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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from York County

Honorable R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENTAVIOUS JAWAN AGERS,

APPELLANT

APPELLATE CASE NO. 2025-000251

RECORD ON APPEAL

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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA.

-----x

STATE,

Plaintiff,

Case No.

-against-

2023-GS-46-5194,

KENTAVIOUS JAWAN AGERS,

2024-GS-46-0567

Defendant.

-----x

February 3, 2025

York, S.C.

B E F O R E:

HONORABLE R.K. Kelly

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

MARINA HAMILTON,

Attorney for the Plaintiff

DEVON WILSON,

Attorney for the Defendant

Aileen Butler

Official Court Reporter

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MS. HAMILTON: May it please the Court.

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THE COURT: Yes, ma'am.

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MS. HAMILTON: This is going to be a rejection on the record of Kentavious Agers. We are moving forward with trial today. He is charged with trafficking in Fentanyl four to 14 grams, first offense and trafficking in heroin four to 14 grams, first offense. The State had offered over the weekend that he could do a global deal of trafficking Fentanyl, first offense and possession with intent to distribute marijuana, first offense, for a negotiated eight-year sentence. He is choosing to reject that on the record today and move forward with trial. He is facing seven to 25 years, Your Honor.

18

THE COURT: Let's get him sworn madam clerk.

19

20

Kentavious Agers, called as a witness, was sworn by the clerk and testified as follows:

21

THE DEFENDANT: Yes, ma'am.

22

THE COURT: Sir, are you Mr. Agers?

23

THE DEFENDANT: Yes, sir, I am.

24

25

THE COURT: Mr. Agers, you have been in the courtroom during this process. Have you heard

1 and understood what the solicitor told me?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And is that true?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And do you reject the offer?

6 THE DEFENDANT: Yes, sir, I do.

7 THE COURT: Have you taken any medication or
8 any substance that interferes with your ability
9 to think clearly?

10 THE DEFENDANT: No.

11 THE COURT: You know what you are doing here
12 today?

13 THE DEFENDANT: Yes, sir, I do.

14 THE COURT: And you want to go to trial?

15 THE DEFENDANT: Yes, sir, I do.

16 THE COURT: Okay. Well, you have a right to
17 go to trial. You're going to trial here today.
18 You want to talk about firing your lawyer?

19 THE DEFENDANT: Yes, I do.

20 THE COURT: Okay, why is that?

21 THE DEFENDANT: Because I don't -- if I go
22 -- because I want to go it trial, right. I feel
23 like if I'm going to trial I would rather have
24 someone that I'm paying to represent me instead
25 of a public defender. There's nothing wrong with

1 Devon Nelson. He has done everything he can for
2 me but I would like to try and find my own
3 attorney. I got the money to pay for my
4 attorney, but I would rather pay for a paid
5 attorney to be able to go to trial so I could
6 more like -- I could feel better about my
7 decision. Like I said, there's nothing wrong
8 with Devon Nelson or anything. I would just
9 rather get mine own. Me, my mother, my family
10 would rather get our own paid lawyer to move on
11 to trial. I just want -- I just want to get to
12 get a paid lawyer, a paid attorney for my trial.

13 THE COURT: Mr. Agers, you had since July
14 22nd of 2023 to hire a lawyer.

15 THE DEFENDANT: I was -- I was -- I've been
16 in jail for a year, sir. I'm sorry. I was in
17 jail for a year. I just got out in December and
18 I just started getting to my son and getting a
19 job to be able to get the money. The trial, this
20 week it came so quick. I didn't have enough time
21 to get stuff situated because I just got out like
22 literally, just got out in December. That's why
23 I didn't have enough time to get my stuff
24 situated and get a paid lawyer on my own.

25 THE COURT: You had plenty of time. You're

1 going to trial today because your case is called
2 now. In fact you're in custody right now. The
3 case is called. Your bond is extinguished.
4 You're in custody. So do you want to go to trial
5 with this lawyer or without this lawyer, but
6 you're going to go to trial today. Do
7 you want to keep him?

8 MR. NELSON: Do you want to try the case
9 yourself or do you want me to be your lawyer?

10 THE DEFENDANT: I guess I have no choice.

11 THE COURT: No choice of what?

12 THE DEFENDANT: I mean, I just -- I can't
13 get a paid lawyer. I just take the eight years
14 if I can't get a paid lawyer on my own.

