

Aug 01 2024

SC Court of Appeals

FILED

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

2024 JUL 26 PM 4:09

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

State of South Carolina,

JULIE J. ARMSTRONG
CLERK OF COURT
BY *[Signature]*

Indictment Nos.: 2023-GS-10-03402;
2023-GS-10-03403

v.

**ORDER DENYING
DEFENDANT'S MOTION TO
RECONSIDER SENTENCE**

Travis Turner Young,

Defendant.

Presiding Judge:
State's Attorneys:

Hon. Deadra L. Jefferson
Sharita L. Cannon, Esq.
Benjamin C. Simpson, Esq.
Benjamin A. Mack, Esq.
Renate P. Hohman, Esq.
December 11 - 13, 2023
Jamie Bickett

Defendant's Attorneys:

Trial Date:
Court Reporter:

This matter comes before the Court on Defendant's Motion to Reconsider Sentence filed December 28, 2023. The Defendant, Travis Turner Young, was previously before the Court on December 11 - 13, 2023 for a jury trial on the offenses of Possession of Methamphetamine, Third Offense (Indictment #: 2023-GS-10-03402) and Possession of Marijuana, Second or Subsequent Offense (Indictment #: 2023-GS-10-03403). On December 13, 2023 the Defendant was found guilty of Possession of Methamphetamine, Third Offense (Indictment #: 2023-GS-10-03402) and Possession of Marijuana, Second or Subsequent Offense (Indictment #: 2023-GS-10-03403) and sentenced to the State Department of Corrections for a period of four (4) years for Possession of Methamphetamine, Third Offense (Indictment #: 2023-GS-10-03402) and one (1) year for Possession of Marijuana, Second or Subsequent Offense (Indictment #: 2023-GS-10-03403). The Defendant's sentences were to run concurrently and the Defendant was to be given credit for any

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pre-detention time served pursuant to S.C. CODE ANN. § 24-13-40 (2017) to be calculated and applied by the State Department of Corrections.

The Defendant's Motion to Reconsider Sentence filed December 28, 2023 is in the nature of a Memorandum. The State filed its Response on January 3, 2024. The Defendant argues that his 2001 conviction for Possession of Cocaine, First Offense and his 2003 conviction for Possession with Intent to Distribute Cocaine, First Offense were improperly used for enhancement.¹ The Defendant further argues that the Court should treat a conviction as "a second or subsequent offense" based on the following conditions set forth in S.C. Code Ann. § 44-53-470:

(1) for an offense involving marijuana pursuant to the provisions of this article, the offender has been convicted within the previous five years of a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana possession;

(2) for an offense involving marijuana pursuant to the provisions of this article, the offender has at any time been convicted of a first, second, or subsequent violation of a marijuana offense provision of this article or of another state or federal statute relating to marijuana offenses, except a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana offenses;

(3) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs; and

(4) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has at any time been convicted of a second or subsequent violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.

¹ The Defendant has an extensive record dating back to 1997. The Defendant has the following criminal history of drug offenses: 2001 Possession of Cocaine; 2003 two (2) counts of Possession with the Intent to Distribute Cocaine; 2003 Possession with Intent to Distribute Cocaine Near a School; 2019 Possession of Marijuana; 2020 Possession of Marijuana.

S.C. Code Ann. § 44-53-470. The Defendant argues that the S.C. Code Ann. § 44-53-470 is ambiguous and since the statute is ambiguous the Court must construe the statute strictly against the State. The Defendant concludes that his prior convictions are First Offenses and are over ten (10) years old. Therefore, the Defendant's present conviction for Possession of Methamphetamine should be treated as a Second Offense as opposed to a Third Offense.

The State argues the Defendant's Motion does not raise any facts or issues that were not raised and addressed during the initial sentencing. The State further argues that the plain language of S.C. Code Ann. § 44-53-470(A)(4) permits the State to enhance the Defendant's Possession of Methamphetamine charge to a Third Offense based on his prior convictions. Furthermore, if the Defense's interpretation of S.C. Code Ann. § 44-53-470(A)(4) were accepted, a Defendant would be permitted to have an infinite number of "first-offense-convictions" for a controlled substance other than marijuana, and that was not what the legislature intended. Additionally, the State argues that the sentence imposed falls within the penalty parameters of Possession of Methamphetamine, Second Offense.² Having considered Defense's Motion, as well as the various interests balance by the Court at the time of sentencing, the Defendant's Motion to Reconsider Sentence is heard and respectfully Denied.³

² S.C. Code Ann. § 44-53-375(A) holds that "(A) A person possessing less than one gram of methamphetamine or cocaine base, as defined in Section 44-53-110, is guilty of a misdemeanor and, upon conviction for a first offense, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both."

