

THE STATE OF SOUTH CAROLINA
In The Supreme Court

PETITION FOR CERTIORARI FROM GREENWOOD COUNTY
Court of Common Pleas

The Honorable J. Mark Hayes II., Circuit Court Judge
The Honorable Eugene C. Griffith, Jr., Plea Judge

Appellate Case No: 2020-000574

MAUNWELL ERVIN,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA

PETITIONER.

APPENDIX

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INDEX

Suppression Motion Hearing Transcript Dated January 31, 2013	1
Trial Transcript Dated July 23-24, 2013.....	103
Guilty Plea Transcript Dated April 11, 2016.....	414
Application for Post-Conviction Relief	428
Return and Motion to Dismiss	439
Post-Conviction Relief Hearing Transcript	446
Exhibits from PCR Hearing.....	502
Order	510
State’s Motion to Reconsider and to Alter and Amend Pursuant to 59(e), SCRCF	519
State’s 59(e) Motion Hearing Transcript Dated October 1, 2019.....	526
Order	549
Sentencing Sheets and Indictments.....	553

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF TRANSCRIBER

CASE/NO.: Maunwell Ervin v. State of SC

2015-CP-24-1268

DATE OF PROCEEDING: March 2, 2018

COURT REPORTER: Tara Scott

I, Bobbi J. Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.



Bobbi J. Fisher, RPR, CET

NCRA Registered Professional Reporter (RPR)

AAERT Certified Electronic Transcriber No. CET-1148

Prepared: September 24, 2019

COURT OF COMMON PLEAS AND GENERAL SESSIONS
EXHIBIT RECORD AND RECEIPT FORM

PLAINTIFF MAunwell J. Ervin DEFENDANT State of SC
ATTORNEY C. Raveh Wise ATTORNEY Justin Hunter
CASE NO. 2015-CP-24-1268 JUDGE J. MARK HAYES II
DATE STARTED March 2 2018 COURT REPORTER TARA SCOTT
DATE ENDED _____

PLAINTIFF'S EXHIBITS

DEFENDANT'S EXHIBITS

- 1. Motion for Relief of Counsel
- 2. E-MAIL
- 3. Motion/Order Relieve Counsel
- 4. _____
- 5. _____
- 6. _____
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- 20. _____

s/TARA SCOTT
Court Reporter

s/Lynn W. Lancaster
Clerk of Court

STATE OF SOUTH CAROLINA)
COUNTY OF GREENWOOD)

IN THE COURT OF GENERAL SESSIONS

NO. 11-GS-24-0781 ET AL

STATE OF SOUTH CAROLINA ,
PLAINTIFF ,

MOTION FOR RELIEF OF
COUNSEL

VS.

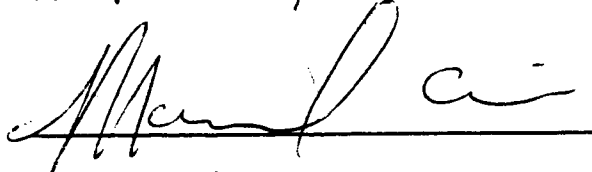
MAUNWELL JABAR ERVIN ,
DEFENDANT.

FILED GENERAL SESSIONS
8th JUDICIAL CIRCUIT
GREENWOOD, SC

2015 APR 30 PM 4:15

PROCEEDING PRO SE , THE ABOVE NAMED DEFENDANT COMES
BEFORE THIS COURT , BY WAY OF MOTION , AND HEREBY MOVES TO HAVE
ATTORNEY LAUREN M. TAYLOR , ESQUIRE , OF THE SOUTH CAROLINA
BAR , RELIEVED AS COUNSEL .

RESPECTFULLY SUBMITTED



DEFENDANT

MARCH 17 , 2015

REMBERT , SOUTH CAROLINA



STATE OF SOUTH CAROLINA)
COUNTY OF GREENWOOD)

IN THE COURT OF GENERAL SESSIONS

NO. 11-GS-24-0781 ET AL

STATE OF SOUTH CAROLINA,
PLAINTIFF,

VS.

MAUNWELL JABAR ERVIN,
DEFENDANT.

AFFIDAVIT

2015 APR 30 PM 4:15

FILED GENERAL SESSIONS
8th JUDICIAL CIRCUIT
GREENWOOD, SC

IN SUPPORT OF THE ATTACHED MOTION TO HAVE ATTORNEY LAUREN M. TAYLOR RELIEVED AS COUNSEL, I, MAUNWELL JABAR ERVIN, THE DEFENDANT NAMED ABOVE, BEING DULY SWORN UPON MY OATH, DO HEREBY STATE AND DEPOSE THE FOLLOWING :

1. LAUREN TAYLOR WAS APPOINTED TO REPRESENT ME IN THE ABOVE REFERENCED CRIMINAL CASE ON SEPTEMBER 5, 2012.

2. MS. TAYLOR REPRESENTED ME AT A SUPPRESSION HEARING THAT TOOK PLACE ON JANUARY 31, 2013 AND AT A TRIAL THAT TOOK PLACE ON 22 THROUGH THE 24 OF JULY IN 2013.

3. AS OF THE DATE OF THE ATTACHED MOTION MS. TAYLOR IS STILL THE ATTORNEY OF RECORD ON THE ONE CHARGE REMAINING TO BE TRIED IN THE ABOVE REFERENCED CRIMINAL CASE.

4. MS. TAYLOR HAS PRETTY MUCH ABANDONED ME SINCE SHE REPRESENTED ME AT TRIAL IN 2013.

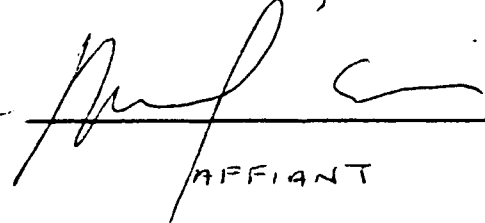
17. MS. TAYLOR HAS BEEN RUDE TO ME AND SHE HAS TREATED ME IN A DISRESPECTFUL MANNER.

18. I WILL NOT ALLOW MS. TAYLOR TO CONTINUE TO REPRESENT ME AND OR TO REPRESENT ME AT TRIAL.

FURTHER, THE AFFIANT SAYS TH NOT.

WHEREFORE, FOR JUST CAUSE SHOWN, THE HEREIN NAMED DEFENDANT / AFFIANT, PROCEEDING PRO SE, RESPECTFULLY REQUESTS THAT ATTORNEY LAUREN M. TAYLOR BE RELIEVED AS COUNSEL, AND THAT OTHER COUNSEL BE APPOINTED BY THE COURT.

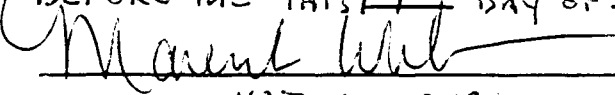
RESPECTFULLY SUBMITTED



AFFIANT

SWORN OR AFFIRMED TO AND SUBSCRIBED

BEFORE ME THIS 17 DAY OF March, 2015



NOTARY PUBLIC

MY COMMISSION EXPIRES : 3-8-2021

Subject: Fwd: Congrats!!!
From: Charles Grose <chasgrose@gmail.com>
Date: 5/26/2017 7:30 PM
To: "C. Rauch Wise" <rauchwise@gmail.com>

Sent from my iPhone

Begin forwarded message:

From: Lauren Taylor <taylor.laurenm@gmail.com>
Date: February 1, 2013 at 6:07:01 PM EST
To: Charles Grose <chasgrose@gmail.com>
Subject: Re: Congrats!!!

Thank you so much! They forwarded the motion to me.

Lauren M. Taylor
Attorney at Law
P.O. Box 31553
Greenville, SC 29608
(864) 907.4444
(864) 751-4144 (fax)

NOTICE: This communication including any attachment is being sent by or on behalf of a lawyer or law firm and may contain confidential or legally privileged information. The sender does not intend to waive any privilege, including the attorney-client privilege, which may attach to this communication. If you are not the intended recipient, you are not authorized to intercept, read, print retain, copy, forward, or disseminate this communication. If you have received this communication in error, please notify the sender immediately by email and delete this communication and all copies.

On Feb 1, 2013, at 6:03 PM, Charles Grose <chasgrose@gmail.com> wrote:

Very good job!!!

You do have an interesting double jeopardy issue. Chelsea and I have some stuff on it. I also have some stuff on your entitlement to a transcript before they can try it again. You need to order that if they don't dismiss.



IN THE COURT OF GENERAL SESSIONS
COUNTY OF GREENWOOD
EIGHTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

) Case No.: 2011-GS-24-0781 et al

) Motion and Order to Be Relieved as Counsel

vs.

MANWELL ERVIN,

Defendant

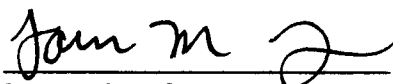
PLEASE TAKE NOTICE THAT as soon as this matter may be heard, Lauren M. Taylor, Attorney will be making a Motion to be relieved from the representation of the Defendant for the above-captioned charges. The reasons for this Motion are:

1. A trial has been scheduled for the week of April 11, 2016 in the above case to try the Defendant on crack-cocaine charges.
2. Defendant filed a post-conviction relief in 2015 against Ms. Taylor stemming from his trial in 2012.
3. Due to the inherent nature of the conflict of the post-conviction relief on the grounds of ineffective counsel, the Defendant is putting the court on notice that Ms. Taylor will indeed be ineffective in the trial set for April 2016.
4. Pursuant to Rule 1.16(b)(1) of the South Carolina Rules for Professional Conduct, due to Defendant's post-conviction relief filing, "withdrawal can be accomplished without material adverse effect on the interests of the client."
5. Pursuant to Rule 1.16(b)(7) of the South Carolina Rules for Professional Conduct, other good cause for withdrawal exists.



Wherefore, it is requested that Lauren M. Taylor be relieved from representing the Defendant as there has been a potential post-conviction relief filed against Ms. Taylor by Defendant.

Respectfully submitted,



Lauren M. Taylor
Attorney at Law
Bar # 100417
Post Office Box 31553
Greenville, SC 29608
(864) 907-4444

April 7, 2016

IN THE COURT OF GENERAL SESSIONS
COUNTY OF UNION
SIXTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

) Case No.: 2011-GS-24-0781 et al

) Motion and Order to Be Relieved as Counsel

vs.

MANWELL ERVIN,

Defendant

This matter came before the Court on the Applicant's Motion to be relieved as counsel. I find as follows:

1. Counsel for the Defendant seeks to withdraw as counsel of record in the above-referenced case.
2. Cause for withdraw is due to Defendant filing a post-conviction relief against Ms. Taylor on the grounds of ineffective counsel stemming from Defendant's trial in 2012.
3. Withdrawal in this matter will not adversely affect the Defendant in this matter.

For the foregoing reasons, I find that counsel for the Defendant shall be granted leave to withdraw as counsel of record in this case. I also find that Defendant shall be appointed another attorney from the Public Defender's office.

