

THE STATE OF SOUTH CAROLINA
In the Appellate Court

APPEAL FROM GREENVILLE COUNTY
Court of General Sessions

The Honorable Alex Kinlaw, Circuit Court Judge
The Honorable Patrick C. Fant, Circuit Court Judge

RECEIVED

FEB 27 2026

SC Court of Appeals

Case No(s): 2022A2330207873; 2023GS2300122

The State,

Respondent.

v.

Braden Spears Bowers,

Appellant.

Rule 203 Explanation of Issue

As required by Rule 203(d)(1)(B)(iv), SCACR, undersigned counsel submits the following explanation of issue that can be raised on appeal. Mr. Bowers argues the Circuit Court erred by imposing a sealed sentence on March 21, 2024 in his absence in violation of the Due Process clauses of the United States and South Carolina Constitutions because he did not have notice or an opportunity to be heard. Mr. Bowers filed a Motion to Reconsider, which was denied on April 4, 2024. During the hearing for the unsealing of Mr. Bowers' sentence on February 13, 2026, Mr. Bowers renewed his objection to be sentenced in his absence on the same Due Process grounds. Mr. Bowers now appeals his sentencing *in absentia* on these Due Process grounds.

Date: February 23, 2026



Michael Martinez, Esq.
13th Circuit Public Defender
305 E North Street
Greenville, SC 29601
Attorney for Appellant

Other Counsel of Record:

Cindy Crick
Thirteenth Circuit Solicitor Office
305 E. North Street, Suite 325
Greenville, SC 29601
Attorney for Respondent

WITNESSES

Matthew W. Mansuy

Greenville County Sheriff's Office

9/25/2022

ARREST WARRANT NUMBER

2022A2330207873

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2023-GS-23-
HCB

0122

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

TERM 2023

THE STATE

vs.

BRADEN SPEARS BOWERS

Indictment for

✓ 2359

TRAFFICKING COCAINE

VIOLATION § 44-53-0370

FILED

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FEB 27 2026

SC Court of Appeals

FILED

JAN - 9 2023

**Clerk of Court
Greenville County**

I certify this and any attachments to be complete, exact, and true copy(s) of the original document(s).

J. D. Young

Clerk of Court C.P. & G.S.
Greenville, SC

Dated 2-23-26

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
TRAFFICKING COCAINE

At a Court of General Sessions, convened on _____ the Grand Jurors of Greenville
County present upon their oath:

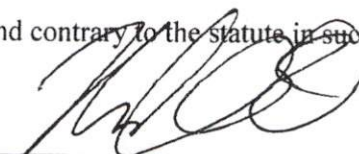
That BRADEN SPEARS BOWERS did in Greenville County, on or about the 25th day of September, 2022, knowingly sell, manufacture, deliver or bring into the State of South Carolina, or did knowingly provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver or bring into the State or was knowingly in actual or constructive possession of 28 grams or more, but less than 100 grams of Cocaine. This is in violation of § 44-53-0370 of the South Carolina Code of Laws (1976) as amended.

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SC Court of Appeals

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



SOLICITOR

BAR # 80145

RECEIVED

J / POP S CDC
7-25 yr

FEB 27 2026

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

SC Court of Appeals

IN THE COURT OF GENERAL SESSIONS

STATE

VS.

INDICTMENT/CASE#: 23 GS - - 0122

Braden Spears Bowers

A/W#: 2022A2330207873

AKA: _____

Date of Offense: 9/25/2022

Race: WHITE Sex: M Age: 34

S.C. Code § 44-53-0370(E)(2)(

DOB: _____ SS#: _____

CDR Code #: 0288

Address: _____

City, State, Zip: Williamston, SC 29697

DL#: _____ SID#: _____

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Drugs / Trafficking In Cocaine, 28g Or M

in violation of § 44-53-0370(E)(2)(of the S.C. Code of Laws, bearing CDR Code # 2359

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. X BB (def.'s initials)

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

ATTEST:

[Signature] 80145
Blouin, Hunter SC Bar #

X BB
Defendant

[Signature] 100747
SHIPMAN, JOHN
CHRISTOPHER
Attorney for Defendant
SC Bar#

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

for a determinate term of 25 days/months/years/Time Served Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years/Time Served and or payment
of \$ _____ plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

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

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on: _____

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. 108 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.

