

COPY

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

THE COURT OF GENERAL SESSIONS
CASE NO. 13-GS-01-15

STATE OF SOUTH CAROLINA,
vs.
ALFONZO ALEXANDER,
Defendant.

RECEIVED
DEC 16 2013
SC Court of Appeals

ORDER DENYING MOTION FOR
RECONSIDERATION OF SENTENCE
IMPOSED

THIS MATTER ORIGINALLY CAME BEFORE THE COURT on May 30, 2013 for trial *in absentia*. The State was represented by Yates Brown, and Alfonzo Alexander was represented by Patricia Bolen. The court directed a verdict on the proximity charge, and the jury returned a verdict of guilty on the charge of possession with intent to distribute crack cocaine, third offense. The sentence of the court was sealed, and Mr. Alexander was subsequently apprehended and appeared for sentencing on September 18, 2013, at which time the court imposed the sentence of twenty-nine (29) years. Having considered the argument of counsel in Mr. Alexander's motion for reconsideration, I deny Defendant's motion for a reduction in sentence for the following reasons:

1. Although this court is understanding of Mr. Alexander's explanation for not appearing, the most basic obligation of an individual who is facing charges and out on bond is to show up on the date of his trial. Had Mr. Alexander appeared and accepted the State's offer of twelve (12) years, this court or previous judges may have entertained allowing delayed reporting so that he could attend his child's birth. However, Mr. Alexander elected to reject the state's offer, flee the jurisdiction of the court, and was subsequently taken into custody in Florida. To the extent the court took Mr. Alexander's refusal to appear for trial into account in sentencing, this consideration was proper.

2. Additionally, when comparing Mr. Alexander's previous sentences to the current sentence, the court finds that the current sentence is appropriate notwithstanding any

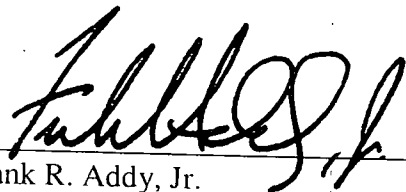
considerations given to the question of flight. Mr. Alexander's prior drug convictions resulted in a youthful offender act sentence, a five (5) year sentence, and a ten (10) year sentence. On a daily basis this court is confronted with the detrimental societal effects of illicit drug use. Clearly, a more substantial sentence is warranted for an individual who repeatedly dealt drugs, repeatedly received leniency, yet repeatedly resumed the identical illegal activity.

3. To the extent that paragraph 9 of Mr. Alexander motion implies that, by sentencing Mr. Alexander to twenty-nine (29) years, the court may have been punishing Mr. Alexander for exercising his rights under the Constitution, such is not the case.

4. In short, the state demonstrated that Mr. Alexander was a repeat drug dealer who had previously been sent to prison for substantial periods of time, yet continued to deal drugs upon his release. Had Mr. Alexander desired to accept the state's offer of twelve (12) years, he should have done so. Finally, although the court is sympathetic with Mr. Alexander's stated reason for fleeing the jurisdiction of the court and although the court is aware of the substantial expense associated with incarcerating Mr. Alexander, the court cannot turn a blind eye to his failure to abide by the most basic condition of bond.

For the foregoing reasons, Defendant's motion for reconsideration of the sentence imposed is denied.

IT IS SO ORDERED.



Frank R. Addy, Jr.
Circuit Court Judge
Eighth Judicial Circuit

November 26, 2013
Greenwood, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FOR THE EIGHTH JUDICIAL CIRCUIT
COUNTY OF ABBEVILLE)	
)	
THE STATE)	Warrant Number: 2012A0120100041
)	Indictment: 13GS01-0015
v.)	
)	Motion to Reconsider Sentence
)	
Alfonzo Alexander,)	
Defendant)	
_____)	

Alfonzo Alexander appeared in front of the Honorable Judge Frank Addy on September 28, 2013 for a sentencing hearing. Alexander was tried in absentia on May 29 and May 30, 2013 in Abbeville County, with Judge Addy presiding. Alexander was found guilty of one count of possession with intent to distribute crack cocaine, third offense. At the close of the State's case, Judge Addy directed a verdict of not guilty on one count of possession with intent to distribute within proximity of a school or playground. On September 18, 2013, Judge Addy's sentence of 29 years was unsealed and pronounced.