³ This Motion is disposed of without the necessity of a hearing and decided on the record and briefs and motions submitted by the parties. See Rule 29, SCRCrimP.

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[Signature]

FACTUAL HISTORY

The Defendant was charged with Possession of Methamphetamine, Third Offense (Indictment #: 2023-GS-10-03402) and Possession of Marijuana, Second or Subsequent Offense (Indictment #: 2023-GS-10-03403). At trial evidence was produced to establish that on January 17, 2022, at approximately 8:06 PM, Charleston City Police initiated a valid traffic stop on a silver Lincoln sedan as the sedan turned onto the I-26W ramp. The Defendant was the sole occupant of the silver Lincoln sedan. The officers observed the Lincoln sedan travel to the far left shoulder and begin to stop before reentering the lanes of travel and traveling to the far right shoulder and begin to stop. The Lincoln sedan continued to travel west of the I-26 ramp. At that time the Officers observed the Defendant throw a plastic bag out of the window near the guardrail on the I-26W ramp. The Lincoln sedan eventually came to a complete stop before entering onto I-26W from the ramp. The sedan came to a stop approximately one hundred (100) yards from the location where the officers observed the Defendant throw the bag from the window. Upon their approach to the vehicle, the Officers could smell a strong odor of marijuana emitting from the vehicle. The Defendant was then detained. The officers then went back to the location where they observed the Defendant throw the bag from the window. There, the Officers located the bag which contained a green leafy substance, one (1) pink pill, two (2) green and orange pills, and a small bag of a white powdery substance. The green leafy substance was confirmed by Charleston Police Department Forensics Division to be Marijuana with a net weight of 18.21 grams (+/- .01). Emily Waffle, Drug Report. The pink pill was confirmed to be Methamphetamine with a net weight of 0.92 grams (+/- .01). Id. The State elected not to include the two (2) green and orange pills or the white powdery substance in the prosecution of this incident.

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CONCLUSIONS OF LAW

"The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion." State v. Hicks, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008) (citing State v. Smith, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981)). "A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed." Hicks, 377 S.C. at 325, 659 S.E.2d at 500. The South Carolina Supreme Court has held, "it is proper for the trial judge, in open court, in the presence of the defendant, to inquire into any relevant facts in aggravation or mitigation of punishment," notably, "the fullest information possible concerning the defendant's life and characteristics." State v. Cantrell, 250 S.C. 376, 379-80, 158 S.E.2d 189, 191 (1967) (citing Williams v. People of State of New York, 337 U.S. 241, 69 S. Ct. 1079 (1949)).

The Defendant improperly relies on S.C. Code Ann. § 44-53-470. S.C. Code Ann. § 44-53-470 is titled "'Second or subsequent offense' defined; certain convictions considered prior offenses" and does not provide a definition for Third Offense. To any extent that S.C. Code Ann. § 44-53-470 provides guidance, it does not favor the Defendant. S.C. Code Ann. § 44-53-470 makes clear that when determining the offense level for enhancement purposes, the Court is to look at the count of offense provision violations. S.C. Code Ann. § 44-53-470(A)(3) clearly states that an offense is considered a second or subsequent offense if "for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has been convicted within the previous ten years of a *first violation of a controlled substance offense provision*, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs." (Emphasis added). Similarly,

5/20/17
[Signature]

S.C. Code Ann. § 44-53-470(A)(4) clearly states that an offense is considered a second or subsequent offense if “for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has at any time been convicted of a *second or subsequent violation of a controlled substance offense provision*, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.” (Emphasis added). The Defendant’s December 13, 2023 conviction for Possession of Methamphetamine is clearly a third violation of a controlled substance offense provision.

When the terms of a statute are clear, the court must apply those terms according to their literal meaning. Patterson v. State, 359 S.C. 115, 119, 597 S.E.2d 150, 152 (2004) citing Holley v. Mount Vernon Mills, Inc., 312 S.C. 320, 440 S.E.2d 373 (1994). Moreover, all rules of statutory construction are secondary to the rule that legislative intent must prevail if it can be reasonably discerned from the statutory language. Id. citing Samuels v. State, 356 S.C. 635, 591 S.E.2d 606 (2004). S.C. Code Ann. § 44-53-375(A) holds that “[a] person possessing less than one gram of methamphetamine or cocaine base, as defined in Section 44-53-110, is guilty of a misdemeanor and, upon conviction. . . [f]or a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both.” This Court does not find that the controlling statute, S.C. Code Ann. § 44-53-375(A), is ambiguous and requires interpretation.