Deferred Sentence

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 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: _____

- 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>2500</u>
§14-1-213 (Drug Court Surcharge)		\$150	\$ <u>15000</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 \$ 283.25

Clerk of Court/ Deputy Clerk: Paul B. Wickens Plea: Guilty Presiding Judge: [Signature]
 Court Reporter: Herron Plea: Guilty Judge Code: 2763
 Sentence Date: JAN 09 2023
 Sentence: Commit

Sentencing Judge: [Signature]
 Sentencing Judge Code: 2777
 Sentence date: 3/21/24

THE STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
THE STATE)
v.)
BRADEN SPEARS BOWERS,)
DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT
Warrant/Indictment Nos.: 2022A2330207873;
2023GS2300122

MOTION TO RECONSIDER

RECEIVED

FEB 27 2026

SC Court of Appeals

24 MAR 25 PM 2:58
Brice Garrett COC GVL SC

The Defendant, **Braden Spears Bowers**, by and through his undersigned counsel, moves this Court for an Order Vacating Sentence. The following is submitted in support of this motion:

BACKGROUND

Mr. Bowers was arrested on September 25, 2022, for trafficking cocaine, 200 to 400 grams, possession with intent to distribute a schedule I through III controlled substance, and two counts of grand larceny. Mr. Bowers pled guilty before the Honorable Alex Kinlaw, Jr., on January 9, 2023, to trafficking in cocaine, 28 to 100 grams, and the sentence was deferred. He was released on the home incarceration program as a condition of his bond pending the sentencing. As a condition of his release, Mr. Bowers also entered into an agreement with the State, which permitted the sentencing if he failed to appear for a future court date. The documents relating to the plea as well as the agreement were sealed and stored by the Greenville County Clerk of Court's office.

The State sent Mr. Bowers a notice for a court date for March 21, 2024, to request the Court impose Mr. Bowers' sentence. Mr. Bowers did not appear. The Honorable Patrick Cleburne Fant, III, served as the presiding judge on March 21, 2024, and unsealed the court record, including the agreement. According to the agreement, which undersigned counsel had not seen previously as he was not Mr. Bowers' counsel at the time of its signing, the State was required to notify Mr. Bowers' counsel of any upcoming court date and counsel was required to

notify Mr. Bowers of the date and time. As undersigned counsel was unaware of this obligation under the agreement, undersigned counsel did not inform Mr. Bowers of the court date set for March 21, 2024.

During the hearing, undersigned counsel objected to the Court's sentencing of Mr. Bowers in his absence and specifically argued that Mr. Bowers did not have notice, which violated his due process rights. Undersigned counsel contended that the terms of the agreement relating to ensuring Mr. Bowers received notice of any court dates were not satisfied because undersigned counsel never informed Mr. Bowers of the March 21, 2024 court date, as he was unaware of such obligation under the agreement. Additionally, based on information presented by the State during the hearing, the State appeared to have a current phone number for Mr. Bowers, at which undersigned counsel could have attempted to notify Mr. Bowers of any scheduled court date.

The State argued that this precise issue had been addressed by the South Carolina Court of Appeals in the case of *The State v. Steven Jordan*. Prior to the hearing, undersigned counsel had been unable to find any opinion—published or unpublished—by the Court of Appeals issued in *State v. Jordan*. Judge Fant proceeded with the sentencing of Mr. Bowers, who faced a range of seven to thirty years' imprisonment. The State requested the Court sentence Mr. Bowers to twenty-five years' imprisonment, and undersigned counsel requested the imposition of the minimum seven years sentence. Judge Fant imposed a sentence but did not announce it, and sealed the sentencing order.

