-II) found 0.53 grams

Item TW7: Bag containing crystal substance
Results: Methamphetamine (C-II) found 21.71 grams

Item TW8: Bag containing powder substance
Results: Carfentanil (C-II) found 254.67 grams

Item TW9: Bag containing powder substance
Results: Heroin (C-I) found 21.73 grams

I am a Criminalist employed by Greenville County to perform chemical and physical examinations on evidence submitted by law enforcement agencies in criminal cases, and to testify in courts of record in the state of South Carolina on such examinations.



Sean F. Collins

2020 OCT 27 11:13:43

02020 09:00:00

DOCKET NO. 2021-CS-000619
The State of South Carolina
County of Greenville

COURT OF GENERAL SESSIONS

JUNE TERM 2021

THE STATE

vs.

MICHAEL JUSTIN KENNEDY

WITNESS
Jonathan W Mcwhite
Greenville County Sheriffs Office

10/2/2020

ARREST WARRANT NUMBER
2020A2330209758

ACTION OF GRAND JURY

TRUE BILL



FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

0549

POSS OF A WEAPON DURING THE
COMMISSION OF A VIOLENT CRIME

VIOLATION § 16-23-0490

ENTERED
ACCT JCR

FILED

FEB 15 2021

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSS OF A WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

At a Court of General Sessions, convened on

JUN 01 2021 the Grand Jurors of Greenville

County present upon their oath:

That MICHAEL JUSTIN KENNEDY did in Greenville County, on or about the 2nd day of October, 2020, possess or visibly display a FN 9mm Handgun (SN:KS0069703) during the commission or attempted commission of a violent crime, to wit: Trafficking Heroin. This is in violation of §16-23-490 of the South Carolina Code Laws (1976) as amended.

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



SOLICITOR BAR # 101312

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Greenville

STATE

VS.

INDICTMENT/CASE#: 2021GS2300619

Michael Justin Kennedy

A/W#: 2020A2330209758

AKA:

Date of Offense: 10/2/2020

Race: BLACK Sex: M Age: 29

S.C. Code § : 16-23-0490

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 0549

Address: [REDACTED] Century Drive Apt [REDACTED]

City, State, Zip: Greenville, SC 29607

DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

*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: Weapons / Poss. Weapon During Violent Cr

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549 ✓

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

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 ATTEST:

[Signature] 180370
Grounell, Clark SC Bar# Defendant

[Signature] 184607
~~SHANNEE MORGAN~~ SC
~~CLARY~~
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center.

for a determinate term of 5 days/months/years/Time Served Youthful Offender Act not to exceed _____ year.

and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or payment of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years 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: Convictions on 8/31/22

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDP 698 days/months

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 § (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS Michael Justin Kennedy INDICTMENT/CASE#: 2021GS2300619

SPECIAL CONDITIONS: A/W#: 2020A2330209758

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, 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 0 days/week

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 Term _____ Set by SCDPPPS

Recipient: _____

*Fine:

Table with 3 columns: Description, Amount, Total. Includes rows for §14-1-206, §14-1-211(A)(1), §14-1-211(A)(2), §56-5-2995, §56-1-286, §14-1-212, §14-1-213, §34-11-70(b)and(c), §50-21-114, §56-5-2942(J), and 3% to County.

- Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees. \$500
§ 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund TBD

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk: Paul B. Wilkerson
Court Reporter: Heason

Presiding Judge: [Signature]
Judge Code: 2773
Sentence Date: 8/31/22

DOCKET NO. 2021-000620
The State of South Carolina
County of Greenville

COURT OF GENERAL SESSIONS
June TERM 2021

THE STATE

vs.

MICHAEL JUSTIN KENNEDY

Indictment for

0392

TRAFFICKING METHAMPHETAMINE

VIOLATION § 44-53-0375

FILED

FEB 15 2021

Clerk of Court
Greenville County

ENTERED
ACCT

Foreperson of Grand Jury

Date:

Jonathan W Mcwhite

Greenville County Sheriffs Office

10/2/2020

ARREST WARRANT NUMBER

2020A2330209759

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
TRAFFICKING METHAMPHETAMINE

At a Court of General Sessions, convened on **JUN 01 2021** the Grand Jurors of Greenville

County present upon their oath:

That MICHAEL JUSTIN KENNEDY did in Greenville County, on or about the 2nd day of October, 2020, knowingly sell, manufacture, deliver or bring into the State of South Carolina or did knowingly provide financial assistance or otherwise aid, abet, attempt or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of 28 grams or more but less than 100 grams of Methamphetamine (Crank). This is in violation of §44-53-375 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.