It Is So Ordered.

Dated this ____ day of _____, 20____
At _____, South Carolina

Presiding Judge, Eighth Judicial Circuit

Filed CP 8th Jud Cir Greenwood, SC
2018 SEP 13 PM 3:54

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)
)
Mauwell J. Ervin, Jr. № 3566337)
)
Applicant.)
)
-vs-)
)
State of South Carolina)

IN THE COURT OF COMMON PLEAS

2017-CP-24-00754

Order

Mauwell J. Ervin filed this Post Conviction Relief Action on June 27, 2017. The petition is from a guilty plea he entered on April 11, 2016 to a charge of trafficking cocaine base. He was sentenced to 7 years imprisonment to run concurrently with the charges for which he had been previously convicted. This charge arose out of the same facts of the case for which Mr. Ervin filed a Post Conviction Relief petition in action 2015-CP-24-01268. These cases were originally tried in January of 2013. In that trial Mr. Ervin was acquitted of the charge of possession of a firearm while engaged in a drug trafficking offense. The jury was unable to reach a verdict on all other charges, including the charge of trafficking in cocaine base. He was tried again in July of 2013 which resulted in Mr. Ervin being convicted of possession of marijuana with intent to distribute, possession of marijuana with intent to distribute within proximity of a school and possession of Benzylpiperazine. The trafficking charge was not resolved due to the fact that, for the second time, the jury was unable to reach a verdict on that charge. The State has moved to dismiss based upon the fact that the application for Post Conviction Relief was filed more than one year after his guilty plea and sentence.

Statute of Limitations



S. C. Code § 17-27-45 requires that the Post Conviction Relief petition be filed “within one year after entry of a judgment of conviction or within one year after sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.” As no appeal was taken in this case, the statute of limitation began to run on the date he entered his guilty plea. The code section has an exception. It provides “(C) If the applicant contends that there is evidence of material facts not previously presented and heard that requires vacation of the conviction or sentence, the application must be filed under this chapter within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence.”

Mr. Ervin contends that he filed his petition within one years of the time he learned of the material facts that would afford him a valid Post Conviction Relief action. An analysis of the other pending Post Conviction Relief action is necessary to fully understand the issues in this case. Mr. Ervin was originally indicted for the charges of possession of a firearm while engaged in a drug trafficking offense, possession with intent to distribute marijuana, possession with intent to distribute marijuana within proximity of a school, trafficking crack cocaine, trafficking crack cocaine within proximity of a school and possession of Benzylpiperazine.

The first trial was held in January of 2013. At that trial Mr. Ervin was found not guilty of possession of a firearm while engaged in a drug trafficking offense. The jury was unable to reach a verdict on the remaining charges. A second trial was held in July of the same year. This trial resulted in Mr. Ervin being convicted of possession of marijuana with intent to distribute, possession of marijuana with intent to distribute within proximity of a school, and possession of Benzylpiperazine. The jury was again unable to reach a verdict on the trafficking crack cocaine and proximity charges. Mr. Ervin took an appeal from these convictions, which



were affirmed on November 26, 2014. The remittitur was sent on December 12, 2014. On November 30, 2015, Mr. Ervin filed his first Post Conviction Relief Petition on those charges by depositing it in the mail of the South Carolina Department of Correction. At the time of his plea in this matter, his first Post Conviction Relief Petition had been pending for over four months. He had also filed a Motion to have his counsel relieved which was admitted as an exhibit in this hearing. His plea counsel, who was also his trial counsel at the 2013 trials, acknowledged that she had received the Motion to have her relieved as counsel. She further confirmed that the State was also aware that Mr. Ervin had filed an ineffective assistance of counsel claim against her and a Motion to have her relieved. Notwithstanding these facts, the plea judge was never informed of this conflict and there was no attempt to obtain a waiver from Mr. Ervin. Simply put, from the testimony no one made the plea judge aware of this obvious conflict.

Our Supreme Court has said, "An actual conflict of interest occurs where an attorney owes a duty to a party whose interests are adverse to the defendants." *State v. Gregory*, 364 S.C. 150, 152, 612 S.E.2d 449, 450 (2005). In that case, trial counsel representing Mr. Gregory was also representing the assistant solicitor prosecuting the case in his divorce action. The Court said, "In this case, we find Gregory's attorney had an actual conflict because he placed himself in a 'situation inherently conducive to divided loyalties' by simultaneously representing Gregory and the assistant solicitor who was handling his criminal case. Given the actual conflict, Gregory is not required to demonstrate prejudice." *Id.* at 154, 612 S.E.2d at 451. In this case, there was divided loyalty. Mr. Ervin had filed an action saying his lawyer was not competent in his prior representation. He was seeking a new trial in that action. He further had filed a Motion requesting his plea counsel be dismissed. This Motion had not been heard. By not



raising any defense and entering the plea, the lawyer virtually mooted his first PCR as very little time would be reduced if he were successful in the first PCR.

The due process clause of Article I, §12 of the Constitution of the State South Carolina and the Fourteenth Amendment to the Constitution of the United States of American should afford relief to Mr. Ervin either independently or in interpreting the South Carolina Post Conviction Relief Statute. The due process issue arose in a unique way in *Steele v. Kehoe*, 724 So. 2d 1192 (Fla. Dist. Ct. App. 1998), approved, 747 So. 2d 931 (Fla. 1999). Mr. Steele sued his attorney in a civil suit for malpractice for failing to file a timely post conviction relief action. His civil suit was dismissed below. In affirming the dismissal of the suit, the Court granted Mr. Steele the right to file an action for post conviction relief. As the Court said, "If a defendant can prove that he was improperly convicted, he should be set free. If he is denied the opportunity to offer such proof because of the malpractice of his lawyer, fundamental due process requires that he have a remedy that will address his future incarceration and not merely compensate him for improperly staying in prison." *Id.* at 1193-1194. The same principle applies here. Mr. Ervin was not aware of a valid defense because of the conflict of his lawyer and because she did not advise him of the defense even though she was aware of the defense. The conflict in this case is such that no reasonable judge would have taken a plea in this case had the judge known all the facts. The fault or failure to inform the judge lies with defense counsel and the State. By not raising this defense and entering the plea, the lawyer virtually mooted Mr. Ervin's first PCR, as very little time would be reduced if he were successful in the first PCR.

The other part of the code section requires that it be information that the applicant could not have learned by the exercise of reasonable diligence. The failure of a non-lawyer to know of a valid legal defense, especially an inmate in the Department of Corrections, is not one of the



things that he can be expected to learn through reasonable diligence. In fact, his plea counsel, who had been informed of the defense, did not raise it. Mr. Ervin could not be held to a higher standard. In *McCoy v. State*, 401 S.C. 363, 737 S.E.2d 623 (2012) the South Carolina Supreme Court held that a successive PCR should not summarily be dismissed as the applicant showed a valid reason as to why he filed his second petition about four years after his conviction. In that case, he filed based upon his discovery, some four years later, that one of the jurors on his case had a cousin who was married to the Seventh Circuit Solicitor. He learned this from reading the transcript of the trial of a fellow inmate that had occurred shortly after his trial. The relationship came up during the jury selection of the fellow inmate. Learning of a valid defense to a charge is at least equal to learning of a relationship between a cousin of the juror and the solicitor.

South Carolina has recognized that a structural error requires reversal even without prejudice. *State v. Rivera*, 402 S.C. 225, 247, 741 S.E.2d 694, 705 (2013) (“Essentially, an error is structural if it is the type of error which transcends the criminal process.”)(citations omitted). In this case, the conflict plea counsel had with her client is the equivalent of a structural error. Because of the obvious conflict, Mr. Ervin had the equivalent of no objective counsel to advise him of the valid defense. Failure to provide counsel is a structural error. *Johnson v. United States*, 520 U.S. 461, 468, (1997). S. C. Code § 17-27-20 (4) provides as a ground for granting a Post Conviction Relief Petition that is not timely filed “That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice.” When such a basic structural error occurs in a trial or plea, the interest of justice should, and does, require that the issue be addressed. The facts of this case also come under this provision.

A handwritten signature in black ink, appearing to be the initials 'JM' or similar, located at the bottom center of the page.

The State was fully aware that Mr. Ervin had a clear conflict with his plea counsel. The State took no action to obtain a waiver of this conflict or to bring it to the attention of the plea judge. Mr. Ervin had filed a "Motion for Relief of Counsel" on April 30, 2015, a couple of weeks short of a full year before his plea. No action had been taken on that motion at the time of the plea. Common sense and fairness would dictate that a lawyer who has an active PCR petition pending against them by their client should not be representing the client unless a waiver is obtained on the record. This was not done in this case. Mr. Ervin has the right to have as his counsel an attorney who is free from a conflict with him. That did not happen in this case. These facts are certainly one of those fact situations where a sentence should be set aside "in the interest of justice."

As noted previously, S. C. Code § 17-27-45 (C) requires that a Post Conviction Relief Petition be filed within one year of the applicant learning of the facts that would entitle him to post conviction relief. In this case the fact that Mr. Ervin did not learn of the double jeopardy defense until May 26, 2017. At that point Mr. Ervin knew his lawyer did not raise a very meritorious defense of which she had knowledge. This PCR was filed about a month after he acquired this knowledge. In addition, the PCR application is timely filed because the due process clause would require that a plea entered by an attorney with an obvious conflict cannot be permitted to stand. The Court finds that the PCR in this case was timely filed.

The Double Jeopardy Defense

In this case, under the rule established in *Yeager v. United States*, 557 U.S. 110 (2009), Mr. Ervin has a complete defense to the drug trafficking charge. His plea counsel at the hearing acknowledged that she had received an email from Charles Grose, a lawyer in Greenwood who had followed the case. This email was sent after her mistrial informing her that she had a



substantial argument under the double jeopardy rule established in *Yeager*. She admitted receiving the email. She did not file a motion to dismiss on double jeopardy grounds prior to her client entering a plea. She did not discuss this issue with Mr. Ervin.

In *Yeager*, the defendant went to trial on several counts as did Mr. Ervin in this case. The jury acquitted Mr. Yeager on one count and was unable to reach a verdict on the remaining counts, just as happened in the January trial of Mr. Ervin. The Supreme Court stated the issue as follows: “The question presented in this case is whether an apparent inconsistency between a jury’s verdict of acquittal on some counts and its failure to return a verdict on other counts affects the preclusive force of the acquittals under the Double Jeopardy Clause of the Fifth Amendment. We hold that it does not.” *Id.* at 112. Under the *Yeager* analysis, the charges upon which the jury was unable to reach a verdict are treated as “nonevents.” As a nonevent, the counts upon which the jury hung are of no consideration in determining the issue preclusion aspect of the Double Jeopardy clause. As the Supreme Court said “To ascribe meaning to a hung jury count would presume an ability to identify which factor was at play in the jury room. But that is not is not reasoned analysis; it is guesswork.” *Id.* at 2368.

