

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Diana Jordan,)
)
Appellant,)
)
vs.)
)
South Carolina Department of)
Employment and Workforce,)
)
Respondent.)
_____)

Docket No. 15-ALJ-22-0138-AP

**ORDER DENYING
MOTION TO REHEAR**

This matter is before the South Carolina Administrative Law Court (Court or ALC) pursuant to a Motion to Rehear (Motion) filed by Dianna Jordan (Appellant) on July 31, 2015. Appellant requests that the Court have oral argument in this appeal because she is not an attorney, does not have access to law books, and cannot produce a brief in compliance with the Rules of Procedure for the Administrative Law Court (ALC Rules). Appellant also stated that she attempted to file a brief and that she can use documents in oral argument to support her position. The South Carolina Department of Employment and Workforce (Department or DEW) has not filed a response to the Motion.

On March 5, 2015, Appellant filed an appeal seeking review of the denial of her request for unemployment benefits by the Department. The case was assigned on April 2, 2015. On April 21, 2015, the Department filed a Motion to Stay Appeal Proceedings Pending Criminal Prosecution (Stay). The Court denied the Stay by order filed and served May 20, 2015. The May 20, 2015 order also set a new deadline for filing the Record on Appeal (Record) and notified the parties that the date for filing briefs would be based on the new date for filing the Record.

On June 5, 2015, the Department filed the Record on Appeal. Also on June 5, 2015, Appellant filed her Brief. The Department filed a Motion to Dismiss on June 26, 2015, asserting that the appeal should be dismissed for failure to file and serve an appellate brief that complies with the ALC Rules. Appellant filed a letter in response to the Motion to Dismiss. The Court granted the Motion to Dismiss by Order filed and served on July 20, 2015. Appellant then filed this Motion on July 31, 2015.

FILED

September 2, 2015

SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

CHECKLIST

TRIAL COURT: GENERAL SESSIONS

Dijana Biernaski Jordan
Name of Defendant


CASE NUMBER(S)
2014A4010500281, 282, 283, 284
2014A4010500285, 286, 287, 288

OFFENSE DESCRIPTION(S)
False Statement/ Misrepresentation(4 COUNTS)
Forgery(4 Counts)

Directions: Magistrates and municipal court judges must use this checklist for ALL GENERAL SESSIONS and for ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND HAS BEEN SET BY A JUDGE. The judge shall attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections. Defendant must be provided a completed copy of this form. BAIL PROCEEDING/ FIRST APPEARANCE (NON-BAILABLE OFFENSES)

1. Form used at bail proceeding
 - Bond Form I (personal recognizance) Bond Form II (surety, cash, percentage)
 - None(Non-Bailable Offense) because charge carries penalty of life or death; or defendant charged with violent offense while bonded out on violent offense
2. For cases in which bond is set, defendant was informed:
 - a. Warrant for arrest will be issued for violation of any condition of bail bond order
 - b. His right and obligation to be present at a trial and that trial will proceed in his absence if he fails to attend
 - c. Failure to appear in court as required will result in institution of additional criminal charges. Failure to appear in connection with a felony, or while awaiting sentence after conviction, additional charge has penalty of not more than \$5,000 or imprisonment for not more than 5 years, or both. Failure to appear in connection with a charge for a misdemeanor for which the maximum possible sentence is at least one year, additional charge has penalty of not more than \$1,000 or imprisonment for not more than one year, or both. Failure to appear in court as required on any charge not specified above will result in the issuance of a warrant for defendant's arrest, as well as loss of any posted bond.
3. For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days
 - a. Orally b. In writing [NOTE: Defendant must be informed of right both orally and in writing]
4. a. Defendant was informed of the right to trial by jury
5. In all general sessions cases, in all criminal domestic violence cases, and in all magistrate and municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:
 - a. Charges against defendant and nature of the charges
 - b. Right to counsel and right to court appointed counsel if financially unable to employ counsel
 - c. Defendant was informed orally and provided a copy of this form advising him of his right to obtain court appointed counsel if indigent (must meet federal poverty guidelines) and instructions on how to obtain court appointed counsel. In order to apply for court appointed counsel, defendant is required to appear before the Richland County Clerk of Court's Office located at 1701 Main Street, Room 205, Columbia, S.C. for indigency screening. Defendant is responsible for a statutory fee of \$ 40.00 for indigency screening.
6. a. In all criminal domestic violence cases and any case where defendant is subject to an Order of Protection or Restraining Order, defendant signed and was provided a document explaining that entering the grounds or property of a domestic violence shelter in which the person's household member resides constitutes an additional misdemeanor charge and, if in possession of a dangerous weapon, an additional felony charge.
7. a. If the charges that have been brought against you are discharged, dismissed, or nolle prossed or if you are found not guilty, you may have your record expunged.