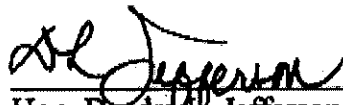
Moreover, the Defendant’s argument is inconsistent. If the Court accepts the Defendant’s interpretation of S.C. Code Ann. § 44-53-470, the Defendant’s 2001 conviction for Possession of Cocaine, First Offense and his 2003 conviction for Possession with Intent to Distribute Cocaine, First Offense could not be considered for enhancement purposes at all since they are both First

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Offenses that are over ten (10) years old. However, the Defendant asks the Court to treat the Defendant's December 13, 2023 conviction of Possession of Methamphetamine as a Second Offense. (Defendant's Motion to Reconsider Sentence Page 7).


At the sentencing hearing, the Defendant moved for the Court to sentence him as if the conviction was for a Second Offense as opposed to a Third Offense. The Motion was heard and the Court made contemporaneous findings of fact and conclusions of law for the record which are incorporated herein as if stated verbatim. The Court also notes that the sentence imposed falls within the penalty parameters of Possession of Methamphetamine, Second Offense. The Court finds that the Defendant has outlined no sound reason for the Court to alter its sentence. The Defendant's Motion raises no new issues, nor proffers any arguments not considered by the Court at the Defendant's sentencing. For the foregoing reasons, the Defendant's Motion to Reconsider Sentence filed December 28, 2023 is heard and is respectfully Denied.

AND IT IS SO ORDERED.


Hon. Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

July 26, 2024
Charleston, South Carolina

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2024 JUL 26 PM 4:09
FILED
JULIE L. ARMSTRONG
CLERK OF COURT
BY 

17 

ARREST WARRANT

2022A1010200340

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

THE STATE against

Travis Turner Young

Address:

Phone: SSN:

Sex: M Race: Height: Weight:

DL State: DL #:

DOB: Agency ORI #: SC0100100

Prosecuting Agency: Charleston City Police Department

Prosecuting Officer: Douglas A Kelley - S00485

Offense: Drugs / Poss. of narc. in Schedule I(b),(c), LSD & Schedule II - 1st offense

Offense Code: 0176

Code/Ordinance Sec: 44-53-0370(c)

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 on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

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

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Personally appeared before me the affiant Douglas A Kelley / Proud who

being duly sworn deposes and says that defendant Travis Turner Young

did within this county and state on or about 1/17/2022 violate the criminal laws of the

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

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Poss. of narc. in Schedule I(b),(c), LSD & Schedule II - 1st offense

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

PLEASE SEE ATTACHED AFFIDAVIT

COPY Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Affiant's Address 180 Lockwood Blvd.

Charleston, SC 29403-

Affiant's Telephone (843)577-7434

ARREST WARRANT

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

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

on or about 1/17/2022 defendant Travis Turner Young

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

County/ Municipality of Charleston) as set forth below.

DESCRIPTION OF OFFENSE: Drugs / Poss. of narc. in Schedule I(b),(c), LSD & Schedule II - 1st offense

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 1/18/2022

Signature of Issuing Judge (L.S.)

Amanda Haselden

Judge Code: 7412

Judge's Address 3841 Leeds Avenue

Charleston, SC 29405-

Judge's Telephone (843)746-9822

Issuing Court: Magistrate Municipal Circuit

Rule 5, pg. 5 of 44

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Charleston Police Department

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STATE OF SOUTH CAROLINA

Aug 01 2024
AFFIDAVIT

COUNTY OF CHARLESTON

SC Court of Appeals

Personally appear before me, a magistrate of this county one, Sandra Proude, who first being duly sworn deposed and says that, Travis Turner Young, did within this county and state on the January 17, 2022 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Possession of MDMA/ Ecstasy
44-53-370

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

That on January 17, 2022 at approximately 2006 hours while at I 26/ Meeting St, which is located in the City and County of Charleston, SC the defendant, Travis Turner Young, did knowingly, willingly and unlawfully violate SC Code: 44-53-370 Possession of MDMA/ Ecstasy in the following particulars:

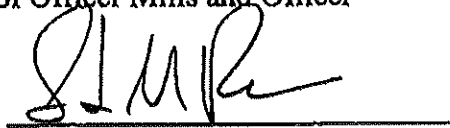
Officers Kelley and Mills were on patrol in the area of Meeting St/ Huger St where they observed a 2003 silver in color Lincoln sedan [redacted] change lanes in the middle of the intersection. They followed the vehicle, observed the vehicle fail to signal at Meeting St/ I 26 Ramp, and conducted a traffic stop for the two moving violations. The vehicle continued traveling and Officer Kelley observed the driver/ defendant throw an item out of the window. The defendant came to a stop approximately 100ft. from the location where the item was thrown and was detained. Officer Kelley walked back to the exact location where he observed the item being thrown from the car and he located a clear zip lock baggie that contained 19.20 gm of a green leafy substance that field tested presumptive for marijuana, 1 pink triangular pill with the imprint of a skull that field tested presumptive for ecstasy, 2 green/ orange pills, and a yellow powdery substance.

