

FILED FOR RECORD

STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS

2024 SEP 22 PM 7:33

COUNTY OF BARNWELL

RHONDA D. McELVEEN  
CLERK OF COURT  
BARNWELL COUNTY, S.C.

SECOND JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

**Warrant Nos.: 2023A0610400135**

vs.

**Indictment :2024GS0600204**

KESHAWN L. KELLEY

ORDER DISMISSING WARRANTS

DEFENDANT

**RECEIVED**

OCT 04 2024

SC Court of Appeals

PRESIDING JUDGE: Courtney Clyburn Pope

COURT REPORTER: Penny Johnson

HEARING DATES: July 16 and 18, 2024

DEFENSE COUNSEL: Ola Johnson

PROSECUTOR: Dep. Solicitor David Miller, Asst. Solicitor Leigh Staggs

Defendant is charged on the above referenced warrants with violations of S.C. Code §24-7-155. An administrative Order Transferring Cases to Magistrate Court was signed by this Court on July 8, 2024 ordering Defendant's, and similarly situated defendants', case(s) be transferred to the Barnwell County magistrate court for trial.

STATE OF SOUTH CAROLINA  
COUNTY OF BARNWELL

I, Rhonda D. McElveen, Clerk of Court for Barnwell County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office.

*Rhonda D. McElveen*  
Clerk of Court, Barnwell County, SC

By: CBC Date: 9-23-2024

This matter came before the Court pursuant to a motion by Defendant following the July 8, 2024 Order of this Court. Other similarly situated defendants in Barnwell County made the same or similar motions. The Court heard arguments in Barnwell from both the State as well as counsel for all similarly situated defendants on the dates listed above. The Court herein incorporates all motions, memorandums, arguments, objections of both the State and similarly situated defendants in the record of this matter and in this Order.

Defendant was charged with a violation of §24-7-155 and the warrants for those offenses were filed in the Barnwell County Court of General Sessions. The State notified counsel for Defendant that the allegations in the matter did not include contraband that was a weapon or an illegal drug. The State informed Defendant, and similarly situated defendants, that it intended to try the cases in magistrates court pursuant to §24-3-965 while the warrants remained pending on the general sessions court docket. Additionally, the State maintained the position that, despite being tried in magistrate court, violations of this statute were felonies and were punishable by a sentence of not less than one year and not more than ten years or a fine of not less than one thousand dollars and not more than ten thousand dollars or both, as provided by §24-7-155.

During arguments in this matter, as well as in the similarly situated cases, the State alleged §24-3-965 was clear on its face and therefore was not subject to any statutory interpretation. Counsel for defendants argued that the introductory phrase of §24-3-965 was ambiguous and therefore the Court must use the mandated rules of statutory interpretation to discern the meaning of the statute. Section 24-3-965 begins as follows: "Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, 24-3-950, and 24-7-155, the offenses of furnishing contraband, other than weapons or illegal drugs, to an inmate... must be tried exclusively in magistrates court." The State interprets §24-3-965 to mean that contraband cases

not involving illegal drugs or weapons should be tried in magistrate court, with penalties ranging from one to ten years and/or a fine of at least \$1,000. The State argues that this interpretation prevents rendering the phrases “Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550” meaningless.

The State further takes the position that the portion of §24-7-155 to be “notwithstanding” applies to contraband cases involving illegal drugs or weapons, as magistrate courts have limited jurisdiction and could face practical issues, such as the inability to subpoena out of county drug analysts or dealing with jurisdictional conflicts for weapons related cases. Counsel for defendants argued that the statute is ambiguous because each statute listed has multiple provisions and it is not obvious which provisions of which statute sections the Court is to except or ignore when applying this statute.

The Court agrees with defendants that the overlapping contraband statutes are ambiguous and the legislature could not have intended a sentence up to 10 years for this category of cases. In reaching this determination, the Court believes it does not make sense to ignore or except all of the provisions of each listed statute section – which would mean to ignore the entire statute that creates the offense as well as the entire statute which provides any criminal jurisdiction to the magistrates court. Therefore, the Court finds that an ambiguity exists in the statute and that the Court must use the mandated rules of statutory interpretation to discern the meaning of §24-3-965.

In applying the rules of statutory interpretation, the Court must defer to legislative intent, avoid absurd results, and because this statute is penal in nature, must construe any ambiguity in favor of defendants. §24-3-965 divides violations of §24-7-155 into two classes of cases – one that involves weapons or illegal drugs, and another that involves all other types of contraband. The

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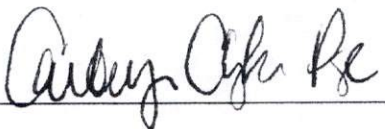
Court finds that the legislature could not have intended for the category of cases that does not involve weapons or illegal drugs to be subject to the same ten-year maximum penalty.

The Court further finds that violations of §24-7-155, that do not involve weapons or illegal drugs must be brought in magistrate court with magistrate court warrants and are not properly filed in general sessions court. Thus, the July 8, 2024 Order Transferring Cases to Magistrate Court is hereby vacated. Therefore, the above warrants must be dismissed. If the State intends to pursue prosecution of the allegations in this matter, it must be prosecuted in magistrate court.

Based on the foregoing, it is therefore ORDERED:

1. The previously filed July 8, 2024 Order Transferring Cases to the Magistrate Court is hereby VACATED; and,
2. The warrants in this matter are not properly before this Court and should be, and hereby are, DISMISSED; and,
3. Nothing in this order prevents the State from obtaining new warrants in the original jurisdiction of the magistrate court against the Defendant for the offenses alleged in this matter.

IT IS SO ORDERED.



Courtney Clyburn Pope

Chief Administrative Judge

Second Judicial Circuit

September 28, 2024

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