In this case, the jury acquitted on the charge of possession of a firearm while engaged in a drug trafficking offense. The firearm, just as were the drugs, was found in the house rented by Mr. Ervin. One of the elements involved in the firearms charge was that Mr. Ervin possessed the crack cocaine which was of sufficient amount to make him guilty of trafficking in crack cocaine. As the jury by its verdict found Mr. Ervin not guilty of the firearm charge, that would include being found not guilty of the trafficking in crack cocaine. Thus, the State is precluded from trying Mr. Ervin again for the trafficking charge and related proximity charge. The

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possession of marijuana with intent to distribute and the proximity charge were not elements of the firearm charge and therefore are not impacted by the acquittal of the firearm charge.

A simpler way of looking at this analysis is to imagine a trial in which the State elected to try a defendant on the sole count of possession of a firearm while engaged in a drug trafficking offense. If the jury acquits the defendant in that case, the issue preclusion aspect of the Double Jeopardy clause would prevent the State from then conducting a second trial on the drug trafficking charge. Treating the hung counts as a nonevent, as the Supreme Court requires, the analysis is the same regardless of whether the firearm count is tried by itself or as part of the a multiple count charge.

Had counsel raised the Double Jeopardy issue at trial in a motion to dismiss, the trial court would have been required to grant the motion and dismiss the charges. Because of this analysis, trial counsel was ineffective in failing to raise the double jeopardy issue and Mr. Ervin was prejudiced.

REMEDY

Mr. Ervin is entitled to a new trial. This Court, however, has found that trial counsel was ineffective in failing raise the double jeopardy defense established in *Yeager*. Mr. Ervin was prejudiced because no reasonable judge could have denied the motion under the facts of this case. As the defense not raised is meritorious as a matter of law, no purpose is served by simply granting a new trial. The drug trafficking charges against Mr. Yeager should be dismissed.

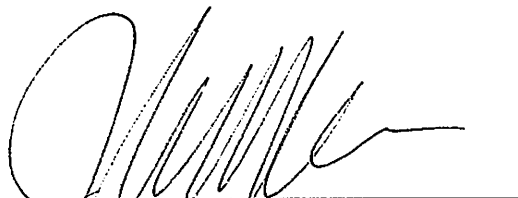
THEREFORE, it is hereby Ordered, Adjudged and Decreed that the drug trafficking charges against Mauwell J. Ervin, Jr. are hereby dismissed as a violation of the Double Jeopardy



clause of the Fifth Amendment to the Constitution of the United States of America and Article I,
§ 12 of the Constitution of the State of South Carolina.

IT IS SO ORDERED

~~August~~
July 27, 2018



J. Mark Hayes, II
Presiding Judge
8th Judicial Circuit



ALAN WILSON
ATTORNEY GENERAL

October 1, 2018

The Honorable Chastity Copeland
Clerk of Court, Greenwood County
528 Monument Street, Room #114
Greenwood, South Carolina 29646

Re: Maunwell Ervin, #356337 v. State of South Carolina
2017-CP-24-0754

Dear Ms. Copeland:

Enclosed please find the original **Motion to Reconsider and to Alter and Amend Pursuant to Rule 59(e), SCRCP** in the above-captioned case for filing in your office.

Sincerely,

Christian Saville

Christian Saville
Assistant Attorney General

CS/cc
Enclosure

cc: The Honorable J. Mark Hayes, II, Presiding Judge
C. Rauch Wise, Esquire

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD)	FOR THE EIGHTH JUDICIAL CIRCUIT
)	
Maunwell Ervin, #356337,)	Case No. 2017-CP-24-0754
Applicant,)	
)	
v.)	MOTION TO RECONSIDER
)	AND TO ALTER AND AMEND
)	PURSUANT TO RULE 59(e), SCRPC
)	
State of South Carolina,)	
Respondent.)	
)	

The State (Respondent) hereby moves for this Court to alter or amend its judgment granting Maunwell Ervin (Applicant) post-conviction relief by order filed on September 13, 2018, and served on Respondent on September 21, 2018. Respondent submits the following in support of its motion:

This Court did not consider various arguments refuting Applicant’s “Double Jeopardy” claim.

Respondent respectfully submits this Court did not adequately address or consider that possession of a weapon during commission of a violent crime and trafficking in cocaine base are separate and distinct offenses which do not implicate double jeopardy and acquittal of possession of a weapon during commission of a violent crime does not preclude the State from prosecuting the offense of trafficking cocaine-base.

In its order granting relief, the Court appears to reverse the logical scheme that a defendant may not be convicted of possession of a weapon during the commission of a violent crime after being acquitted of the violent crime in question, proposing a defendant should be not guilty of the underlying violent crime only because he may not have used a firearm. “Where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied to determine whether there are two offenses or only one, is whether each provision

requires proof of a fact which the other does not.” State v. Brandt, 393 S.C. 526 (2011) (citing Blockburger v. United States, 284 U.S. 299 (1932)). Possession of a firearm during the commission of a violent crime requires proof of the possession of a firearm. Trafficking crack cocaine **does not require proof of the possession of a firearm**. The statute for trafficking crack cocaine reads as follows:

A person who knowingly sells, manufactures, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of ten grams or more of methamphetamine or cocaine base, as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2), is guilty of a felony which is known as “trafficking in methamphetamine or cocaine base.”

S.C. Code Ann. § 44-53-375(C).

Nowhere in the statute is possession of a firearm mentioned, and it is **not an element** of this crime. Whether or not Applicant had a firearm is not dispositive in any way to meet the elements of trafficking. The State could still meet all elements of trafficking crack cocaine without proof of a firearm.

Respondent respectfully submits this Court erred in applying Yeager v. United States, 557 U.S. 110 (2009) to the present case. Moreover, this Court’s order does not note significant testimony from Trial Counsel at the PCR hearing that she discussed this case in light of Yeager with various attorneys and came to the conclusion Yeager was not applicable to Applicant’s case. Trial Counsel was correct in her conclusion. “To decipher what a jury has necessarily decided [for double jeopardy purposes], we held that courts should ‘examine the record of a prior proceeding, take into account the pleadings, evidence, charge, and other relevant matter, and conclude whether a rational jury could have grounded its verdict upon an issue other than that which the defendant seeks to foreclose from consideration. Id. at 120. In this case, law

enforcement executed a search warrant of a home being leased by Applicant where Applicant and another individual were occupying at the time of the search. Various quantities of contraband were found in different areas of the residence such as the kitchen and the bedroom Applicant was evidenced to be staying. There are multiple bases for the jury to have concluded a firearm did not belong to Applicant but various drugs did. In fact, this is supported by the very fact that while enough cocaine in total was found in the home to convict Applicant of trafficking 100 to 200g outright, the jury hung on the charge, evidencing potential doubts about which items belonged to which individual. Therefore, it is very likely a jury could have concluded enough drugs may have belonged to Applicant to justify a trafficking charge but perhaps the firearm did not belong to Applicant. Notwithstanding, the fact remains the two charges are distinct and do not implicate double-jeopardy or the holding of Yeager. Respondent respectfully submits this Court should reconsider the arguments and amend its ruling to deny relief.

This Court's order erroneously refers to Applicant's charge for possession of a weapon during commission of a violent crime as "possession of a firearm while engaged in a drug trafficking offense."

Applicant first proceeded to trial on his charges in January 2013, after he was indicted for possession of a weapon during the commission of a violent crime. At the conclusion of the trial, Applicant was acquitted of the charge, while the rest of the charges resulted in a mistrial when the jury was unable to reach a verdict on a charge for trafficking cocaine-base. While trafficking in cocaine base does constitute a violent crime upon which possession of a weapon during the commission of a violent crime can be based, there is no such offense titled "possession of a firearm while engaged in a drug trafficking offense," and this nonexistent charge was therefore not what Applicant was indicted or charged with at trial. Respondent submits this Court's incorrect description of the offense may create confusion, especially regarding issues of double

jeopardy where possession of a weapon during the commission of a violent crime and trafficking in cocaine base require separate and distinct elements and are therefore separate and distinct offenses. Therefore, at a minimum, Respondent urges this Court to amend its order to include the correct offense.

This Court did not consider Applicant's active involvement in using Plea Counsel's services for his guilty plea or his benefit therefrom when granting relief for an alleged conflict of interest.

Respondent submits this Court's order also fails to address or consider that Applicant had full knowledge of his pending PCR action against Plea Counsel at the time of his guilty plea, yet nevertheless proceeded to plead freely and voluntarily, to enjoy the benefit of the State's recommended mandatory minimum sentence and dismissal of his charge for PWID cocaine within proximity. Applicant never alleged or testified as to how Counsel's representation hindered his guilty plea as a result of the PCR action he filed five months earlier. Nowhere did he suggest that Counsel represented adverse interests.

Counsel successfully negotiated a plea deal reducing Applicant's charge from trafficking in cocaine base (100-200 grams) to the lesser-included offense of trafficking in cocaine base (28-100 grams). Based on Counsel's effective assistance, Applicant's exposure dropped from a mandatory minimum twenty-five years imprisonment to a sentencing range of a minimum seven years imprisonment up to twenty-five years imprisonment. Counsel was further able to negotiate the minimum sentence of seven years. The State also dismissed a proximity charge that carries up to ten years imprisonment.

This Court's order granting relief fails to properly recognize and address Applicant's own statements at his plea hearing that he was satisfied with Plea Counsel's representation and was pleading guilty freely and voluntarily. The Order does not address a thorough guilty plea colloquy between the plea judge and Applicant. Clearly, Applicant had no issue with Counsel's

representation and was provided a great benefit by Counsel's successful negotiation to a plea to a lesser included offense that resulted in a mandatory minimum sentence and dismissal of one charge, as opposed to Applicant being exposed to the original charge and the mandatory twenty-five year sentence it carried. Applicant alleges he filed a request that Counsel be terminated as his attorney; however Applicant did not raise the issue at the plea hearing and clearly held the contrary position at the plea hearing. Even if this Court were to examine this claim and find it should bypass summary dismissal due to the fact Applicant did file his application against Plea Counsel after the expiration of the statute of limitations, Applicant clearly knew what he was doing and proceeded with Plea Counsel voluntarily. Respondent therefore requests this Court reconsider and address these arguments and amend its order to deny relief.

Conclusion

Wherefore, having made its motion to amend, the State respectfully requests this Court reconsider the State's arguments and deny Applicant's application for Post-Conviction Relief.