15 THE COURT: I'm not forcing you into a plea.

16 THE DEFENDANT: I know. I'm saying if I
17 can't -- if I'm not able to get a paid lawyer on
18 my own and be able to fight my case then I will
19 just take the eight years.

20 THE COURT: You want to talk to him for a
21 minute about it?

22 (Whereupon, there was an off the record
23 discussion.)

24 MR. NELSON: Your Honor, I can tell the
25 Court we've talked extensively about this plea

1 offer. If he wants to take it, I mean it's his
2 decision. I advised him. He understands what my
3 advice is and if he's saying he wants to take the
4 plea I know he's been duly advised of what he's
5 giving up and what he has.

6 THE COURT: The decision is yours, sir.

7 THE DEFENDANT: I'll take it.

8 THE COURT: All right.

9 MS HAMILTON: Your Honor, I do want to put
10 on the record in September of 2024 we went on the
11 record as to another attorney matter in which he
12 wanted to fire Devon and hire a private
13 attorney. So back in September he was on the
14 record stating he wanted to hire someone. He had
15 an opportunity since then and he made that
16 decision to proceed forward with Mr. Nelson.

17 THE DEFENDANT: Can I say something?

18 THE COURT: Talk to your lawyer first.

19 MR. NELSON: Your Honor, it was denied by
20 the judge. He says he didn't make that decision.
21 He wanted me fired and another lawyer appointed
22 at that point and that did not happen and so it
23 was denied by the judge. Not necessarily his
24 choice is his issue with that with what the
25 solicitor just said.

1 THE COURT: Well, okay. Well, just for the
2 record here, I'm kind of new over here, but I do
3 the same thing. You don't get to choose which
4 lawyer you want unless you hire one. He's
5 appointed. He's able and capable. You don't get
6 to pick which lawyer you want.

7 Do you want to sign him up?

8 MS. HAMILTON: Does he want to plead?

9 MR. NELSON: Yes.

10 THE COURT: While you're getting the
11 paperwork ready where are we on the number two
12 trial?

13 (Whereupon, there was a break in the
14 proceedings while the paperwork was prepared.

15 THE COURT: Sir, you were previously sworn
16 and you remain sworn.

17 In the Indictment 2023-GS-46-5194, the
18 Government says that you did on or about
19 September 2nd of 2023 in York County, South
20 Carolina, manufacture, distribute, dispense,
21 deliver, purchase, aid, abet, attempt or conspire
22 to do so with regard to a quantity of marijuana,
23 which is a schedule one controlled substance and
24 in violation of state law. You are waiving
25 presentment to the Grand Jury. It is nonviolent

1 by definition. First offense carries up to five
2 years and/or a fine of up to \$5,000 and you have
3 negotiated five years concurrent. Is that your
4 understanding?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: In 2024-GS-46-0567, the
7 Government says that you did in York County,
8 South Carolina on or about June 22nd of 2023,
9 sell, manufacturer, cultivate, deliver, purchase
10 or bring in to the state or provide financial
11 assistance or otherwise aided, abetted, attempted
12 or conspired to do so or was in knowingly actual
13 or construction possession of four grams or more
14 but less than 14 grams or more of fentanyl or a
15 fentanyl related substance or a mixture of any of
16 these in violation Title 44 of South Carolina
17 code in violation of state law. It was true
18 billed by the Grand Jury.

19 You are offering to plead as indicted. It
20 carries with it not less than seven years. No
21 more than 25 years and a mandatory \$50,000 fine.
22 It is violent and it is serious for future
23 sentencing purposes and you have negotiated a
24 sentence of eight years. Is that your
25 understanding?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Sir, you have right to a trial
3 by jury. Do you know that? The jury is
4 assembled and I will qualify them very shortly.
5 Do you want a trial by jury?

6 THE DEFENDANT: No sir.

7 THE COURT: You have right the call any
8 witness you choose to testify for you and
9 confront any witness who testifies against you.
10 Do you waive and give up that right?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You have the right to remain
13 silent under the constitutional of the United
14 States and the constitutional of South Carolina.
15 Do you waive and give up that right?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And finally, on Indictment
18 ending in 5194, you have the right to have it
19 presented to Grand Jury. Do you waive and give
20 up that right?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Sir, how to you plead to
23 Indictment ending in 5194?