Following the hearing, undersigned counsel researched the issue further and discovered the Court of Appeals had not actually squarely addressed the issue in *State v. Steven Jordan*, instead ruling only on the grounds of an appellate procedural rule violation. Undersigned counsel

submits this Motion to Reconsider and requests the Court vacate its sentencing of Mr. Bowers until Mr. Bowers has properly received notice of such court date.

ARGUMENT

The sentencing of Mr. Bowers in his absence violated his right to Due Process, guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution and by Article I, Section 3 of the South Carolina Constitution. Mr. Bowers lacked notice of the sentencing court date, and the terms of the agreement from his guilty plea required undersigned counsel to notify Mr. Bowers of the court date, which undersigned counsel failed to do, as he was unaware of the requirement under the agreement. The sentencing of Mr. Bowers violated Due Process because he failed to receive notice and an opportunity to be heard at the sentencing.

“The procedural component of the state and federal due process clauses requires the individual whose property or liberty interests are affected *to have received adequate notice of the proceeding, the opportunity to be heard in person*, the opportunity to introduce evidence, the right to confront and cross-examine adverse witnesses, and the right to meaningful judicial review.” *Dangerfield v. State*, 376 S.C. 176, 178, 656 S.E.2d, 354 (2008) (emphasis added). Mr. Bowers accordingly requests the Court vacate its sentencing order and continue the matter until such time as Mr. Bowers receives adequate notice and the agreement is satisfied.

The State cited to *State v. Steven Jordan*, as appellate authority that had addressed and approved of the sentencing in the defendant’s absence following a guilty plea and deferred sentence. Following the hearing, undersigned counsel ultimately found the appellate court’s order in *State v. Jordan* and realized it had not actually addressed the merits of the sentencing in absence issue. Instead, the Court of Appeals dismissed the appeal because it found the “guilty plea explanation” from Mr. Jordan insufficient under Rule 203(d)(1)(B)(iv) of the South

Carolina Appellate Court Rules. *State v. Jordan*, S.C. Ct. App. Order dated Aug. 23, 2021, Appellate Case No. 2021-000693. **(Exhibit 1)**.

Rule 203, SCACR, governs the filing and service of the notice of appeal to the South Carolina Court of Appeals or the South Carolina Supreme Court. A specific requirement exists when the appeal is from a guilty plea, mandating that the notice of appeal be accompanied by:

a written explanation showing that there is an issue which can be reviewed on appeal. This explanation should identify the issue(s) to be raised on appeal and the factual basis for the issue(s), including how the issue(s) was raised below and the ruling of the lower court on that issue(s). If an issue was not raised to and ruled on by the lower court, the explanation shall include argument and citation to legal authority showing how this issue can be reviewed on appeal. If the appellate fails to make a sufficient showing, the notice of appeal may be dismissed

Rule 203(d)(1)(B)(iv), SCACR. This requirement exists because, generally, a guilty plea operates as a waiver of all rights and issues in a case.

In *Jordan*, the defendant similarly pled guilty and received a deferred sentence under a comparable agreement. *State v. Jordan*, Notice of Appeal filed June 23, 2021, Appellate Case No. 2021-000693. **(Exhibit 2)**. Mr. Jordan did not appear for his sentencing, and Mr. Jordan's counsel "argued that Appellant should not be sentenced in his absence as there was no prejudice to the state, and either way a warrant would be issued for Appellant's arrest." *Id.* The Notice of Appeal further stated that, "Other than objections placed on the record at the sentencing hearing held on May 19, 2021, Appellant's counsel is aware of no other appellate issues, and this appeal was filed on request of Appellant." *Id.*

Mr. Jordan submitted his own "guilty plea explanations" on July 15, 2021 and July 19, 2021, respectively. *State v. Jordan*, Appellant's Guilty Plea Explanation 1 and Appellant's Guilty Plea Explanation 2 filed July 16, 2021, and July 20, 2021, respectively, Appellate Case No.