SOLICITOR

BAR # 101312

7-259 569

STATE OF SOUTH CAROLINA)
 COUNTY OF Greenville)
 STATE)
 VS.)
Michael Justin Kennedy)
 AKA:)
 Race: BLACK Sex: M Age: 29)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: Century Drive Apt [REDACTED])
 City, State, Zip: Greenville, SC 29607)
 DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021GS2300620

A/W#: 2020A2330209759
 Date of Offense: 10/2/2020
 S.C. Code § : 44-53-0375(C)(2)
 CDR Code #: 0392

SENTENCE SHEET

*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: Drugs / Trafficking In Ice, Crank, Crack

in violation of § 44-53-0375(C)(2) of the S.C. Code of Laws, bearing CDR Code # 0392

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

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:

[Signature] 100370 _____ 100370
 Grounsell, Clark SC Bar# Defendant ~~SHANKLE MORGAN~~ SC Bar#
~~CHERRY~~
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
 for a determinate term of 25 days/months/years/Time Served Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or payment
 of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
 months/years 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: 60m Convictions on 8/31/22

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SOT
698 days/months
 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 § 16-25-25
 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

58

STATE VS Michael Justin Kennedy INDICTMENT/CASE#: 2021GS2300620

SPECIAL CONDITIONS: A/W#: 2020A2330209759

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 _____
- 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 0 _____ 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 Term _____ 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 \$ <u>100</u>
§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 \$ <u>25</u>
§14-1-213 (Drug Court Surcharge)	\$150 \$ <u>150</u>
§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 \$ <u>8.25</u>
<input 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 \$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD \$ _____
TOTAL	\$ <u>283.25</u>

Clerk of Court/ Deputy Clerk: Paul Wickensinar
Court Reporter: Hannon

Presiding Judge: [Signature]
Judge Code: 2773
Sentence Date: 8/31/22

Case No. 2021-GS-23-
EWM 00357
The State of South Carolina
County of Greenville

COURT OF GENERAL SESSIONS

June TERM 2021

THE STATE

vs.

MICHAEL JUSTIN KENNEDY

Indictment for

0183 ✓

POSSESSION OF A CONTROLLED
SUBSTANCE W/INTENT TO DISTRIBUTE

VIOLATION § 44-53-0370

ENTERED
ACCT

WITNESSES

Nathan W Mcwhite

Greenville County Sheriffs Office

10/2/2020

ARREST WARRANT NUMBER

2020A2330209757

ACTION OF GRAND JURY

TRUE BILL

[Signature]
~~FOREPERSON OF GRAND JURY~~

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
POSSESSION OF A CONTROLLED SUBSTANCE W/INTENT TO
DISTRIBUTE

At a Court of General Sessions, convened on **JUN 01 2021** the Grand Jurors of Greenville

County present upon their oath:

That MICHAEL JUSTIN KENNEDY did in Greenville County, on or about the 2nd day of October, 2020, possess with intent to distribute or aid, abet, conspire to possess with the intent to distribute a quantity of a schedule II controlled substance, Carfentanil, such possession not having been authorized by law. This is in violation of §44-53-370 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



SOLICITOR

BAR # 101312

STATE OF SOUTH CAROLINA)
 COUNTY OF Greenville)
 STATE)
 VS.)
Michael Justin Kennedy)
 AKA:)
 Race: BLACK Sex: M Age: 29)
 DOB: [REDACTED] SS# [REDACTED])
 Address: Century Drive Apt [REDACTED])
 City, State, Zip: Greenville, SC 29607)
 DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021GS2303572
 A/W#: 2020A2330209757
 Date of Offense: 10/2/2020
 S.C. Code § : 44-53-0370(B)(1)
 CDR Code #: 0183

SENTENCE SHEET

*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: Drugs / Mdp, Narcotic Drugs In Sch. I(b)

in violation of § 44-53-0370(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0183

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

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:
[Signature] 180370
 Grounsell, Clark SC Bar# Defendant [Signature] SC Bar#
 CLEARBY:

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center
 for a determinate term of 15 days/months/years/Time Served Youthful Offender Act not to exceed _____
 and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or
 of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years 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: Gov Convictions on 8/31/22

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.
698 days/months
 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 § 16-25-87 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS Michael Justin Kennedy INDICTMENT/CASE#: 2021GS2303572

SPECIAL CONDITIONS: A/W#: 2020A2330209757

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, 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 0 _____ 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 Term _____ Set by SCDPPPS