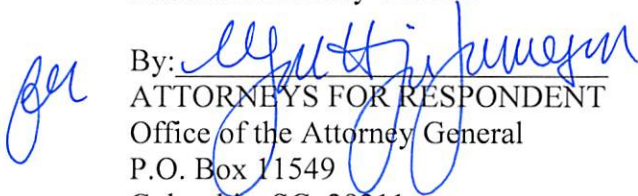
Respectfully submitted,

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10/1, 2018

STATE OF SOUTH CAROLINA)
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 COUNTY OF GREENWOOD)
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 MAUNWELL ERVIN, #356337,)
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 Applicant,)
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 vs)
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 STATE OF SOUTH CAROLINA,)
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 Respondent.)
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IN THE COURT OF COMMON PLEAS

2017-CP-24-0754

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Motion to Reconsider and to Alter and Amend Pursuant to Rule 59(e), SCRCP** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

C. Rauch Wise, Esquire
305 Main Street
Greenwood, South Carolina 29646

DATED this the 1st day of October, 2018.



 Caroline Collins, Administrative Coordinator
 For Respondent

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF GREENWOOD) COURT OF COMMON PLEAS NONJURY

3
4 MAUNWELL J. ERVIN, JR. NO. 3566337) TRANSCRIPT
5 PLAINTIFF,) OF
6 VS.) RECORD
7 STATE OF SOUTH CAROLINA,)
8 DEFENDANT.) 2015-CP-24-1266
2017-CP-24-0754

9
10 October 1st, 2019
11 Spartanburg, South Carolina

12
13 B E F O R E:

14 THE HONORABLE J. MARK HAYES, II, Judge.

15
16 A P P E A R A N C E S:

17 C. RAUCH WISE
18 ESQ.
Attorney for the Plaintiff

19 JANELL GREGORY
20 ASSISTANT ATTORNEY GENERAL
Attorney for the Defendant

21
22
23 PAMELA E. GREEN
24 Circuit Court Reporter
25 Seventh Judicial Circuit

I N D E X O F W I T N E S S E S

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(WHEREUPON, there were no exhibits marked or testimony taken during this hearing.)

P R O C E E D I N G S

1

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3 THE COURT: Mr. Wise, are we -- is your client going to
4 be transported?

5 MR. WISE: We waived his being here. I have talked to
6 him.

7 THE COURT: Oh, you did?

8 MR. WISE: And it, it -- for -- just for this hearing
9 it wasn't necessary for him to be here. He, he just -- he
10 didn't want anything to go wrong to prevent it being heard.

11 THE COURT: So, his presence would of prevented it from
12 being---

13 MR. WISE: Well---

14 THE COURT: ---from it going right?

15 MR. WISE: Well, if something came up and he -- who
16 knows.

17 THE COURT: All right.

18 MR. WISE: So --.

19 THE COURT: We -- so, your client waives his right to
20 be present---

21 MR. WISE: That---

22 THE COURT: ---at this hearing?

23 MR. WISE: That's correct.

24 THE COURT: Okay. That will suffice. We got that on
25 the record.

1 All right. Okay. Then we'll go on the record. I've
2 got that this is Maunwell -- M -- and it's M-A-U-N-W-E-L-L,
3 initial J., Ervin, E-R-V-I-N, versus the State. I've
4 actually got that these are two PCRs. These are motions
5 for -- 59(e) motions filed by the State.

6 So, I'll be more than happy to hear from the State.

7 MS. GREGORY: Your Honor, I have judge's packets if
8 you'd like me to approach and provide these.

9 THE COURT: Sure.

10 MS. GREGORY: And, as you mentioned, it was two CP
11 numbers. So, I don't know if you have a preference of which
12 we, which we start with. I would prefer the guilty plea.
13 That one's a little bit shorter.

14 THE COURT: That would be the 2017?

15 MS. GREGORY: Yes, CP-24-00754.

16 THE COURT: Yes, sir.

17 MS. GREGORY: Sorry about my voice. If you can't
18 understand me---

19 THE COURT: You need some water?

20 MS. GREGORY: ---whether -- thank you.

21 Your Honor, we would ask that the -- we have some
22 specific amendments that are noted in the 59(e).

23 First, we would ask that the Order be amended to
24 reflect the offense of possession of a firearm, I'm sorry,
25 possession of a firearm while -- possession of a weapon

1 during the commission of a violent crime. Currently it says
2 possession of a firearm while engaged in drug trafficking
3 offense, which kind of muddies the water for the double
4 jeopardy claim. So, we would ask that that be amended in
5 the order to reflect the actual charge of possession of a
6 weapon during the commission of a violent crime.

7 And, under the remedy section -- there are no page
8 numbers on this Order. So, I can't give you a page number.
9 But, under the remedies section, Your Honor, Mr. Ervin is
10 actually referred to as Mr. Yeager, which I think also
11 confuses the double jeopardy issue.

12 The very last page -- last sentence of the first
13 paragraph, Your Honor, and, as you mentioned, Maunwell has a
14 unique spelling, and that spelling is incorrect on that same
15 paragraph for Maunwell. Sorry. It might be the next
16 paragraph. I'm sorry. It's the last sentence on that page,
17 Your Honor. Maunwell's misspelled. So, we would just ask
18 that that be amended as well.

19 Regarding the guilty plea, the State is asking the
20 Court to reconsider the Motion to Dismiss. This Application
21 was filed outside of the statutory limitations of one year,
22 and the Application did not set forth any allegations that
23 would allow him to overcome the Statute of Limitations.

24 First, he alleged that he had a conflict with plea
25 counsel, but that conflict, the alleged conflict, was known

1 by Applicant at the time of his guilty plea. So, he had a
2 year from the time of the guilty plea, and counsel
3 testified, during the PCR hearing, that she did discuss that
4 he had -- she had a pending PCR with him. So, he def -- and
5 he filed the PCR. So, he was definitely aware of that
6 potential conflict at the time of that guilty plea. So,
7 that would not overcome the Statute of Limitations.

8 Second, the defense that he just discovered is not a
9 claim under the Uniform Post-Conviction Relief Act that
10 would allow him to again overcome the Statute of
11 Limitations. The just discovered defense was known to plea
12 counsel. She evaluated it, determined that it was not a
13 meritorious claim that she should use in Applicant's case,
14 and she made that determination, which was reasonable
15 considering that, that she would of had to argue Yeager,
16 which we also believe does not apply to Applicant's case.

17 So, the defense that he's alleging he just discovered
18 and is meritorious would not overcome that Statute of
19 Limitations since the defense that he's alleging he just
20 discovered was not actually meritorious, and considered by
21 his counsel, and determined also not to be meritorious.

22 And going to the Yeager issue, I know you said you had
23 a copy of Yeager when we discussed this on the phone, but we
24 do not believe Yeager applies. So, we would ask you to
25 reconsider the finding of double jeopardy in this matter.

1 In Yeager, Yeager was acquitted of fraud charges, and
2 the jury hung on the insider trading and the money
3 laundering, money laundering charges in reaching their
4 verdict. On the fraud charges, the jury effectively found
5 that Yeager did not possess a key material that he would of
6 needed in order to pursue the insider trading and the money
7 laundering, which was, as the Court found, effectively
8 determining the critical issue of material fact when the --
9 when they acquitted Yeager of the fraud charges.

10 Here in Yeager's or, I'm sorry, in Applicant's case,
11 the jury acquitted Applicant of only possession of a firearm
12 during the commission of a violent crime, which is why that
13 needs to be quoted that way, which is not a critical issue
14 of material fact in evaluating the trafficking charges since
15 having a firearm is not an element in the trafficking
16 cocaine charges. So, we'd ask that you reconsider the
17 double jeopardy argument in that case -- in Applicant's
18 case.

19 The State would also ask that the Court reconsider a
20 finding that plea counsel had a conflict. The Order does
21 not address the Applicant had full knowledge of his pending
22 PCR action against plea counsel at the time of his guilty
23 plea. Yet, he proceeded with his guilty plea. The Order
24 also fails to address Applicant's own comments to the plea
25 judge during the colloquy that he was satisfied with plea

1 counsel, and he had enough time to speak with her, and he
2 never informed the plea judge of any issues regarding
3 counsel's representation.

4 The Order also fails to address plea counsel's
5 testimony that Applicant never asked her, on the day of the
6 plea, why she was still representing him, why is, why is he
7 going forward with her, again, effectively waiving his
8 motion to have her relieved or any conflict with the pending
9 PCR, and the Order also fails to address that plea counsel's
10 testimony that Applicant's previous PCR filed had no effect
11 on her, and that she liked Applicant and worked really hard
12 on this case, and had no ill will towards him.

13 We would say that Applicant effectively waived his
14 motion to relieve counsel by going forward, and knowingly,
15 intelligently, and voluntarily entering his guilty plea with
16 that same counsel that he filed that motion to relieve on,
17 and the Order should reflect that.

18 So, we would just ask, for the guilty plea, Your Honor,
19 for you to reconsider the Motion to Dismiss cause Applicant
20 failed to put forward any grounds that would overcome the
21 one year statutory filing limitation as the alleged conflict
22 was effectively waived by coun -- by Applicant as he
23 proceeded to his guilty plea, conducted the colloquy with
24 the plea counsel -- with the plea Court indicating he was
25 satisfied with his attorney. She negotiated a very

1 favorable deal for him changing his exposure from a minimum
2 of 25 years to a sentencing range of 7 to 25, which he got
3 the minimum, seven years, which was set to run concurrent
4 with his previous charges. So, those charges were backdated
5 three years, and the proximity charge, which was carrying up
6 to 10 years, was also dismissed.

7 So, we would ask that you reconsider your judgment on
8 the guilty plea, Your Honor.

9 THE COURT: Thank you.

10 MR. WISE: Your Honor, I, I would just point out that,
11 at the PCR hearing, there was absolutely no evidence to
12 substantiate any position that Ms. Taylor informed Mr. Ervin
13 of the Yeager defense. Her testimony, when asked, was did
14 you ever discuss with Mr. Ervin the Yeager case. I don't
15 recall.

16 Were you aware that Mr. Ervin -- let me see. Then it
17 goes on to say did you ever discuss any double jeopardy,
18 possible double jeopardy, did you ever mention the Yeager
19 case. I'm not sure.

20 So, there's no evidence that he was even aware of it.
21 The testimony at the hearing clearly shows that he became
22 aware of it when I informed him of it, which was well within
23 a year of the time that we were able to file this.

24 I don't think entering a guilty plea waives a conflict
25 unless there's such a clear waiver that, on the record, that

1 you can establish the, the conflict has been waived. The
2 conflict is really not the problem here, however. The
3 problem here is the fact that there was a very, very valid
4 double jeopardy argument that was not raised by defense
5 counsel, and should of been raised by defense counsel.

6 So, I think, in that, that fact alone, there's
7 grounds -- certainly grounds to sustain a finding of the
8 judge that he was not informed of the Yeager defense, that
9 it was, in fact, timely because it was well within a year of
10 the time that he was -- first learned that he had a valid
11 defense. I don't think Mr. Ervin's required to even
12 remotely be attributed to having the knowledge of a regular
13 practicing lawyer in, in any case, much less this one. And
14 so I think there's certainly evidence in the record to
15 sustain the Court's finding, finding on that.