2021-000693. (**Exhibits 3 and 4**). In each of the explanations, Mr. Jordan communicated that he had not received notice of the court date for his sentencing. None of the explanations cited the Due Process clauses of the U.S. or South Carolina constitutions.

As noted above, the Court of Appeals dismissed his appeal pursuant to Rule 203(d)(1)(B)(iv), SCACR, stating:

Appellant has failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). Accordingly, this matter is dismissed, and the remittitur will be sent as required by Rule 221(b), SCACR.

See id., Exhibit 1. This paragraph represents the entirety of the Court of Appeals' decision. The Court did not address or cite any cases involving similar Due Process arguments or analogous factual circumstances. Notably, the Court did not even receive a transcript of the sentencing proceeding, did not receive appellate briefs from the parties, hold oral argument, or issue even an unpublished opinion. Instead, the Court simply dismissed the appeal because of the lack of a "sufficient explanation" under Rule 203(d)(1)(B)(iv), SCACR.

The type of Order dismissing the appeal in *Jordan* relates to a failure to comply with an appellate procedural rule and does not represent an appellate decision on the underlying merits of an issue on appeal. Indeed, the Order comes nowhere close to reaching the issue on its merits.¹ Despite the fact that this unpublished order did not address the merits of any issue stated for the appeal and only determined the "guilty plea explanation" did not satisfy the requirement of a

¹ Compare Rule 260(a), SCACR ("Whenever it appears that an appellant or a petitioner *has failed to comply* with the requirements of these Rules, *the clerk shall issue an order of dismissal*, which shall have the same force and effect as an order of the appellate court" (emphases added) with Rule 220(a)-(b), SCACR (requiring appellate court decisions to be either published opinions or memorandum opinions and requiring that "every point distinctly stated in the case which is necessary to the decision of the appeal and fairly arising upon the record of the court must be stated in writing and must, with the reason for the court's decision, be preserved in the record of the case").

procedural appellate rule, the State cited the order as appellate authority for this Court to sentence Mr. Bowers in his absence on March 21, 2024, and the Honorable Patrick Cleburne Fant, III, appeared to rely on the existence of this claimed appellate court decision to proceed with the sentencing in Mr. Bowers' absence. Significantly, "[m]emorandum opinions and unpublished orders *have no precedential value and should not be cited* except in proceedings in which they are directly involved." Rule 268(d)(3), SCACR (emphasis added).

Because the Court of Appeals' order of dismissal in *Jordan* did not address the merits of any Due Process argument, Mr. Bowers requests this Court reconsider its decision to proceed with the sentencing in his absence, vacate any sentence imposed, and continue the matter until Mr. Bowers receives adequate notice of the court date.

CONCLUSION

Due Process requires adequate notice of the proceeding and an opportunity to be heard in person when a person's liberty interest is affected. Mr. Bowers faces a mandatory minimum sentence of seven years' imprisonment up to thirty years' imprisonment, and the State requested a twenty-five-year sentence during the hearing. Given the severity of this penalty, Mr. Bowers liberty interest was substantially affected by a sentencing hearing in his absence, and his Due Process rights were violated by the lack of adequate notice and opportunity to be heard.

Respectfully submitted,

GREENVILLE COUNTY PUBLIC DEFENDER

By: 
Michael Martinez, Esq.
Bar No. 101800
Attorney for Defendant
305 E. North Street, Suite 123
Greenville, SC 29601
(864) 467-8522

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
The State)
vs.)
Braden S. Bowers,)
Defendant.)