Post Miranda, the offender admitted to throwing the baggie out of the window and advised that the baggie contained \$100.00 worth of marijuana and ecstasy pills.

As a result of the defendant admitting, post Miranda to throwing a bag from the vehicle that contained a pink pill that tested presumptive for ecstasy, he was charged with Possession of MDMA/ Ecstasy 44-53-370.

The above is true and believable based on the observations and investigations of Officer Mills and Officer Kelley of the Charleston City Police Department.

SWORN TO AND SUBSCRIBED BEFORE ME



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

THIS 18th DAY OF January, 2022



(L.S.)

SIGNATURE OF JUDGE

COMPLAINT # 22-00806

WARRANT #

INVESTIGATING OFFICER: D. Kelley

CPD Form OT3

SLC/0386281
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2022-00806

ARREST WARRANT NUMBER

2022A1010200340

DATE OF ARREST

01/17/2022

ACTION OF GRAND JURY

RUE BILL

Martha Elaine Woodard
Foreperson of Grand Jury 1/11/2022 Date:

VERDICT

guilty

Martha Woodard 12/15/23
Foreperson of Petit Jury Date:

DOCKET NO. 2023-GS-10-03402

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

JULY TERM 2023

THE STATE

VS.

TRAVIS TURNER YOUNG A.K.A. Travis
S Young, Travis Sintell Young, Gunter Young, Travis
Santell Young, Travis Young, YOUNG, TRAVIS
SANTELL; YOUNG, TRAVIS SINTEL, YOUNG,
TRAVIS SANTELL; YOUNG, TRAVIS SINTEL,
YOUNG, TRAVIS SANTELL; YOUNG, TRAVIS
SINTEL, YOUNG, TRAVIS SANTELL; YOUNG, TR

M DOB: [REDACTED]

Indictment for
POSS METH/COCAINE BASE

SC Code: § 44-53-0375(A)
CDR Code: 3016

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SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

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

POSSESSION OF METHAMPHETAMINE

The defendant, Travis Turner Young, did on or about January 17, 2022, in Charleston County, South Carolina, knowingly or intentionally possess Methamphetamine as defined in Section 44-53-110. All in violation of 44-53-0375(A) of the South Carolina Code of Laws (1976) as amended.

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


SHARITA CANNON
ASSISTANT SOLICITOR

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Aug 01 2024

IN THE COURT OF GENERAL SESSIONS

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE

VS.

TRAVIS TURNER YOUNG

AKA: Travis T. Young, Travis Turner Sin Young

Race: [redacted] Sex: M Age: [redacted]

DOB: [redacted] SS#: [redacted]

Address: [redacted]

City, State,

Zip: [redacted]

DL# [redacted] SID# [redacted]

*DL: Yes No CMV Yes No Hazmat Yes No

INDICTMENT/CASE# 2023-GS-10-03402

A/W#: 2022A1010200140

Date of Offense: 01/17/2022

S.C. Code §: 44-53-0370(c)

CDR Code #: 0176

SENTENCE SHEET

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

TO: Poss Meth 3rd (NMT 10 yrs &/or NMT \$12,500)

In violation of § 44-53-0375(A) of the S.C. Code of Laws, bearing CDR Code # 3016

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

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

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

ATTEST:

[Signature] Sharita Cannon, Assistant Solicitor

104398 SC Bar #

[Signature] Travis Young Defendant

[Signature] Attorney for Defendant

102068 SC Bar #

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

for a determinate term of 4 days/months/years/Time Served Youthful Offender Act not to exceed ___ years

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

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

The sentence shall run

CONCURRENT or CONSECUTIVE to sentence on: 2023-GS-10-3403; 2020-GS-10-40634/4064

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

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

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

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

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

Other: ATU

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms _____ Set by SCDPPPS

Recipient: _____

*Fine:	\$	Beginning	\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$		
§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 (DUI Assessment)		\$12	\$
§58-1-286 (DUI Breath Test)		\$25	\$
§14-1-212 (Law Enforce. Funding)		\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)		\$150	\$ <u>150.00</u>
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41	\$
§50-21-114 (BUI Breath Test Fee)		\$50	\$
§56-5-2942(J) (Vehicle Assessment)		\$40/ea	\$
3% to County (if paid in installments)		TBD	\$ <u>8.25</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		\$500	\$
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD	\$
TOTAL			\$ <u>283.25</u>