16 And then the other grounds in the case I think are
17 adequately set forth in the Court's order that, that, you
18 know, there were numerous errors that, that she did not call
19 attention to, and allowed the solicitor to basically vouch
20 for his witnesses, which is, is very much, very much im --
21 improper.

22 THE COURT: Any reply?

23 MS. GREGORY: Yes, sir, the vouching for the witnesses,
24 that's in the next motion, Your Honor. That's from the
25 trial. This is just the guilty plea.

1 MR. WISE: Okay.

2 MS. GREGORY: Okay. Okay.

3 MR. WISE: That's good. I, I, I misunderstood.

4 MS. GREGORY: I'll get to that. I'll get to that.

5 But regarding her bringing up the double jeopardy claim
6 to the Applicant, she evaluated it as his attorney, and,
7 under Strickland, she has a strong presumption that she
8 provided reasonable assistance, and she evaluated it with
9 her mentor, Jack Swerling, and apparently other attorneys
10 that were not named, and they evaluated it to be a
11 non-meritorious claim. And as I mentioned, we don't -- the
12 State also does not believe that is a valid double jeopardy
13 claim since Yeager deals with a critical issue of material
14 fact in pursuing prosecution on hung charges.

15 In here, when they acquitted him of the possession of a
16 weapon during the commission of a violent crime, that does
17 not find a critical material fact precluding a subsequent
18 prosecution for a hung trafficking cocaine charge. There is
19 not an element of firearms within the trafficking cocaine
20 statute, and I have a copy of that statute if you'd like to
21 see it. But the -- certainly there's no preclusion issue
22 there as the acquittal of the firearm charge does not relate
23 to the cocaine charge. You can absolutely traffic cocaine
24 without a firearm.

25 THE COURT: All right. And to the other issue -- to

1 the other PCR?

2 MS. GREGORY: Yes, thank you, Your Honor.

3 THE COURT: Uh-huh. (Affirmative).

4 MS. GREGORY: We would ask that Order be amended. The
5 Court lacks finding on facts regarding multiple allegations.
6 On Allegation B, which is on Page 7 -- do you have a copy of
7 the Order?

8 THE COURT: I do.

9 MS. GREGORY: On Page 7, there's no analysis regarding
10 the prejudice prong on Strickland on this allegation. Order
11 the State's -- her failure to object was prejudicial to Mr.
12 Ervin. According to the Uniform Post-Conviction Relief Act,
13 which is Section 17-27-80, it requires the Order to make
14 specific findings of fact and state expressly his
15 conclusions of law relating to each issue presented.

16 Here, there's no finding of facts as it relates to the
17 prejudice prong in the analysis. Just a conclusionary,
18 conclusionary -- conclusion statement finding that Mr. Ervin
19 was prejudiced on Page 9.

20 Regarding the opinion testimony of the law enforcement
21 officers, which I believe is on Page 13, that Order appears
22 to address multiple sections, about 10 sections, of law
23 enforcement testimony that was purportedly inappropriate
24 opinion testimony. However, Your Honor, the Order does not
25 sets forth the sufficient -- a sufficient finding regarding

1 the allegations of the lay opinion testimony. It just cites
2 these areas of inappropriate testimony without actually
3 providing testimony, and any analysis regarding that
4 testimony. So, we would ask that there be additional
5 finding of fact regarding that testimony.

6 And, on Page 14, one of the analysis statements is
7 incomplete. It is on the top paragraph, and it starts with
8 Court granted Post-Conviction Relief, and that sentence ends
9 with the word the. So, we would ask that that be completed.

10 Moving on to the next issue regarding the Court's
11 finding that the jury charge should of been objected to---

12 THE COURT: I'm sorry. Take me back to---

13 MS. GREGORY: Sorry.

14 THE COURT: ---Page 14---

15 MS. GREGORY: I'm sorry.

16 THE COURT: ---one more time once again.

17 MS. GREGORY: Okay. In the tab note, it's the second
18 full paragraph.

19 THE COURT: I see it, yes. Okay.

20 MS. GREGORY: Okay. We would ask that you reconsider
21 your finding on the jury charge that it should of been
22 objected to on finding that -- we would ask that you look at
23 State v. Adams, which I have a copy of, Your Honor.

24 If I can approach?

25 I have one for you as well.

1 MR. WISE: I got it.

2 MS. GREGORY: Okay. And I'm gonna give you State v.
3 Heath.

4 Do you have that one too?

5 MR. WISE: States v. what?

6 MS. GREGORY: Heath. Heath.

7 MR. WISE: No, I don't think I have that one.

8 MS. GREGORY: Okay. I highlighted, I highlighted
9 these. So --.

10 But, Your Honor, the issue here is that the jury
11 instruction that was provided, which you have a copy of the
12 transcript in front of you, I believe it's on Page 384, 385,
13 regarding constructive possession, and I believe that's
14 referring to the bigger -- like the appendix. Not the
15 actual page numbers, which is 285, 286.

16 We would argue that State v. Adams is controlling law,
17 and is actually setting forth the proper charge on
18 constructive possession, and it says the proper charge on
19 constructive possession is to instruct a jury that the
20 defendant's knowledge, possession may be inferred if the
21 substance was found on premises under his control. The
22 trial judge should explain to the jury that it is free to
23 accept or reject the permissive inference of knowledge and
24 possession depending on its view of the evidence. That was
25 the jury charge provided.

1 State v. Adams is still good law. It is controlling
2 law. State v. Heath addresses, in order to prove
3 constructive possession, the State must show a defendant had
4 dominion and control or the right to exercise dominion and
5 control over the illegal substance. Again, a mere presence
6 charge was also given on Page 387. Counsel should not have
7 been found ineffective because counsel testified she was
8 familiar with State v. Adams, believed it set forth the
9 proper charge, which we would say is still the proper charge
10 on constructive possession, and she requested a mere
11 presence charge, which was also given. And since this is a
12 proper charge, Applicant can not be found to have been
13 prejudiced, and counsel certainly can not be found to be
14 deficient.

15 Moving on to the next issue regarding double jeopardy,
16 sorry, the Court's finding that counsel should of raised a
17 double jeopardy argument to avoid consecutive sentencing. I
18 have case law for this one as well, Your Honor.

19 It is regarding the proximity charge as well as the
20 underlying trafficking charge. I'm gonna hand up to you
21 Missouri v. Hunter and Riley v. South Carolina.

22 Do you have those?

23 Do you want a copy of this?

24 MR. WISE: I don't need it.

25 MS. GREGORY: Okay. Again, these are highlighted, Your

1 Honor, to the areas that I'm going to touch on. And, again,
2 legislative intent, even if it fails the Blockburger same
3 elements test, legislative intent controls, and that's what
4 the two cases I passed up to you says, and I realize we're
5 running out of time. So, I've highlighted the important
6 sections there.

7 But, briefly, clear legislative intent, the two
8 separate sections, ultimately the existence of double
9 jeopardy depends on whether the legislative intent to create
10 one crime or more than one crime. So, we would argue that
11 the legislative intent trumps any double jeopardy arguments
12 seeing as how the statute starts with this is a separate
13 criminal offense. The intended separate punishments that
14 could run consecutive, Your Honor.

15 Regarding the finding that the opinion testimony by law
16 enforcement officers was improper, Your Honor, there are a
17 ton of citations regarding this. But what I will say is
18 digital scales is not something that the ordinary juror
19 would not know was involved in trafficking or distribution
20 of drugs. I think that is absolutely not needed to be
21 expert as is not a scientific fact that is being found or an
22 opinion on. It's quite common knowledge that digital scales
23 are used in distribution of drugs.

24 The testimony about the cocaine, that officer did not
25 testify that his opinion is that the Applicant was a drug

1 dealer. Regardless, that officer could of been deemed an
2 expert witness. Had they gone that route, he would of
3 been -- he would of qualified as an expert witness. So,
4 that information would of come in regardless, and none of
5 the testimony that's been outlined is actually im, improper.

6 Officer testimony, none of it's going to anything
7 scientific like the intoxication level of or the
8 intoxication dose of cocaine or testifying about the effects
9 of drugs on the body. But, regardless, those officers could
10 of been deemed expert witnesses, and that testimony was --
11 still would of come in. So, the Applicant can not show a
12 prejudice.

13 And regarding Agent Smith's statement to mean that he
14 was taking responsibilities for the drugs, I believe the
15 Order improperly says that the trial counsel for Applicant
16 solicited the opinion testimony, which is on Page 245 of the
17 transcript, I'm sorry, on Page 31 of the PCR transcript.

18 Do you have that PCR transcript, Your Honor?

19 THE COURT: We do.

20 MS. GREGORY: Okay. On Page 31, she clarifies I
21 believe. There's -- her last name's Taylor and the
22 solicitor's last name is Taylor. So, there's confusion as
23 to who's saying what. After cross-examination starts right
24 after, he elicited that opinion testimony from that officer.
25 So, we would ask that the Order be fixed to reflect that she

1 did not solicit or elicit that opinion testimony from that
2 witness. It was her -- it was the solicitor, and then she
3 cross-examined him on the remaining of that page, which is
4 what she said was her valid trial strategy that she wanted
5 that information in so that she could show that the witness
6 never said or her, her client, I'm sorry, her client never
7 said the drugs belonged to me.

8 So, she actually articulated valid trial strategy for
9 why she wanted that opinion in, and then explained that she
10 wanted to cross-examine on it, which she did on the
11 remaining of that page.

12 And then regarding the solicitor's closing arguments,
13 the order briefly cites Tapner. Tapner is distinguishable
14 from that case because the solicitor in that case repeatedly
15 implied the officers and the rape crisis counselors believed
16 the victim, and he misrepresented evidence that was adduced
17 at trial meaning he alluded to facts that weren't in
18 evidence. And there was multiple other issues with the
19 Tapner closing argument, but here the Court found that one
20 sentence isolated, which was not even vouching based on
21 Bond, was inappropriate. And when that one sentence
22 properly evaluated in the context of the entire record, it
23 is -- definitely does not go as far as to infect the entire
24 trial with unfairness and prevent the Applicant from getting
25 due process.

1 So, we would ask that you reevaluate your findings on
2 that as well, Your Honor.

3 THE COURT: All right. Yes, sir.

4 MR. WISE: If I may, first of all, on the double
5 jeopardy argument, it seems incredible to me that a Court
6 seriously means if the legislature intended to violate
7 double jeopardy they could do it. But if they don't intend,
8 that double jeopardy applies. It really makes no sense.

9 But the point is this. I don't think the Legislature,
10 if they had specifically said a proximity case shall run
11 consecutive to the substantive crime of possession with
12 intent to distribute, that they could do that legally and
13 not violate double jeopardy. It's just -- seems to me
14 impossible.

15 Secondly, clearly, under the analysis of Blockburger,
16 the, the proximity charge requires one additional element
17 that's not present in a possession with intent to distribute
18 charge. It does not contain -- the, the possession with
19 intent to distribute does not contain an element different
20 from the proximity charge. It -- the proximity charge
21 requires an additional evidence -- additional element, not
22 one that's different. So, in that respect, it clearly, you
23 know, violates double jeopardy.