Recipient: _____

*Fine:

Table with 3 columns: Description, Amount, Total. Includes rows for §14-1-206, §14-1-211(A)(1), §14-1-211(A)(2), §56-5-2995, §56-1-286, §14-1-212, §14-1-213, §34-11-70(b)and(c), and 34-11-90(c)and(d), §50-21-114, §56-5-2942(J), 3% to County, Appointed PD, and § 17-3-30(B). Total: \$ 283.75

Clerk of Court/ Deputy Clerk: Paul B. Wickens, ma Court Reporter: Herrod

Presiding Judge: [Signature] Judge Code: 2773 Sentence Date: 8/31/22

DOCKET NO. 2021-03-43 000539A

The State of South Carolina
County of Greenville

COURT OF GENERAL SESSIONS

June TERM 2021

THE STATE

vs.

MICHAEL JUSTIN KENNEDY

WITNES

Jonathan W Mcwhite

Greenville County Sheriffs Office

10/2/2020

DIRECT PRESENTMENT

DOB: [REDACTED] B/M SSN: [REDACTED]

ACTION OF GRAND JURY
TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Indictment for

0287

TRAFFICKING HEROIN

VIOLATION § 44-53-0370

Foreperson of Petit Jury

Date:

ENTERED
ACCT

2577

STATE OF SOUTH CAROLINA)
 COUNTY OF Greenville)
 STATE)
 VS.)
Michael Justin Kennedy)
 AKA:)
 Race: BLACK Sex: M Age: 29)
 DOB: [REDACTED] SS# [REDACTED])
 Address: [REDACTED] Century Drive Apt [REDACTED])
 City, State, Zip: Greenville, SC 29607)
 DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021GS2300539A
 A/W#: 2021GS2300539A
 Date of Offense: 10/2/2020
 S.C. Code § : 44-53-0370(E)(3)(
 CDR Code #: 0287

SENTENCE SHEET

*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: Drugs / Trafficking in Heroin, morph., etc., 14 g or more, but less than 28 g

in violation of § 44-53-0370(E)(3)(of the S.C. Code of Laws, bearing CDR Code # 0287

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

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

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by ATTEST:

[Signature] 100370
 Grounell, Clark SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center for a determinate term of 25 days/months/years/Time Served Youthful Offender Act not to exceed _____ year

and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or payment of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years 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: Convictions on 8/31/22

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCPI 698 days/months

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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

So

STATE VS Michael Justin Kennedy INDICTMENT/CASE#: 2021GS2300539A

SPECIAL CONDITIONS: A/W#: 2021GS2300539A

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 _____
- 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 0 _____ day
- 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 Term _____ 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	\$ <u>100</u>
§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	\$ <u>25</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ <u>150</u>
§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	\$ <u>8.25</u>
<input 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	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
	TOTAL	\$ <u>289.25</u>

Clerk of Court/ Deputy Clerk: Paul B. Wickens
Court Reporter: April HERRON

Presiding Judge: [Signature]
Judge Code: 2773
Sentence Date: 8/31/22

CERTIFICATE OF COUNSEL FOR APPELLANT

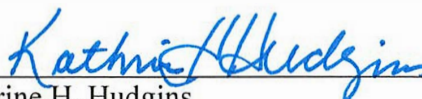
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Feb 05 2024

SC Court of Appeals



Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 5th day of February, 2024.

RECEIVED

Feb 05 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MICHAEL J. KENNEDY,

APPELLANT

APPELLATE CASE NO. 2022-001293

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Ambree M. Muller, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 5th day of February, 2024.



Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

From: [Stock, Chris](#)
To: [SC - MULLER AMBREE; Grace Sommer](#)
Cc: [Hudgins, Kathrine](#)
Subject: Kennedy, Michael - Record on Appeal V 1 , 2 & Proposed Transportation Order - 2022-001293
Date: Monday, February 5, 2024 2:09:08 PM
Attachments: [Kennedy, Michael - Record on Appeal - Volume 2 - 2022-001293.pdf](#)
[Kennedy, Michael - Record on Appeal - Volume 1 - 2022-001293.pdf](#)
[Kennedy, Michael - Proposed Transportation Order - 2022-001293.pdf](#)

Ms. Muller,

Please find attached for service the Record on Appeal and Proposed Transportation Order for Michael Kennedy's appeal which will be filed today with the Court of Appeals.

Thank you.

Chris

Chris Stock

Administrative Assistant
Commission on Indigent Defense
Appellate Division
(803) 734-1330