Clerk of Court/Deputy Clerk:
Court Reporter:

Sterland
J. Bickett

Presiding Judge
Judge Code:
Sentence Date:

DL Jefferson
2120
12 | 13 | 2023

ARREST WARRANT
2022A1010200341

STATE OF SOUTH CAROLINA
 County/ Municipality of
Charleston

THE STATE
Travis Turner Young
against

Address: [REDACTED]

Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: [REDACTED] Height: [REDACTED] Weight: [REDACTED]
DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0100100
Prosecuting Agency: Charleston City Police Department
Prosecuting Officer: Douglas A Kelley - S00485

Offense: Drugs / Poss. of 28g (1 oz) or less of marijuana or
10g - 2nd or sub. Offense

Offense Code: 0182
Coda/Ordinance Sec: 44-53-0370(D)(4)

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 on _____

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

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

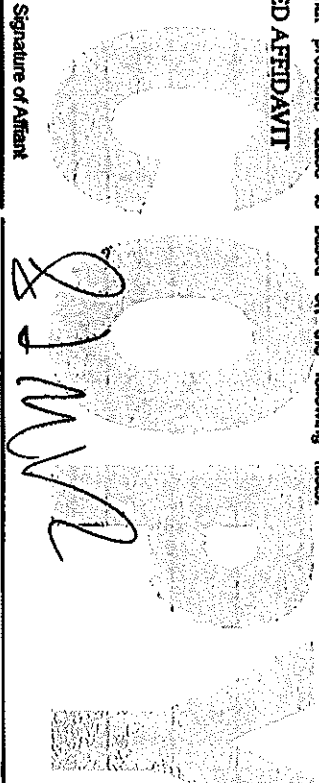
DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

STATE OF SOUTH CAROLINA
 County/ Municipality of
Charleston

Personally appeared before me the affiant Douglas A Kelley / Proudly
being duly sworn deposes and says that defendant Travis Turner Young
did within this county and state on or about 1/17/2022
State of South Carolina (or ordinance of County/ Municipality of Charleston)
in the following particulars: violates the criminal laws of the

DESCRIPTION OF OFFENSE: Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g - 2nd or sub. Offense

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



Signature of Affiant

STATE OF SOUTH CAROLINA
 County/ Municipality of
Charleston

Affiant's Address: 180 Lockwood Blvd.
Charleston, SC 29403
Affiant's Telephone: (843)577-7434

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 1/17/2022 defendant Travis Turner Young
did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g - 2nd or sub. Offense

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 1/18/2022

Signature of Issuing Judge
Armanda Haselden
Judge Code: 7412

Judge's Address: 3841 Leeds Avenue
Charleston, SC 29405
Judge's Telephone: (843)746-9822

Issuing Court: Magistrate Municipal Circuit

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

Form Approved by
SC Advisory General
April 2, 2003
SCCA 516

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Aug 01 2024
SC Court of Appeals

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

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Aug 01 2024
AFFIDAVIT

SC Court of Appeals

Personally appear before me, a magistrate of this county one, Sandra Proude, who first being duly sworn deposed and says that, Travis Turner Young, did within this county and state on the January 17, 2022 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Possession Marijuana 2^{nd+}
44-53-370

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

That on January 17, 2022 at approximately 2006 hours, while at I 26/ Meeting St, which is located in the City and County of Charleston, SC the defendant, Travis Turner Young, did knowingly, willingly and unlawfully violate SC Code: 44-53-370 Possession Marijuana 2^{nd+} in the following particulars:

Officers Kelley and Mills were on patrol in the area of Meeting St/ Huger St where they observed a 2003 silver in color Lincoln sedan [redacted] change lanes in the middle of the intersection. They followed the vehicle, observed the vehicle fail to signal at Meeting St/ I 26 Ramp, and conducted a traffic stop for the two moving violations. The vehicle continued traveling and Officer Kelley observed the driver/ defendant throw an item out of the window. The defendant came to a stop approximately 100ft. from the location where the item was thrown and was detained. Officer Kelley walked back to the exact location where he observed the item being thrown from the car and he located a clear zip lock baggie that contained 19.20 gm of a green leafy substance that field tested presumptive for marijuana, 1 pink triangular pill with the imprint of a skull that field tested presumptive for ecstasy, 2 green/ orange pills, and a yellow powdery substance.

Post Miranda, the offender admitted to throwing the baggie out of the window and advised that the baggie contained \$100.00 worth of marijuana and ecstasy pills.

A criminal records check revealed that the defendant has 2 prior simple Possession Marijuana convictions on 08/07/2019 and 12/16/2020 both with CPD. As a result of him possessing the baggie that contained 19.20 gm of marijuana, his post Miranda statement and having 2 prior convictions, he was charged with Possession of Marijuana 2^{nd+}.