24 THE DEFENDANT: Guilty.

25 THE COURT: And 0567?

1 THE DEFENDANT: Guilty.

2 THE COURT: And do you plead guilty freely?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Intelligently?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Voluntarily?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Anyone force you, threaten or
9 make you plead guilty?

10 THE DEFENDANT: No, sir.

11 THE COURT: Did you your lawyer explain the
12 elements of each of these offenses?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And did he also explain to you
15 the burden that remains on the State of South
16 Carolina to prove your guilt beyond a reasonable
17 doubt?

18 THE COURT: Yes, sir.

19 THE COURT: Did he answer all of your
20 questions?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Did he share discovery materials
23 with you?

24 THE COURT: Yes, sir.

25 THE DEFENDANT: Has he done everything he

1 can to help you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Please listen to the solicitor.

4 MS. HAMILTON: Thank you, Your Honor.

5 As to the first case on the trafficking
6 fentanyl, on July 22nd of 2023, the defendant was
7 pulled over. He was passenger in a vehicle which
8 was driven by Markquan Lewis. That vehicle was
9 pulled over. It was a black Cadillac for expired
10 plates that had been expired since 2018.
11 Officers did have everyone exit the vehicle. Saw
12 in plain view in the passenger side door pocket
13 where the defendant was sitting, some white
14 baggies that contained -- plastic baggies that
15 contained white powder believed to be Percocet.
16 Also on the street known as fentanyl. Officers
17 then conducted a probable cause search of that
18 vehicle. Opened the glove box and found 31
19 fentanyl pills. Came back mixed as fentanyl and
20 heroin. Thirty one total. Weight of 5.83 grams
21 of fentanyl and heroin combined.

22 The defendant was subsequently asked by
23 officers back at booking about these fentanyl
24 pills. He did state that he actually popped
25 these pills. Admitted to knowing about them and

1 processing these pills.

2 Next is to the PWID marijuana first offense.
3 That occurred on September 2nd, 2023. Again, the
4 defendant passenger in a vehicle in which the
5 driver was Markquawn Lewis. The defendant was a
6 front seat passenger. Officers searched that
7 vehicle based on the smell of marijuana.
8 Officers located 53.49 grams of marijuana.
9 Officers placed both him and Mr. Lewis -- the
10 defendant and Mr. Lewis in back of the patrol
11 vehicle and where able to view footage at the
12 rear of his control vehicle where Mr. Agers was
13 telling Marquan Lewis who was a juvenile at the
14 time -- "ain't nothing but weed. They'll charge
15 all of us. I can't go. Can't put little dog
16 through this." Referencing his son. "You'll be
17 straight. You'll be straight. I got you."
18 Later confirmed Lewis, as I stated before, was a
19 juvenile. So it won't be as bad as he was
20 charged. The marijuana was in arm's reach of Mr.
21 Agers therefore he was charged with that PWID
22 marijuana.

23 He does not have a record since he is young,
24 Your Honor. He is 20 years old.

25 THE COURT: Sir, did you hear what the

1 solicitor told you.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Is that true?

4 THE DEFENANT: Yes, sir.

5 THE COURT: The Court accepts the plea as
6 being freely, intelligently, voluntarily given.
7 Counsel.

8 MR. NELSON: Your Honor, we ask you to
9 accept the negotiated plea it has been
10 negotiated. As Your Honor knows we were in trial
11 posture this morning. Mr. Agers could have
12 gotten seven years a week and a half ago. He
13 decided to not take that plea at the end of our
14 last term and had another year added on to it
15 this morning and so he's been -- but he's
16 standing before Your Honor taking responsibility
17 for his actions. Taking responsibility for what
18 he did and just to put on the record there's some
19 other charges that are being dismissed as part of
20 this plea.

21 MS. HAMILTON: Any pending charges that are
22 remaining will be dismissed per plea.

23 THE COURT: Mr. Agers, would you like to
24 speak, sir?

25 THE DEFENDANT: No, sir.

1 THE COURT: 2024-GS-46-0567 the negotiated
2 eight years and \$50,000 is concurrent. 2023-5194
3 the negotiation five years in the Department of
4 Corrections is concurrent. Credit for any time.
5 Do he have a number?

