

STATE OF SOUTH CAROLINA)
COUNTY OF SALUDA)

FILED

IN THE COURT OF GENERAL SESSIONS

2013 DEC 20 AM 11:04

STATE OF SOUTH CAROLINA)
VS.)
MICHAEL MCCRAW)
TRAVIS SAMUEL WARREN)
Defendants)

CLERK OF COURT
SALUDA CO. S.C.

RECEIVED

JAN 08 2014

SU Court of Appeals

ORDER
13-GS-41-340 AND 345

These Defendants were tried together by jury and both were convicted of Manufacturing Methamphetamine on October 10, 2013. As to Defendant McCraw it was a third offense and for Defendant Warren a first offense.

DEFENDANT MICHAEL MCCRAW

As to Defendant McCraw, he was tried in his absence (TIA). Notwithstanding the fact that the record is complete with the Court's basis for trying him in his absence, it will be necessary to address some of the aspects of this TIA as the Defendant's counsel has raised this issue in his Motion for Reconsideration. Both Defendants appeared for trial on the first day. Only a jury was selected, but not sworn on this first day. At the start of the second day, Defendant McCraw was not present. The Court made its ruling to proceed forward with the trial. Around noon on the second day of trial, the Court received notification that Defendant McCraw received treatment from Lexington County Medical Center for fractured ribs. Consequently, the Court had a phone conference in chambers, with counsel and the Solicitor present, with a supervising nurse who reviewed the records and indicated that the doctor made no indication that the injury or medication would prevent the Defendant from appearing in Court. (Note: The co-Defendant told his lawyer that in fact Defendant McCraw sustained this injury the week prior to trial). Due

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to the fact that no evidence was presented that the Defendant was medically unable to attend trial, the Court proceeded with trial. The jury returned a verdict of guilty and the jury was polled as to the existence of a unanimous verdict. Accordingly the Court imposed sentence under seal. Subsequently, Defendant McCraw, through his counsel provided a partial cell phone photograph of an unsigned medical document allegedly from a Dr. Wes Shuler with Lexington Medical Center.

On the day after the conviction, the Saluda County Clerk of Court received a phone call from one of the female jurors indicating she wanted to change her verdict as to both Defendants, stating she was "swayed" by the other jurors. As a courtesy to the lawyers and as information to them, the Court wrote a letter advising them of this phone call.

Counsel for the Defendant McCraw filed a Motion for New Trial on two grounds:

1. Based upon the above juror information;
2. Based upon the partial photograph of the unsigned medical document

On December 2, 2013, the verdict was unsealed by The Honorable Thomas Russo and sentence was imposed on Defendant McCraw for a period of thirty (30) years incarceration in the South Carolina Department of Corrections.

Subsequently, counsel for the Defendant filed a Motion to Reconsider Sentence on December 3, 2013 along with an Affidavit (with attachments) in support of the previously filed Motion for a New Trial. A later Affidavit/Memorandum was filed in support of the Motion to Reconsider Sentence.

The Court has carefully considered the arguments of counsel, however, the Court will not grant relief requested pursuant to the Motion for New Trial nor the Motion for Reconsideration of the Sentence based upon the following:

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1. As to the juror issue, there has been no evidence presented to indicate any juror misconduct or jury tampering to justify any relief. Counsel's Affidavit supports this. The Court believes that it is simply a "buyer's remorse" situation. Each juror, including this juror, was carefully questioned (by poll) as to the guilty verdict and there was no indication of anything improper in the jury room during deliberations.
2. As to the alleged medical excuse, counsel for the Defendant provided to the Court simply what the Defendant provided him, via text, a photograph, which is partial in nature, which purports to be an unsigned document from Lexington Medical-Center excusing the Defendant on October 9, 2013 from work or school. The Court requested of counsel to provide hard copy of this document to the Court but counsel has been unable to obtain one from his client. In addition, based upon counsel's Affidavit, the Medical Center had no record of this document.
3. As to the sentence, the statute authorizes a maximum of thirty years for a third or subsequent conviction for manufacturing methamphetamine.

DEFENDANT TRAVIS SAMUEL WARREN

This Defendant received a sentence of eight years in the South Carolina Department of Corrections. Counsel for the Defendant Warren filed a Motion for New Trial and Reconsideration of Sentence based upon the fact that the subject juror indicated that she was "swayed" in her vote for conviction and that the sentence was excessive. Likewise, this Motion is denied. As to the juror issue, the same findings and ruling above apply here. As to the excessive sentence issue, the sentence of eight years is clearly less than the maximum penalty of fifteen years allowed by statute.

Both attorneys are commended for their fine efforts on behalf of their respective clients.

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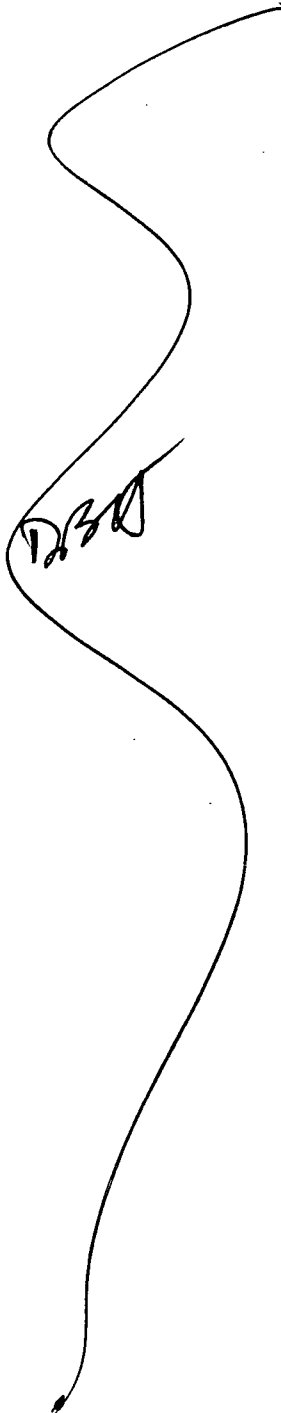
SO ORDERED.



DONALD B. HOCKER
PRESIDING JUDGE
CIRCUIT COURT, ELEVENTH JUDICIAL CIRCUIT

Laurens, South Carolina

Date: 12-18-13



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