) IN THE COURT OF GENERAL SESSIONS
) Warrant(s): 2022A2330207873, 875, 2022A2320603425, 3402
) 20222510024780-24783

ORDER DENYING MOTION TO RECONSIDER

24 APR 4 PM 4:33
Brice Garrett, CJC GUL SC

This matter came before the Court by way of Defense Motion to Reconsider entering a sealed sentence in the above referenced matter. On January 9, 2023 the Defendant pled guilty before The Honorable Alex Kinlaw, Jr. on the offense of Trafficking in Cocaine, 28-100 grams. The Court deferred sentencing and the Defendant was released on GPS monitoring as a condition of bond. The Defendant also entered into an agreement with the State by way of a Guilty Plea Consent Order. These documents were sealed at the time of the guilty plea.

On January 26, 2024 the State sent notice for a court appearance to Defense Counsel and the Defendant. The date for the appearance was February 22, 2024. The Defendant failed to appear on this day, but the court appearance was continued due to Defense Counsel having an illness. This continuance occurred in Court on February 22, 2024, when the Attorney for the State spoke with an attorney from the Public Defender's Office regarding Defense Counsel not feeling well on this day. The case being continued due to Defense Counsel's health was not related to the Defendant's failure to appear for Court on February 22, 2024. The Defendant willfully failed to appear for Court on February 22, 2024 and the sentencing hearing was continued to a later date so that Defense Counsel would be present.

On February 23, 2024 the State sent notice for a court appearance to Defense Counsel and the Defendant. The date for appearance was March 21, 2024. Defense Counsel was present however the Defendant again willfully failed to appear for Court. On this day, The Honorable Patrick Cleburne Fant, III unsealed the Guilty Plea Consent Order. In this Order the Defendant, Defense Counsel, and Counsel

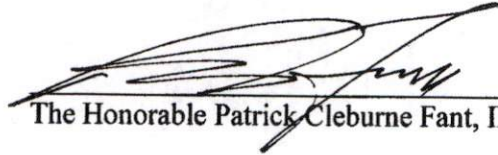
for the State of South Carolina agreed to certain terms and conditions for the guilty plea. One of those conditions, agreed to by the Defendant and his counsel, was that if the Defendant failed to appear for the sentencing hearing that he agrees to be sentenced in his absence. Also, it was presented to this Court that the defendant had absconded from his GPS monitor, was willfully not appearing for Court, potentially has left the country, and had broken contact with his attorney.

The Defendant filed a Motion to Reconsider, arguing the Court erroneously relied on the Court of Appeals' decision in *State v. Jordan*, S.C. Ct. App. Order dated Aug. 23, 2021, Appellate Case No. 2021-000693, in proceeding with the sentencing in the Defendant's absence and in rejecting the Due Process argument. In *Jordan* the Defendant was also under a deferred sentence and entered into a Guilty Plea Consent Order with the State of South Carolina. Where the Defendant in *Jordan* also agreed to be sentenced in his absence if he failed to appear for the sentencing hearing. The State presented that in the *Jordan* case the State sent notice to Defense Counsel and the Defendant for a court appearance and Jordan willfully failed to appear for Court. Jordan also had broken contact with his attorney, which are the same circumstances as the current case before this Court. On May 19, 2021 defendant Jordan was sentenced which was subsequently sealed. When the defendant was arrested he was brought to Court and the sentence was published on June 14, 2021. Defendant Jordan appealed his sentence due to him being sentenced in his absence over his attorney's objection, which was the same objection in the current case before this Court.

After careful consideration, the Court finds that its reliance on the Order in *Jordan* is appropriate, and the sentencing in the Defendant's absence did not violate Due Process. Further, the State sent appropriate notice for a court appearance on February 22, 2024 and March 21, 2024 and the Defendant willfully failed to appear for Court on each of those dates and per the Guilty Plea Consent Order, which has been placed back under seal, the Defendant agreed to be sentenced in his absence at the sentencing hearing if he failed to appear.

Therefore, Defense's Motion to Reconsider is DENIED.

IT IS SO ORDERED



The Honorable Patrick Cleburne Fant, III

Dated: 4th day of April, 2024
Greenville, South Carolina