Alexander puts forth the following facts and arguments for the Judge to reconsider:

- 1) Several issues of law were raised during the trial, including that the defendant was unlawfully searched by law enforcement, as law enforcement did not specify any facts upon which to base its belief that Alexander posed a risk to officer safety.
- 2) The sentence is disproportionate to the crime. Alexander was found guilty of only one offense. The crime of which he was found guilty was not violent and did not involve any harm to any other person.
- 3) The longest sentence Alexander had ever received prior to this sentence was a ten-year sentence on possession with intent to distribute, second offense, to which Alexander pled guilty on or about January 7, 2003.
- 4) Alexander's prior history is as follows: possession of crack, 1997, YOA; trespassing, 1998, community service; possession with intent to distribute, 1998, 5 years; simple assault and battery, 2001, fine; possession with intent to distribute, 2003, 10 years; criminal domestic violence, first offense, 2003, time served.

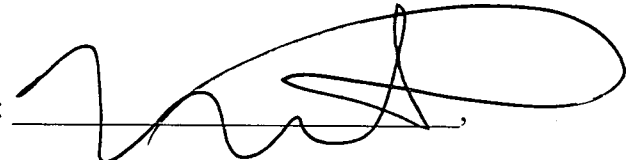
- 5) Had Alexander pled guilty to this offense, he would have received a twelve year negotiated sentence, as the Solicitor's office had offered twelve years on a plea.
- 6) The sentence of 29 years is more than twice the sentence that Alexander would have received had he pled guilty, and is more than twice the sentence that the Solicitor's office offered as appropriate punishment.
- 7) Under Rule 16 of the South Carolina Rules of Criminal Procedure, a defendant may waive his right to be present at trial.
- 8) Alexander's service of a twenty-nine year sentence does not serve the interests of the state because it is costly for the State to house Alexander for twenty-nine years in order to punish a person for a crime which resulted in neither physical harm nor loss of property.
- 9) A person has a right to a trial by jury, a right to cross-examine and confront all the witnesses and evidence in the case, the right to present defenses, a right to testify, a right to remain silent, a right to the presumption of innocence, and the right to have the state attempt to prove each element of each offense beyond a reasonable doubt. Having such a right means that a person can exercise these rights without fear of punishment for their exercise thereof.
- 10) Mr. Alexander expressed remorse for his actions at the sentencing hearing, and explained to the Court that he waived his right to be present at trial in an attempt to see his child born.
- 11) The state legislature has provided that a Court may sentence a person who has been convicted possession with intent to distribute, third or subsequent offense, anywhere between ten and thirty years. Alexander's sentence is just one year shy of the maximum allowable sentence.
- 12) The maximum sentence should be reserved for the worst drug crime offenders who have more than two prior drug offenses. Mr. Alexander had two convictions for possession with intent to distribute, making this a true third offense rather than a fourth or fifth offense.
- 13) Similar sentences for this charge have not been imposed on other defendants in this circuit. Although there have not been any recent trials on this charge in the 8th circuit, there has been a recent trial in the circuit on a charge of manufacturing methamphetamine, third offense, for which the defendant was sentenced to twenty-five years. Possession is less egregious than manufacturing. Counsel for Alexander cannot recall a sentence this high for other drug cases in this circuit.

Alexander had both a right to a trial and a right to waive his own presence at trial. He also has no violent offenses in his history, and the crime of which he was convicted was not violent in nature and did not harm any person or any property. The sentence that the State considered appropriate was twelve years, as evidenced by its offer of twelve years for a plea. Alexander was found not guilty of one offense. His sentence is disproportionate to sentences in other drug crimes in this circuit. Punishment for the underlying crime, not for Alexander's decision to waive his own presence or his decision to exercise his constitutional right to a trial, should be the basis of the sentence. Alexander respectfully requests that the court reconsider the sentence and lower it.