24 The, the Adams case, which they cite, is, is probably
25 one of the, to me, one of the worst interpretations of cases

1 I've seen in a long time. They don't even cite a case in
2 there involving a jury charge. They cite cases where a
3 Court, upon review of the Lower Court finding by a jury,
4 said it was proper for the jury to draw that inference, but
5 without being instructed as to it. Adams is the first time
6 they talk about instructing it.

7 It clearly, clearly violates those two old railroad
8 cases cited in the Order, which have clearly held that an
9 inference shall not be charged to a jury because it's a
10 charge on the facts. When you tell a jury that basically,
11 because someone rents a house, they possess the drugs in it,
12 is certainly prejudicial to, to say, to say the least in
13 that, and, therefore, it, it almost goes without saying how
14 prejudicial it is.

15 I will agree that I did -- that the Order does misquote
16 Ms. Taylor instead of Mr. Taylor, but the same principle
17 applies, that he was allowed to ask an expert opinion that
18 probably had the individual been qualified as an expert
19 would not have been out -- able to give because it is an
20 opinion on the ultimate issue of the guilt of the defendant
21 in this case, that he was able to opine that the statement
22 by Mr. Ervin was an admission of guilt. And I know of no
23 authority that would allow that, and certainly that is very
24 prejudicial even without much beyond that.

25 And, of course, in the closing argument too, that he

1 was able to just basically say he's proud of these officers
2 and what they did, and I think that's, that's vouching as
3 clearly as, as anything in any of the cases that are cited
4 in the, in the Order.

5 So, I don't see where there's anything that's really
6 missed by the Court in the Order that the -- the charge,
7 quite frankly, is, is pointed out in the Order where they
8 tell a jury that you can -- that mere presence isn't
9 sufficient, but then tell the jury, on the other hand, that
10 if the, if the house is rented in your name, that's, that's
11 something basically for inferring guilt, and it just seems
12 to be grossly inconsistent under those circumstances, and,
13 and confusing to the jury.

14 The Heath case is -- suffers from the same, the same
15 error. And, basically, what it boils down to on this
16 charge, Judge, be candid with you, what that inference
17 charge tells a jury is that a person borrows another
18 person's car, and gets stopped for speeding, and the
19 officers find a small amount of cocaine on the back
20 floorboard of the car, the jury can infer the driver of that
21 car is in direct possession of that cocaine, and that's not
22 an inference that even is logical much less legal, and an
23 inference has to have some degree of logic behind it if
24 you're even gonna give an inference charge, which I don't
25 think you can in South Carolina without, without a state

1 statute.

2 But to tell a jury that simply because Mr. Ervin's name
3 is on the lease, you can infer everything in there is his
4 even though it's clear, from the record, that he had a, a
5 brother that was living there also or, or a good bit of the
6 time is just, to me, very, very much misleading, and,
7 obviously, very prejudicial to, to Mr. Ervin.

8 So, I think all the issues were adequately covered in
9 the Order, and I think, with one correction of -- that's
10 Mr. Taylor making the statement, not Ms. Taylor, I think the
11 Order adequately covers all the issues.

12 THE COURT: In reply?

13 MS. GREGORY: No, Your Honor. I thank you for fitting
14 us in today. Sorry about my mistake on Friday.

15 THE COURT: That's all right. Thank y'all for coming.
16 I will take a look at it, and let you know.

17 MR. WISE: All right.

18 MS. GREGORY: Thank you.

19 THE COURT: Thank y'all very much.

20 MR. WISE: Okay.

21

22

23 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for 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 Common Pleas Nonjury for Greenwood County, South Carolina, on the 1st day of October, 2019.

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

May 7th, 2020

PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENWOOD)

Mauwell J. Ervin, Jr. № 3566337)
)
Applicant.)
)
-vs-)
)
State of South Carolina)

IN THE COURT OF COMMON PLEAS

2017-CP-24-00754

Order

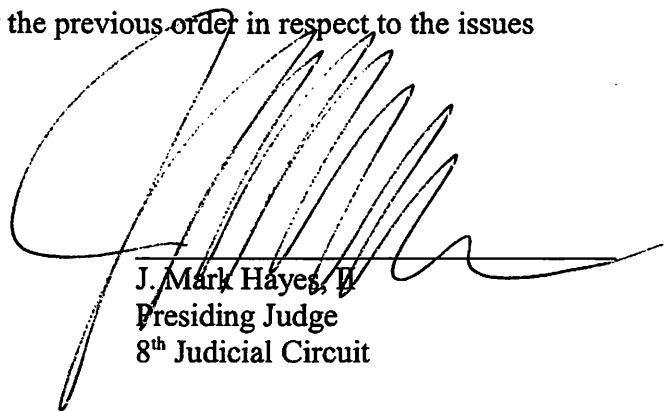
The State of South Carolina filed a Rule 59 Motion requesting this Court to alter or amend the previous order issued in this matter. A hearing was held on October 1, 2019. The Court reviewed the motion filed by the State and listened to argument of both counsel.

This Court notes that in regards to the order issued in this matter, the case of *Yeager v. United States*, 557 U.S. 110 (2009) has, once again, been reviewed. This Court declines to alter its prior order. The analysis offered by the State in its motions for when a defendant has been acquitted of one charge but the jury fails to reach a verdict on another charge that shares the same elements as the one acquitted appears to be the same analysis offered by the government in *Yeager*. This analysis was rejected by the Supreme Court in *Yeager*. Calling the offense something other than possession of a weapon during the commission of a violent crime does not alter the analysis.

The Court respectfully declines to modify the previous order in respect to the issues raised in the Rule 59 Motion.

IT IS SO ORDERED

~~December 2019~~
February 14, 2020



J. Mark Hayes, II
Presiding Judge
8th Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF GREENWOOD
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2017-CP-24-00754

Manwell J. Ervin, Jr. No. 3566337

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

See Below for Order Information

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

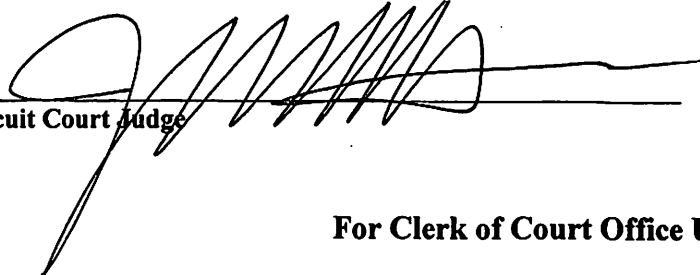
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	N/A
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:
N/A

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge



Judge Code

0132

Date

551
10/29/19

For Clerk of Court Office Use Only

This judgment was entered on the 29 day of October, 2019 and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20 _____ to attorneys of record or to parties (when appearing pro se) as follows:

Rauch Wise

Janell H. Gregory

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRCF.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This matter came before the court on the State's motion for reconsideration. These are companion PCR cases. After considering the arguments presented and reviewing the materials provided by the parties, the prior rulings issued by this Court remain the same except as to the following.

Paragraph #3 in Order 2015-CP-24-01268, the answer to the question should be that trial counsel was "not" ineffective in failing to object on Double Jeopardy grounds to the consecutive sentence for possession with intent to distribute marijuana within proximity to a school that was consecutive to the charge with intent to distribute marijuana. Based on this Court's review of the *Blockburger*, *Matthews* and *Riley* cases the rule appears to be clear that there is no prohibition against the contemporaneous prosecution by the State for both possession with intent to distribute and a related proximity charge that arises from the same conduct, and logically, the consecutive sentences do not violate Double Jeopardy.

This Court notes that in regards to the order issued in 2017-CP-24-00754, the case of *Yeager v. US* has, once again, been reviewed. This Court declines to alter its prior order. The analysis offered by the State in its motions for when a defendant has been acquitted of one charge but the jury fails to reach a verdict on another charge that shares the same elements as the one acquitted appears to be the same analysis offered by the government in *Yeager*. This analysis was rejected by the Supreme Court in *Yeager*. Calling the offense something other than possession of a weapon during the commission of a violent crime does not alter the analysis.



This ruling will be incorporated into a Form 4 for filing with the Clerk of Court's office. If a more formal order is needed, the Court requests the applicant's attorney prepare a formal order for this Court to sign. If a more formal order is needed, the Court requests that it be submitted within 30 days of this form 4. Once signed and filed, the formal order will be the final order of the Court on this matter.

WITNESSES

Courtney Smith
Greenwood County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

March Term, 2011

Indictment # 11GS24- 783

WARRANT NUMBER

M077589

THE STATE

vs.

Maunwell Jabaar Ervin

True Bill

Philip R. Nicks

Foreman of the Grand Jury

Date: 3/25/11

INDICTMENT FOR

POSSESSION OF MARIJUANA
WITH INTENT TO DISTRIBUTE
44-53-0370

VERDICT

Guilty.

Charlotte
Foreman 7/24/13

ATTEST A TRUE COPY
Chastity Copeland
CHASTITY COPELAND
CCCP AND GS
GREENWOOD COUNTY
S. C.

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

**POSSESSION OF MARIJUANA
WITH INTENT TO DISTRIBUTE**

44-53-0370

At a Court of General Sessions, convened on the 25th day of March, 2011 the Grand Jurors of Greenwood County present upon their oath:

That Maunwell Jabaar Ervin, did in Greenwood County, state aforesaid, on or about the 9th day of December, 2010 willfully, unlawfully, and knowingly possess with the intent to distribute, dispense, or deliver and/or did otherwise, aid, abet, attempt, or conspire to possess with the intent to distribute, dispense, or deliver, a controlled substance defined in Schedule I, II, or III, flunitrazepam or a controlled substance analogue, to wit: Marijuana, a Schedule I controlled substance, in violation of the provisions of Section 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 cases made and provided.



Solicitor

ARREST WARRANT

M-077589

11-783

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenwood

THE STATE 10-35867

against

Maunwell Jabaar Ervin

Address: 219 W Creswell Ave

Greenwood, SC 29646-3846

Phone: SSN: [REDACTED]

Sex: M Race: B Height: 5 11 Weight: 217

DL State: SC DL #: [REDACTED]

DOB: 1980 Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: Courtney Smith - 0157

Offense: Drugs / Dist. other than listed in Schedules 1 through V. excluding I(b), (c), LSD and Schedule

Offense Code: 3128

Code/Ordinance Sec: 44-53-0440

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

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

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant MAUNWELL J. ERVIN on 12-10-10

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Bond Court 528 Edgefield Street Greenwood, SC 29646

ATTEST A TRUE COPY Chastity Copeland CHASTITY COPELAND CCCP AND GS GREENWOOD COUNTY S. C.

on 12/10/2010

Signature of Issuing Judge Walter Rutledge Martin (L.S.)