The above is true and believable based on the observations and investigations of Officer Mills and Officer Kelley of the Charleston City Police Department.


SWORN TO AND SUBSCRIBED BEFORE ME

THIS 18th DAY OF January, 2022



AFFIANT

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



SIGNATURE OF JUDGE (L.S.)

COMPLAINT # 22-00806

WARRANT #

INVESTIGATING OFFICER: PO D. Kelley

CPD Form OT3

SLC/0386281
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2022-00806

ARREST WARRANT NUMBER

2022A1010200341

DATE OF ARREST

01/17/2022

ACTION OF GRAND JURY

TRUE BILL

Martin Elmer Woodward

Foreperson of Grand Jury 11/11/2023 Date:

VERDICT

Guilty

[Signature]

Foreperson of Petit Jury

Date:

DOCKET NO. 2023-GS-10-03403

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

JULY TERM 2023

THE STATE

VS.

TRAVIS TURNER YOUNG A.K.A. Travis
S Young, Travis Sintell Young, Gunter Young, Travis
Santell Young, Travis Young, YOUNG, TRAVIS
SANTELL; YOUNG, TRAVIS SINTEL, YOUNG,
TRAVIS SANTELL; YOUNG, TRAVIS SINTEL,
YOUNG, TRAVIS SANTELL; YOUNG, TRAVIS
SINTEL, YOUNG, TRAVIS SANTELL; YOUNG, TR

M DOB: [REDACTED]

Indictment for
POSS MJ/HASH

SC Code: § 44-53-0370(d)(4)

CDR Code: 0182

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Aug 01 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

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

Poss MJ/Hash

The defendant, Travis Turner Young, did on or about January 17, 2022, in Charleston County, South Carolina, knowingly or intentionally possess marijuana, a controlled substance. This offense is Defendant's second or subsequent as defined in Section 44-53-470, Code of Laws of South Carolina. All in violation of 44-53-0370(d)(4) of the South Carolina Code of Laws (1976) as amended.

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



SHARITA CANNON
ASSISTANT SOLICITOR

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Aug 01 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE

INDICTMENT/CASE#: 2023-GS-10-03403

VS.

TRAVIS TURNER YOUNG

AKA: Travis T. Young, Travis Turner Sin Young

Race: [redacted] Sex: M Age: [redacted]

DOB: [redacted] SS#: [redacted]

Address: [redacted]

City, State,

Zip: [redacted]

DL.# [redacted] SID# [redacted]

A/W#: 2022A1010200141

Date of Offense: 01/17/2022

S.C. Code §: 44-53-0370(d)(4)

CDR Code #: 0182

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Poss M/Hash 2nd/sub (NMT 1 yr &/or \$200-\$1,000)

In violation of § 44-53-0370(d)(4) of the S.C. Code of Laws, bearing CDR Code # 0182

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-46 (CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST

[Signature] 104398 SC Bar # Solicitor
Travis Young Defendant
[Signature] 102068 SC Bar # Attorney for Defendant

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

for a determinate term of 1 days/months/years/Time Served Youthful Offender Act not to exceed ___ years

and/or to pay a fine of \$ ____, provided that upon the service of ___ days/months/years/Time Served and or payment

of \$ ____, plus costs and assessments as applicable*, the balance is suspended with probation for _____

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

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on 2023-GS-10-3402; 2020-GS-10-4063 & 4064

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

To include time spent on monitored house arrest prior to trial and sentencing

The Defendant Shall be Released from County Detention Center.

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

SPECIAL CONDITIONS:

STATE TRAVIS TURNER INDICTMENT/CASE#: 2021-GS-10-01403
VS. YOUNG

PTUP after _____ months/years

And Other Terms Listed Below:

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

Other: ATU

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

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:		\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning _____
§14-1-206 (Assessments 107 5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ <u>150.00</u>
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$60	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ <u>8.25</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
	TOTAL	\$ <u>283.25</u>

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____

Sterland
J. Bickett

Presiding Judge _____
Judge Code: _____
Sentence Date: _____

AK Jefferson
2128
12/13/2023

APPELLATE DEFENSE CHECKLIST

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

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

FILED

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

2023 DEC 28
HON. J. B. BARNETT
CLERK OF COURT

IN THE COURT OF GENERAL SESSIONS
FOR THE NINTH JUDICIAL CIRCUIT

Warrant No(s): 2022A1010200340-0341

STATE OF SOUTH CAROLINA

vs.