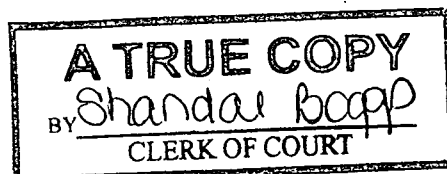
IT IS SO MOVED.

Respectfully submitted,

By: _____


Patricia Bolen
Assistant Public Defender
8th Judicial Circuit
600 Monument Street, Suite 208
Greenwood, South Carolina 29646
(864) 229-9505

September 26, 2013
Abbeville, South Carolina
Greenwood



FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2013 SEP 26 PM 2 58
EMILY Y MCMAHAN
CLERK OF COURT

Entry served

ARREST WARRANT

2012A0120100041

STATE OF SOUTH CAROLINA

County/ Municipality of

ABBEVILLE

THE STATE

against

ALFONZO ALEXANDER

Address: 613 B GREEN ST GREENWOOD SC 29646

Phone: (864) 459-4543 SSN: 248-41-6923

Sex: Race: B Height: 5-10 Weight: 143

DL State: SC DL#:

DOB: 12/24/1978 Agency ORI#: SC0010100

Prosecuting Agency: ABBEVILLE POLICE DEPARTMENT

Prosecuting Officer: LT. JOHN GRAY

Offense: POSSESSION WITH INTENT TO DIST

CRACK COCAINE Offense Code: 3039

Code/Ordinance Sec. 44-53-0375(B)(3)

This warrant is CERTIFIED FOR SERVICE in the

County/ Municipality of

The accused

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

Signature of Judge

(L.S.)

RETURN

A copy of this arrest warrant was delivered to defendant ALFONZO ALEXANDER

on 8/12/12

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO: Rec'd 8/15/2012

MUNICIPAL COURT JUDGE

102 S. MAIN STREET

ABBEVILLE, SC 29620

STATE OF SOUTH CAROLINA

County/ Municipality of

ABBEVILLE

AFFIDAVIT

Form Approved by S.C. Attorney General April 13, 2003 SCCA 518

Personally appeared before me the affiant LT. RAYMOND VANDIVER

being duly sworn deposes and says that defendant ALFONZO ALEXANDER

did within this county and state on 08/12/2012

violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of ABBEVILLE)

in the following particulars:

DESCRIPTION OF OFFENSE: 44-53-0375(B)(3) / POSSESSION WITH INTENT TO DIST CRACK COCAINE

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

ON 08-12-2012, OFFICERS RESPONDED TO 200 VIRGINIA DR APT #401 IN REFERENCE TO A GAMBLING AND NARCOTICS COMPLAINT. ALFONZO ALEXANDER WAS INSIDE THIS RESIDENCE AND HAD IN HIS RIGHT FRONT POCKET AN OFF-WHITE ROCK TYPE SUBSTANCE BELIEVED TO BE CRACK COCAINE. ALSO ON HIS PERSON WAS 16 CLEAR BAGGIES, A SET OF SCALES AND \$837.00 IN CASH. THE DRUG WEIGHED APPROXIMATELY 11.1 GRAMS. THIS INCIDENT OCCURRED WITHIN THE CITY LIMITS ABBEVILLE AND ALSO WITHIN 1/2 MILE OF THE PLAYGROUND AT OAKLAND APTS. FROM INCIDENT #2012-6411.

Signature of Affiant

Affiant's Address 102 SOUTH MAIN ST

ABBEVILLE SC 29620

Affiant's Telephone (864) 366-5843

STATE OF SOUTH CAROLINA

County/ Municipality of

ABBEVILLE

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN 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 08/12/2012 defendant ALFONZO ALEXANDER

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

County/ Municipality of ABBEVILLE) as set forth below:

DESCRIPTION OF OFFENSE: DRUGS / MANUFACTURE, DISTRIBUTION, ETC. OF COCAINE BASE, 3RD 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 the 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 08/12/2012

ALBERT SPARROW (L.S.)