Judge Code: 7097

ORIGINAL ORIGINAL ORIGINAL ORIGINAL

STATE OF SOUTH CAROLINA County/ Municipality of Greenwood

Personally appeared before me the affiant Courtney Smith who being duly sworn deposes and says that defendant Maunwell Jabaar Ervin did within this county and state on or about 12/09/2010 violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Greenwood) in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Dist. other than listed in Schedules I through V. excluding I(b), (c), LSD and Schedule II drugs

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

On December 9, 2010 at 2114 hours, Officers from the Greenwood Drug Enforcement Unit executed a lawful search warrant at the residence of 316 Lawson Street, Greenwood, SC 29646. From this search Agents seized approximately 291 grams of Marijuana, 127 grams of Crack Cocaine and 21 Dosage Units of MDMA along with 2 Semi-automatic Handguns from Maunwell ERVIN. This incident occurred within 1/2 mile proximity of Lander University. This incident occurred in the County of Greenwood. Investigation by Agents with the Greenwood Drug Enforcement Unit.

Signature of Affiant

Signature of Affiant

STATE OF SOUTH CAROLINA County/ Municipality of Greenwood

Affiant's Address 528 Edgefield Street Greenwood, SC 29646- Affiant's Telephone (864)942-8600

FILED GENERAL SESSIONS 8TH JUDICIAL CIRCUIT GREENWOOD, SC 2010 DEC 13 AM 9 48

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/9/2010 defendant Maunwell Jabaar Ervin did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Greenwood) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Dist. other than listed in Schedules 1 through V. excluding I(b), (c), LSD and Schedule II drugs

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

Judge's Address Greenwood County Courthouse Greenwood, SC 29646-2634

Judge's Telephone (864)942-8655

Issuing Court: [X] Magistrate [] Municipal [] Circuit

ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL ORIGINAL

ORIGINAL 555 in Approved by Attorney General 21, 2003 SCCA 518

Judge _____
 on 12-10-2010
 Type and Amount: _____
 Name of Surety: _____

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____

Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

Decision: _____

Name: _____
 Address: _____
 Telephone: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (indicate jury trial, bench trial, plea, nol. pros., etc.)
 Disposition: _____
 Sentence: _____

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

JURORS

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

CODEFENDANTS

NOV 13 11 51 AM '10

COUNTY OF Greenwood
STATE _____
Manwell Jabaar Ervin
AKA: _____
Race: _____ Sex: M Age: 32
DOB: _____ SS#: _____
Address: 516 Lawson St.
City, State, Zip: Greenwood, SC 29649
DL# _____ SID# _____

INDICTMENT/CASE#: 11 -GS- 24-783
A/W#: M-077589
Date of Offense: 12/9/10
S.C. Code § 44-53-370
CDR Code #: 0187

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: PWID Marijuana, 2nd offense in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0187

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

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, _____ (defendant initial)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Karan Taylor Bar# 78745
Solicitor _____ 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 10(ten) days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years 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.

- CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. Credit 14 dgs = jail.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED
 set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. _____
Recipient: _____ May serve W/E beginning _____
Substance Abuse Counseling

*Fine:

§14-1-206 (Assessments 107.5%)	\$	_____
§14-1-211 (A) (1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A) (2) (DUI Surcharge)	\$100	\$ _____
§56-5-2995 (A) (2) (DUI Assessment)	\$12	\$ _____
§35.13 (Public Def/Prob)	\$500	\$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$ <u>100.00</u>
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942 (J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to Country (If paid in installments)	\$50	\$ <u>8.40</u>
§90.11 TP (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
TOTAL		\$ <u>288.40</u>

Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning \$ _____ paid to the Public Defender Fund
Other: ATTEST A TRUE COPY
Chastity Copeland
CHASTITY COPELAND
CCCP AND GS
GREENWOOD COUNTY
S.C.
 Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

Angela Woodhurst
Clerk of Court/Deputy Clerk
PRESIDING JUDGE Fulbright

Court Reporter: Tara Scott
Judge Code: 2159
Sentence Date: 7/24/2013

WITNESSES

Courtney Smith
Greenwood County Sheriff

WARRANT NUMBER

M077587

True Bill

Philip R. Mink

Foreman of the Grand Jury

Date: 3/25/11

VERDICT

GUILTY

Chastity Copeland

Foreman

7/24/13

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

March Term, 2011

Indictment # 11GS24-784

THE STATE

VS.

Maunwell Jabaar Ervin

INDICTMENT FOR

VIOLATION SECTION

44-53-0445

ATTEST A TRUE COPY
Chastity Copeland
CHASTITY COPELAND
CCCP AND GS
GREENWOOD COUNTY
S. C.

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

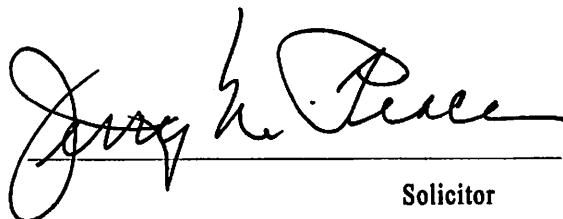
COUNTY OF GREENWOOD

VIOLATION SECTION
44-53-0445

At a Court of General Sessions, convened on the 25th day of March, 2011 the Grand Jurors of Greenwood County present upon their oath:

That Maunwell Jabaar Ervin, did in Greenwood County, state aforesaid, on or about the 9th day of December, 2010 did willfully, unlawfully and knowingly distribute, sell, purchase, manufacture, or possess with intent to distribute, a controlled substance, to wit: Marijuana, while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical education center; or a public or private college or university in violation of Section 44-53-445 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 cases made and provided.



Solicitor

ARREST WARRANT

M-077587 11-784

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenwood

THE STATE

10-35867

against

Maunwell Jabaar Ervin

Address: 219 W Creswell Ave

Greenwood, SC 29646-3846

Phone: _____ SSN: _____

Sex: M Race: B Height: 5 11 Weight: 217

DL State: SC DL #: _____

DOB: _____ Agency ORI #: SC0240000

Prosecuting Agency: Greenwood County Sheriff

Prosecuting Officer: Courtney Smith - 0157

Offense: Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or pwid, near school

Offense Code: 0107

Code/Ordinance Sec: 44-53-0445(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to

defendant MAUNWELL J. ERVIN

on 12-10-10

Courtney Smith

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Bond Court
528 Edgefield Street
Greenwood, SC 29646

ATTEST A TRUE COPY
Chastity Copeland
CHASTITY COPELAND
CCCP AND GS
GREENWOOD COUNTY
S. C.

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenwood

Personally appeared before me the affiant Courtney Smith who

being duly sworn deposes and says that defendant Maunwell Jabaar Ervin

did within this county and state on or about 12/09/2010 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Greenwood)

in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or pwid, near school

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

On December 9, 2010 at 2114 hours, Officers from the Greenwood Drug Enforcement Unit executed a lawful search warrant at the residence of 316 Lawson Street, Greenwood, SC 29646. From this search Agents seized approximately 291 grams of Marijuana, 127 grams of Crack Cocaine and 21 Dosage Units of MDMA along with 2 Semi-automatic Handguns from Maunwell ERVIN. This incident occurred within 1/2 mile proximity of Lander University. This incident occurred in the County of Greenwood. Investigation by Agents with the Greenwood Drug Enforcement Unit.

Signature of Affiant

Courtney Smith

STATE OF SOUTH CAROLINA

County/ Municipality of

Greenwood

Affiant's Address 528 Edgefield Street

Greenwood, SC 29646-

Affiant's Telephone (864)942-8600

FILED GENERAL SESSIONS
8TH JUDICIAL CIRCUIT
GREENWOOD, SC
210 DEC 13 AM 9 47

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/9/2010 defendant Maunwell Jabaar Ervin

did violate the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Greenwood) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Distribute, sell, purchase, manuf. drug other than crack cocaine, or pwid, near school

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

Sworn to and subscribed before me

on 12/10/2010

Walter Rutledge Martin (L.S.)

Signature of Issuing Judge

Walter Rutledge Martin

Judge Code: 7097

Judge's Address Greenwood County Courthouse

Greenwood, SC 29646-2634

Judge's Telephone (864)942-8655

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

Judge _____
 on 12-10-2010
 Type and Amount: _____
 Name of Surety: _____

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____

PRELIMINARY HEARING held by

Judge _____
 on _____
 Defendant Attorney: _____

Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

Decision: _____

Name: _____
 Address: _____
 Telephone: _____

DISPOSITION before

Judge _____
 on _____
 by _____
 (indicate jury trial, bench trial, plea, nol. pros., etc.)
 Disposition: _____
 Sentence: _____

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

JURORS

Name: _____
 Address: _____
 Telephone: _____
 Name: _____
 Address: _____
 Telephone: _____

CODEFENDANTS

12-10-10 09:07:00 AM

COUNTY OF Greenwood
STATE _____

INDICTMENT/CASE#: 11 -GS- 24-784

Maxwell Jabaar Ervin vs _____

A/W#: M-077587

AKA: _____
Race: B Sex: M Age: 32

Date of Offense: 12/9/10

DOB: [REDACTED] SS#: [REDACTED]

S.C. Code § 44-53-445

Address: 316 Lawson St

CDR Code #: 0107

City, State, Zip: Greenwood, SC 29649

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: PWED Marijuana in Proximity of a School
in violation of § 44-53-445 of the S.C. Code of Laws, bearing CDR Code # 0107

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

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, _____ (defendant initial)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] Solicitor
_____ 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 5 (five) days/months/years or under the **Youthful Offender Act** not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years 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.

~~CONCURRENT~~ or **CONSECUTIVE** to sentence on: 11-65-24-783
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered **PTUP** _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED

set by SCDPPPS _____ Attend Voc. Rehab. or Job Corp. [Signature]

Recipient: _____ May serve W/E beginning _____ Substance Abuse Counseling **GREENWOOD COUNTY S.C.**

*Fine:		\$	
§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A) (1) (Conv. Surcharge)	\$100	\$	<u>100.00</u>
§14-1-211 (A) (2) (DUI Surcharge)	\$100	\$	
§56-5-2995 (A) (2) (DUI Assessment)	\$12	\$	
§35.13 (Public Def/Prob)	\$500	\$	
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$	<u>45.00</u>
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$	<u>130.00</u>
§50-21-114 (BUI Breath Test Fee)	\$50	\$	
§56-5-2942 (J) (Vehicle Assessment)	\$40/ea	\$	
3% to Country (If paid in installments)	\$50	\$	<u>8.40</u>
§90.11 TP (SCCJA Surcharge)	\$5	\$	<u>5.00</u>
TOTAL		\$	<u>288.40</u>

Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning \$ _____ paid to the Public Defender Fund
Other: _____

- Appointed PD or appointed other counsel, §35.13 TP
- Requires \$500 be paid to Clerk during probation.