TRAVIS YOUNG,

Defendant

BY M SA

POST-TRIAL
DEFENSE MOTION

Re: To Reconsider Sentencing

Travis Young respectfully requests that the General Sessions Court reconsider the sentence on his recent conviction for possession of methamphetamine in Charleston County. Under the South Carolina Rules of Criminal Procedure, a post-trial motion shall be made by a Defendant within ten days after the imposition of his sentence. Rule 29, South Carolina Rules of Criminal Procedure (SCRCrimP). Also, the motion may, in the discretion of the court, be determined on briefs filed by the parties without oral argument. *Id.* Accordingly, on December 13, 2023, the Court sentenced Travis Young to four years of active prison time in the South Carolina Department of Corrections (SCDC) for his recent conviction at trial for possession of methamphetamine in Charleston County. The Court should reconsider the sentence because the Court sentenced Travis Young based on the State's improper enhancement of his charge under S.C. Code Ann. § 44-53-470 (2016).

FACTS OF THE CASE

Travis Young had convictions on his criminal record at the time of his recent trial in Charleston County for possession of cocaine first offense from 2001 and possession with intent to distribute cocaine first offense from 2003. On January 17, 2022, the Charleston Police

Department charged Travis Young for possession of MDMA/ccstasy, and on July 1, 2023, the Charleston County Grand Jury indicted him for possession of methamphetamine under the same set of facts with the CDR Code indicating that the indictment was for a third offense. At trial, a jury convicted Young of possession of methamphetamine on December 13, 2023, and during sentencing, he moved for the Court to sentence him as if the conviction was a second offense under S.C. Code Ann. § 44-53-470. The Court denied Young's motion and sentenced him as if the conviction was a third offense, giving him an active sentence of four years in SCDC. This motion to reconsider follows the Court's denial of Travis Young's motion and his sentence.

ANALYSIS OF THE LAW

Under S.C. Code Ann. § 44-53-470, the State may enhance a drug conviction based on four provisions. The statute states that the Court should treat a conviction as "a second or subsequent offense" based on the following conditions:

- (1) for an offense involving marijuana pursuant to the provisions of this article, the offender has been convicted within the previous five years of a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana possession;
- (2) for an offense involving marijuana pursuant to the provisions of this article, the offender has at any time been convicted of a first, second, or subsequent violation of a marijuana offense provision of this article or of another state or federal statute relating to marijuana offenses, except a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana offenses;
- (3) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs; and

(4) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has at any time been convicted of a second or subsequent violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.

S.C. Code Ann. § 44-53-470 (2016)

The statute clearly treats marijuana convictions differently from other controlled substances. Provisions (A)(1) and (A)(2) relate specifically to marijuana whereas provisions (A)(3) and (A)(4) relate specifically to controlled substances other than marijuana. Provisions (A)(1) and (A)(2) allow for the enhancement of a charge based on a conviction less than five years old, regardless of the offense level, drug weight, or distribution type; whereas provisions (A)(3) and (A)(4) allow for enhancement based on a conviction less than ten years old, regardless of the offense level, drug weight, or distribution type. Furthermore, provision (A)(2) makes an exception for first offense *possession* convictions, preventing the State from enhancing based on them after five years, whereas provision (A)(4) makes an exception for *all* first offense convictions, preventing the State from enhancing based on them after ten years, regardless of the offense level, drug weight, or distribution type.

This interpretation of provision (A)(4) derives from the statute's ambiguity. The statute, as a whole, distinguishes between a "first violation" and a "second or subsequent violation" for enhancement purposes by way of exclusion without defining the term "violation." In provision (A)(1), the statute refers to a "first violation of marijuana possession," and in provision (A)(2), the statute refers to a "first, second, or subsequent violation of a marijuana offense." Moreover, in provision (A)(3), the statute refers to a "first violation" without referring to a second or subsequent violation, like in provisions (A)(2), and in provision (A)(4), the statute refers to a

“second or subsequent violation” without referring to a first violation, like in provisions (A)(1), (A)(2), and (A)(3).

Accordingly, the Court improperly interpreted S.C. Code Ann. § 44-53-470, by not recognizing its ambiguity and by not construing it based on the distinctions between its provisions. Courts must construe the terms of a statute, if it is ambiguous. *State v. Henkel*, 413 S.C. 9, 14, 774 S.E.2d 458, 461 (2015) (citing *Lester v. S.C. Workers' Comp. Comm'n*, 334 S.C. 557, 561, 514 S.E.2d 751, 752 (1999)). Plus, they must construe penal statutes strictly against the State, while considering the statute “as a whole” and interpreting “its words in light of the context.” *State v. Dawkins*, 352 S.C. 162, 166, 573 S.E.2d 783, 785 (2002) (quoting *Rorrer v. P. J. Club, Inc.*, 347 S.C. 560, 568, 556 S.E.2d 726, 730 (Cl. App. 2001) (citing *State v. Standard Oil Co. of N.J.*, 195 S.C. 267, 288, 10 S.E.2d 778, 788 (1940))). Thus, the Court should have construed the terms of S.C. Code Ann. § 44-53-470 as a whole and strictly against the State when sentencing Travis Young on December 13, 2023, meaning he should have been sentenced as if convicted of a second offense, because “second or subsequent violation” in provision (A)(4) of the statute does not simply mean second or subsequent conviction.