Judge Code: 6642

Judge's Address 102 SOUTH MAIN ST

ABBEVILLE SC 29620

Judge's Telephone 864-366-5843

Issuing Court: Magistrate Municipal Circuit

ORIGINAL

Case: 2012-6411

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Abbeville
STATE VS.

INDICTMENT/CASE#: 13GS01-0015
A/W#: 2012A0120100041
Date of Offense: 8/12/2012
S.C. Code § : 44-53-0375 (
CDR Code #: 3039

Alfonzo Alexander

AKA:

Race: AA Sex: M Age: 34

DOB: 2-14-1973 SS#: 248-41-6943

Address: 513-B Green Street

City, State, Zip: Greenwood, SC

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was

TO: Drugs / Manufacture, distribution, etc. of cocaine base, 3rd or sub. Offense

in violation of § 44-53-0375 (of the S.C. Code of Laws, bearing CDR Code # 3039

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

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

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

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

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

for a determinate term of 29 (twenty-nine) days/months/years or under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

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

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of

probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:

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

by the State Department of Corrections. Credit 38 days = jail.

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal

Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like Assessments 107.5%, Conv. Surcharge, DUI Surcharge, etc.

Clerk of Court/ Deputy Clerk Emily Y. McManan

Court Reporter: Maryann Newers

SCCA/217 (03/2011)

SENTENCE SHEET

Trial in Absence CONVICTED OF or PLEADS

Attorney for Defendant SC Bar#

State Department of Corrections, County Detention Center,

days/months/years and/or payment

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RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
Proviso 47.9 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§ 14-1-213 (Drug Court Surcharge) \$150 \$ 150.00
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
3% to County (if paid in installments) \$ 8.40
TOTAL \$ 288.40

Other: Note: Sentence unserved and pronounced on September 18, 2013.

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

Presiding Judge Judge Code: 2159

Sentence Date: May 30, 2013

WITNESSES

Neil Henderson
Abbeville Police Department

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

January Term, 2013

Indictment # *13GS01-15*

WARRANT NUMBER

2012A0120100041

THE STATE

vs.

Alfonzo Alexander
Blw 05/28/2013

Gully

D. Smith's claim 5/30/13

Foreman of the Grand Jury

Date: **JAN 07 2013**

TRUE BILL

VERDICT

William S. Porter

Foreman

INDICTMENT FOR

**POSSESSION OF COCAINE BASE
(CRACK COCAINE)
WITH INTENT TO DISTRIBUTE
44-53-0375**

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

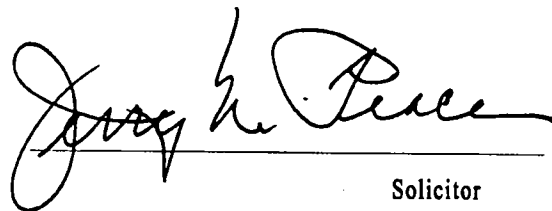
INDICTMENT FOR

**POSSESSION OF COCAINE BASE
(CRACK COCAINE)
WITH INTENT TO DISTRIBUTE
44-53-0375**

At a Court of General Sessions, convened on the 7th day of January, 2013 the Grand Jurors of Abbeville County present upon their oath:

That Alfonzo Alexander, did in Abbeville County, state aforesaid, on or about the 12th day of August, 2012 willfully, unlawfully, and knowingly possess with intent to distribute, dispense, deliver, or did otherwise aid, abet, or conspire to possess with intent to distribute, dispense, or deliver cocaine base (crack cocaine), in violation of the provisions of Section 44-53-375 of the South Carolina Code of Laws, 1976, as amended.

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



Solicitor