6 MR. NELSON: Your Honor, under the new bond
7 statute I don't even believe I can ask for it. I
8 think he has a couple days is all from the
9 original arrest.

10 MS. HAMILTON: He got arrested for
11 trafficking fentanyl.

12 MR. NELSON: And then his bond was revoked
13 and he sat until jail for a year Your Honor.

14 THE COURT: All right. Best of luck to you
15 sir.

16 MS. HAMILTON: Thank you, Your Honor.

17 (END OF TRANSCRIPT)

18

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C E R T I F I C A T E

1
2
3 I, the undersigned Aileen Butler, Official Court
4 Reporter for the 16TH Judicial Circuit of the State of
5 South Carolina, do hereby certify that the foregoing is
6 a true, accurate, and complete transcript of record of
7 all the proceedings in the captioned case, in the
8 Circuit Court for York County, South Carolina, on the
9 3rd day of February, 2025.

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

12 March 27, 2025

13
14 *Aileen Butler*
15
16
17
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After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

DIRECT INDICTMENT
DOCKET NO. 2024-GS-46-00567
The State of South Carolina
County of York

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

WITNESSES

RHPD

Witnessing Officer: *Carlo*

ARREST WARRANT NUMBER

DIRECT INDICTMENT: 2024-GS-46-00567

ACTION OF GRAND JURY

TRUE BILL

Don Hammond

Foreperson of Grand Jury

Date: *2-29-24*

VERDICT

Foreperson of Petit Jury

Date:

THE STATE

VS.

KENTAVIOUS JAWAN AGERS

INDICTMENT FOR

TRAFFICKING IN FENTANYL

SC Code: § 44-53-370(e)(9)
CDR Code: 4083

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on February 29, 2024, the Grand Jurors of York County present upon their oath:

TRAFFICKING IN FENTANYL

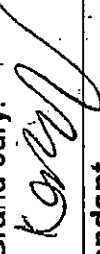
The defendant, Kentavious Jawan Agers, did on or about July 22, 2023, in York County, South Carolina, sell, manufacture, cultivate, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of four (4) or more grams but less than fourteen (14) grams or more of fentanyl, or fentanyl related substance, or four (4) grams but less fourteen (14) grams or more of any mixture containing any of these. This was in violation of 44-53-370(e)(9) 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.


MARINA B. HAMILTON
ASSISTANT SOLICITOR

DOCKET NO. 2023-GS-46-05194

After being fully advised as to my legal rights, I hereby waive presentation to the Grand Jury.



Defendant

The State of South Carolina
County of York

COURT OF GENERAL SESSIONS

FEBRUARY 13, TERM 2025

ARREST WARRANT NUMBER

2023A4620302032

ACTION OF GRAND JURY

THE STATE

VS.

KENTAVIOUS JAWAN AGERS

Defendant

Foreperson of Grand Jury

Date:

Witness:

VERDICT

INDICTMENT FOR
POSSESSION WITH INTENT TO
DISTRIBUTE MARIJUANA

C.C.C. PLS. AND G.S.

Foreperson of Petit Jury

Date:

SC Code: § 44-53-370

CDR Code: 0186

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on February 13, 2025, the Grand Jurors of York County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE MARIJUANA

The defendant, Kentavious Jawan Agers, did on or about September 2, 2023, in York County, South Carolina, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase marijuana, a schedule I controlled substance, all in violation of Section 44-53-370, Code of Laws of South Carolina (1976, as amended).

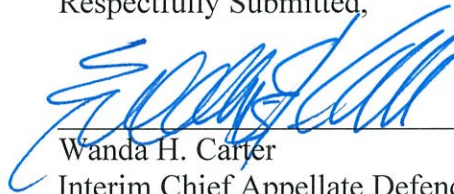
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


MARINA B. HAMILTON
SENIOR SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Wanda H. Carter
Interim Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

Jul 09 2025

SC Court of Appeals

This 9th day of July, 2025.

RECEIVED

Jul 09 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

Honorable R. Keith Kelly, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KENTAVIOUS JAWAN AGERS,

APPELLANT

APPELLATE CASE NO. 2025-000251

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Kentavious Agers, #396405, at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 9th day of July, 2025.



Wanda H. Carter
Interim Chief Appellate Defender

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

ATTORNEY FOR APPELLANT