1. The Enhancement of Marijuana Charges under S.C. Code Ann. § 44-53-470

The statute allows the State to enhance a pending marijuana charge against an individual if they have been convicted for a first offense of *possession of marijuana in the last five years*. S.C. Code Ann. § 44-53-470(A)(1). It also allows the State to enhance a pending marijuana charge against an individual if they have “*at any time* been convicted of a first, second, or subsequent” offense of marijuana, “*except* a first violation of a marijuana possession.” S.C. Code Ann. § 44-53-470(A)(2). The statute specifically mentions convictions for “first” offenses in

provision (A)(2), allowing the State to enhance based on them so long as they are not convictions for possession over five years old. This means the following:

- The State CAN enhance a pending marijuana charge against an individual, if they have a possession of marijuana charge on their criminal record less than five years old.
- The State CAN enhance a pending marijuana charge against an individual, if they have a conviction for possession with intent to distribute, distribution, or trafficking marijuana on their criminal record, over five years old.
- The State CANNOT enhance a pending marijuana charge against an individual, if they have a conviction for possession of marijuana first offense *over five years old* on their criminal record. The conviction drops off the criminal record for enhancement purposes after five years.

2. The Enhancement of Charges for Controlled Substances Other Than Marijuana under S.C. Code Ann. § 44-53-470

The statute allows the State to enhance a charge pending against an individual for controlled substances other than marijuana, if they have “within the previous ten years” been convicted for an offense or violation of a controlled substances other than marijuana. S.C. Code Ann. § 44-53-470(A)(3). However, the State may *only* enhance a charge pending against an individual for a controlled substances other than marijuana, if they have “*at any time* been convicted of a second or subsequent violation” for a controlled substances other than marijuana. S.C. Code Ann. § 44-53-470(A)(4). The statute specifically does not mention convictions for a “first violation” in provision (A)(4) because a first violation cannot be used to enhance a drug charge, if it is over ten years old. Only a second violation can be used by the State for

enhancement purposes if it is over ten years old. Moreover, a second violation for a second offense does not automatically allow the State to enhance a pending charge to a third offense, if the second offense is over ten years old. This means the following:

- The State CAN enhance a charge pending against an individual for a controlled substances other than marijuana, if they have a conviction for a controlled substance other than marijuana that is *less than* ten years old on their record.
- The State CANNOT enhance a pending charge for a controlled substance other than marijuana, if they have a first offense conviction for a controlled substance other than marijuana *over* ten years old on their criminal record. The conviction drops off the criminal record for enhancement purposes after ten years.
- The State CANNOT enhance a charge pending against an individual for a controlled substances other than marijuana to a *third* offense, if (1) they have a conviction for a first or second offense of a controlled substance other than marijuana that is *over* ten years old on their record, and (2) they have an even older conviction for a first offense of a controlled substance other than marijuana on their record.

APPLICATION OF THE FACTS

Travis Young currently has a conviction for possession of cocaine first offense from 2001 and possession with intent to distribute cocaine first offense from 2003 on his criminal record. Per the previous analysis, the State CANNOT enhance a charge pending against an individual for a controlled substances other than marijuana to a third offense, if (1) they have a conviction for a first or second offense of a controlled substance other than marijuana that is *over* ten years old on their record, and (2) they have an even older conviction for a first offense of a controlled substance other than marijuana on their record. The statute's failure to mention convictions for a

“first violation” in provision (A)(4), means that the State improperly used Travis Young’s conviction for possession of cocaine first offense from 2001 to enhance his charge from 2022 to a third offense upon presentment to the grand jury. Travis Young’s conviction for possession of cocaine first offense from 2001 is technically a first violation, and it is over ten years old. Thus, the Court improperly sentenced Travis Young under S.C. Code Ann. § 44-53-470, and it should have treated his recent conviction for possession of methamphetamine for sentencing purpose as a second offense.

Respectfully Submitted,

Benjamin A. Mack

Benjamin A Mack
Attorney for Travis Young

Charleston, South Carolina
December 27, 2023

2023 DEC 28 PM 1:47
CLERK OF COURT
OFFICE OF THE CLERK OF COURT
CLERK OF COURT