[Signature]
Clerk of Court/Deputy Clerk

PRESIDING JUDGE [Signature]

Court Reporter: Tera Scott

Judge Code: 2159
Sentence Date: 7/24/2013

COUNTY OF Greenwood
STATE VS. Manwell Jabaar Ervin
AKA:
Race: AFRICAN AME Sex: M Age: 35
DOB: SS#
Address: 219 W Creswell Ave
City, State, Zip: Greenwood, SC 29646-3846
DL#: SID#

INDICTMENT/CASE#: 11GS24-0785
A/W#: M077586
Date of Offense: 12/9/2010
S.C. Code § : 44-53-0375
CDR Code #: 0368

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 2nd offense 7-25 yrs

in violation of § 44-53-0370 of the S.C. Code of Laws, bearing CDR Code # 0388
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45 w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Brown, C. Yates SC Bar# 78607 Defendant
Attorney for Defendant 100417 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 7 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years 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.

CONCURRENT or CONSECUTIVE to sentence on: 11 GS 24-0784 + 783 son
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. Since July 24, 2013 + 14 days self
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$8.40, TOTAL \$288.40

days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund

Other: ATTEST A TRUE COPY
Chastity Copeland
CHASTITY COPELAND
CCCP AND GS
GREENWOOD COUNTY
S. C.

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Kayla Inyer
Court Reporter: Jay Holstar
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 2154
Sentence Date: 4-11-16

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

INDICTMENT FOR

TRAFFICKING IN COCAINE BASE
(CRACK COCAINE)
44-53-0375

At a Court of General Sessions, convened on the 25th day of March, 2011 the Grand Jurors of Greenwood County present upon their oath:

That Maunwell Jabaar Ervin, did in Greenwood County, state aforesaid, on or about the 9th day of December, 2010 willfully, unlawfully, and knowingly traffic in cocaine base (crack cocaine), to wit: that the said defendant(s) did sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was in actual or constructive possession or did knowingly attempt to become in actual or constructive possession of more than 100 grams, but less than 200 grams of cocaine base (crack cocaine), in violation of Section 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 cases made and provided.

GREENWOOD COUNTY
COURT CLERK
CHRISTINA JOHNSON
6-20-11
MAUNWELL J. ERVIN
STATE V. ERVIN, COLA

[Handwritten marks]

WITNESSES

Courtney Smith
Greenwood County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

March Term, 2011

Indictment # 11GS24- 785

WARRANT NUMBER

M077586

THE STATE

vs.

Maunwell Jabaar Ervin

True Bill

Philip R. Nickl

Foreman of the Grand Jury

Date: 3/25/11

VERDICT

Foreman

INDICTMENT FOR

TRAFFICKING IN COCAINE BASE
(CRACK COCAINE)

44-53-0375

ATTEST A TRUE COPY
Chastity Copeland
CHASTITY COPELAND
CCCP AND GS
GREENWOOD COUNTY
S. C.

ARREST WARRANT

M-077586 11-785

STATE OF SOUTH CAROLINA

[X] County/ [] Municipality of

Greenwood

THE STATE 10-35867 against

Maunwell Jabaar Ervin

Address: 219 W Creswell Ave Greenwood, SC 29646-3846

Phone: SSN: Sex: M Race: B Height: 5 11 Weight: 217 DL State: SC DL #: DOB: Agency ORI #: SC0240000 Prosecuting Agency: Greenwood County Sheriff Prosecuting Officer: Courtney Smith - 0157 Offense: Drugs / Trafficking in ice, crank or crack - 100 g or more, but less than 200 g Offense Code: 0368 Code/Ordinance Sec: 44-53-0375(C)(3)

This warrant is CERTIFIED FOR SERVICE in the [] County/ [] Municipality of The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Maunwell J. Ervin on 12-10-10

RETURN WARRANT TO: Bond Court 528 Edgefield Street Greenwood, SC 29646

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)

[X] County/ [] Municipality of)

Greenwood)

Personally appeared before me the affiant Courtney Smith being duly sworn deposes and says that defendant Maunwell Jabaar Ervin did within this county and state on or about 12/09/2010 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [] Municipality of Greenwood) in the following particulars:

DESCRIPTION OF OFFENSE Drugs / Trafficking in ice, crank or crack - 100 g or more, but less than 200 g

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

On December 9, 2010 at 2114 hours, Officers from the Greenwood Drug Enforcement Unit executed a lawful search warrant at the residence of 316 Lawson Street, Greenwood, SC 29646. From this search Agents seized approximately 291 grams of Marijuana, 127 grams of Crack Cocaine and 21 Dosage Units of MDMA along with 2 Semi-automatic Handguns from Maunwell ERVIN. This incident occurred within 1/2 mile proximity of Lander University. This incident occurred in the County of Greenwood. Investigation by Agents with the Greenwood Drug Enforcement Unit.

Signature of Affiant

STATE OF SOUTH CAROLINA)

[X] County/ [] Municipality of)

Greenwood)

Affiant's Address 528 Edgefield Street Greenwood, SC 29646- Affiant's Telephone (864)942-8600

REC 13 AM 9 47 GREENWOOD, SC

Form Approved by Attorney General 21, 2003 SCA 518 ATTEST A TRUE COPY CHASTITY G. PEPLAND CCCP AD GS GREENWOOD COUNTY S.C.

AFFIDAVIT

ORIGINAL 566

ARREST WARRANT

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

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 12/9/2010 defendant Maunwell Jabaar Ervin did violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [] Municipality of Greenwood) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crank or crack - 100 g or more, but less than 200 g

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

on 12/10/2010 Signature of Issuing Judge Walter Rutledge Martin (L.S.) Judge Code: 7097

Judge's Address Greenwood County Courthouse Greenwood, SC 29646-2634 Judge's Telephone (864)942-8655

Issuing Court: [X] Magistrate [] Municipal [] Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

Judge

on 12-10-2010

Type and Amount:

Name of Surety:

PRELIMINARY HEARING held by

Judge

on

Defendant Attorney:

Decision:

DISPOSITION before

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

JURORS

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

COUNTY OF Greenwood
STATE _____

INDICTMENT/CASE#: 13 -GS- 24 - 293

Manwell vs. Jabbar Ervin

A/W#: Direct Indictment

AKA: _____
Race: B Sex: M Age: 32

Date of Offense: 12/9/10

DOB: [REDACTED] SS#: [REDACTED]

S.C. Code § 44-53-370

Address: 316 Lawson St.

CDR Code #: 0180

City, State, Zip: Greenwood, SC 29649
DL# _____ SID# _____

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Possession of Schedule I Controlled Substance, 2nd offense in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0180

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

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, _____ (defendant initial)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
[Signature]
Solicitor

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 14 (days/months/years) or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years 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.

- CONCURRENT or CONSECUTIVE to sentence on: _____
- The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. Credit 14 dgs - jail
- The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED

set by SCDPPPS _____

Attend Voc. Rehab. or Job Corp. _____

Recipient: _____

May serve W/E beginning _____ Substance Abuse Counseling

*Fine:	\$	_____
§14-1-206 (Assessments 107.5%)	\$	_____
§14-1-211 (A) (1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A) (2) (DUI Surcharge)	\$100	\$ _____
§56-5-2995 (A) (2) (DUI Assessment)	\$12	\$ _____
§35.13 (Public Def/Prob)	\$500	\$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$ <u>100.00</u>
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942 (J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to Country (If paid in installments)	\$50	\$ _____
§90.11 TP (SCCJA Surcharge)	\$5	\$ <u>5.00</u>
TOTAL	\$	\$ <u>288.40</u>

Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning
\$ _____ paid to the Public Defender Fund
Other: _____

- Appointed PD or appointed other counsel, §35.13 TP
- Requires \$500 be paid to Clerk during probation.

[Signature]
Clerk of Court/Deputy Clerk

PRESIDING JUDGE [Signature]

Court Reporter: Tara Scott

Judge Code: 2159
Sentence Date: 7/24/2013

ATTEST A TRUE COPY
[Signature]
ANGELA WOODHURST
CCCP AND GS
GREENWOOD COUNTY
S. C.

✓

WITNESSES

Courtney Smith
Greenwood County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

February Term, 2013

Indictment # 13GS24- 293

WARRANT NUMBER

2012D2400100065

DIRECT INDICTMENT

THE STATE

vs.

Manwell Jabaar Ervin

Joe Bill

Jay Blair

Foreman of the Grand Jury

Date: 2/22/13

INDICTMENT FOR

POSSESSION OF A CONTROLLED
SUBSTANCE WITH INTENT TO DISTRIBUTE

44-53-0370

VERDICT

Guilty

Christy
Foreman 7/24/13

ATTEST A TRUE COPY
Angela Woodhurst
ANGELA WOODHURST
CCCP AND GS
GREENWOOD COUNTY
S. C.

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF GREENWOOD

**POSSESSION OF A CONTROLLED
SUBSTANCE WITH INTENT TO DISTRIBUTE
44-53-0370**

At a Court of General Sessions, convened on the 22nd day of February, 2013 the Grand Jurors of Greenwood County present upon their oath:

That Manwell Jabaar Ervin, did in Greenwood County, state aforesaid, on or about the 9th day of December, 2010 willfully, unlawfully, and knowingly possess with the intent to distribute, dispense, or deliver, and/or did otherwise possess with the intent to distribute, dispense, or deliver a controlled substance analogue, or a controlled substance defined in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug, to wit: Benzylpiperazine, a Schedule I controlled substance, in violation of the provisions of Section 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 cases made and provided.


Assistant Solicitor

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

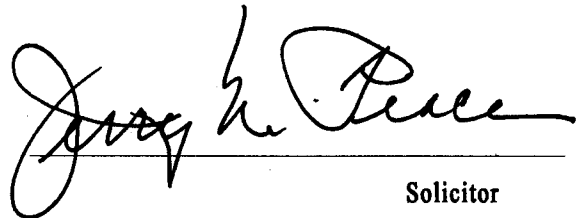
INDICTMENT FOR

**VIOLATION SECTION
16-23-0490**

At a Court of General Sessions, convened on the 25th day of March, 2011 the Grand Jurors of Greenwood County present upon their oath:

That Maunwell Jabaar Ervin, did in Greenwood County, state aforesaid, on or about the 9th day of December, 2010 possess a firearm or visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent offense, to wit: Trafficking in Crack Cocaine, or any lesser included violent offense, in violation of Section 16-23-490 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 cases made and provided.



Solicitor

WITNESSES

Courtney Smith
Greenwood County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF GREENWOOD

COURT OF GENERAL SESSIONS

March Term, 2011

Indictment # 11GS24- *787*

WARRANT NUMBER

M077592

THE STATE

vs.

Maunwell Jabaar Ervin

True Bill

Philip R. Nichols

Foreman of the Grand Jury

Date: *3/25/11*

INDICTMENT FOR

VIOLATION SECTION

16-23-0490

VERDICT

Not Guilty.

James T. Burmeister

Foreman