Thursday, December 11, 2014
Bond Hearing Date



Judge SIMMONS

Form Approved by S.C. Attorney General April 21, 2003 BRCA 018

DEFENDANT COPY

AFFIDAVIT

STATE OF SOUTH CAROLINA)
County/ Municipality of)
Richland / Dutch Fork Magistrate)

ARREST WARRANT
2014A4010500285

Personally appeared before me the affiant James A Flowers who being duly sworn deposes and says that defendant Diana Biernaski Jordan did within this county and state on or about 12/30/2002 violate the criminal laws of the State of South Carolina for ordinance of County/ Municipality of Richland / Dutch Fork Magistrate in the following particulars:

STATE OF SOUTH CAROLINA
 County/ Municipality of
Richland / Dutch Fork Magistrate

DESCRIPTION OF OFFENSE: Forgery / Forgery, value less than \$10,000

Diana Biernaski Jordan
Address: [REDACTED]
Chapin, SC 29036-
Phone: [REDACTED] 3789
Sex: F Race: W Height: 5 6 Weight: [REDACTED]
DL State: SC DL #: [REDACTED]
DOB: [REDACTED] Agency ORI #: SCLED0000
Prosecuting Agency: State Law Enforcement Division
Prosecuting Officer: James A Flowers - SL400
Offense: Forgery / Forgery, value less than \$10,000

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:
That between 12/30/2002 and 1/4/2003 within Richland County, SC one Diana Biernaski Jordan did knowingly or willfully act or assist in the false making, forging, or counterfeiting any writing or instrument of writing with the intent to defraud (deceive in connection with an unemployment insurance transaction) with SC Dept. of Employment and Workforce (SCDEW) in that Jordan filed or caused to be filed false quarterly wage reports on behalf of a fictitious employer, knowing this company did not employ any workers. Jordan then made false statements in claims for unemployment benefits by claiming to be an employee who was terminated without fault thereby fraudulently receiving unemployment benefits in an amount over \$10,000 to which she was not entitled. Affiant and others are witness to prove same.

[Signature of Affiant]

STATE OF SOUTH CAROLINA)
County/ Municipality of)
Richland / Dutch Fork Magistrate)
Affiant's Address P. O. Box 21398
Columbia, SC 29210-
Affiant's Telephone

THE STATE
against
Diana Biernaski Jordan
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 the law.

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

on or about 12/30/2002 defendant Diana Biernaski Jordan)
did violate the criminal laws of the State of South Carolina (or ordinance of)
 County/ Municipality of Richland / Dutch Fork Magistrate) as set forth below.

RETURN
A copy of this arrest warrant was delivered to
defendant DIANA B. JORDAN
on 12.11.2014

DESCRIPTION OF OFFENSE: Forgery / Forgery, value less than \$10,000

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 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 12/11/2014)
Judge of the Court)
Melvin Wayne Maurer (L.S.))
Judge Code: 5463)
Issuing Court: Magistrate Municipal Circuit

RETURN WARRANT TO:
Dutch Fork Magistrate
1019 Beatty Road
Columbia, SC 29210

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

Form Approved by S.C. Judiciary Council April 21, 2004 SSCJA 218

DEFENDANT COPY


AFFIDAVIT

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
 Richland / Dutch Fork Magistrate)

Personally appeared before me the affiant James A Flowers who
 being duly sworn deposes and says that defendant Diana Biernaski Jordan
 did within this county and state on or about 12/30/2002 violates the criminal laws of the
 State of South Carolina (or ordinance of County/ Municipality of Richland / Dutch Fork Magistrate)
 in the following particulars:

DESCRIPTION OF OFFENSE: Insurance / False statement, misrep., or assisting, abetting, soliciting, or conspiring - 1st offense, \$10,000 or more but less than \$50,000

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:
 That between 12/30/2002 and 11/12/2003 with Richland County, SC, one Diane Jordan did knowingly make false statements/misrepresentation with an intent to defraud Medicare in connection with an unemployment insurance transaction with SC Dept. of Employment and Workforce (SCDEW) in that Jordan filed a request to be filed false quarterly wage reports on behalf of a fictitious employer, knowing this company did not employ any workers. Jordan then made false statements in claims for unemployment benefits by claiming to be an employee who was terminated without fault thereby fraudulently receiving unemployment benefits in an amount over \$10,000 to which she was not entitled. Affiant and others are witness to prove same.

Signature of Affiant 

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
 Richland / Dutch Fork Magistrate)

Affiant's Address P. O. Box 21398
Columbia, SC 29210

Affiant's Telephone _____

ARREST WARRANT

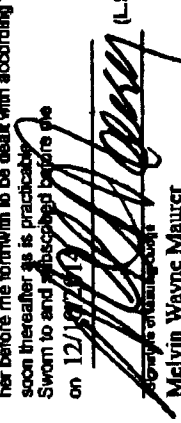
TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on or about 12/30/2002 defendant Diana Biernaski Jordan did violate the criminal laws of the State of South Carolina (or ordinance of County/ Municipality of Richland / Dutch Fork Magistrate) as set forth below:

DESCRIPTION OF OFFENSE: Insurance / False statement, misrep., or assisting, abetting, soliciting, or conspiring - 1st offense, \$10,000 or more but less than \$50,000

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 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 12/11/2011 (L.S.)


 Melvin Wayne Maurer
 Judge Code: 5463 Issuing Court Magistrate Municipal Circuit

Judge's Address 1019 Beatty Road
Columbia, SC 29210-4630

Judge's Telephone (803)576-2540

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

ARREST WARRANT

2014A4010500281

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
 Richland / Dutch Fork Magistrate)

THE STATE
 against

Diana Biernaski Jordan

Address: ██████████
Chapin, SC 29036-

Phone: ██████████ SSN: 3789

Sex: F Race: W Height: 5 6 Weight: ██████████

DL State: SC DL #: ██████████

DOB: ██████████ Agency ORI #: SCLED0000

Prosecuting Agency: State Law Enforcement Division

Prosecuting Officer: James A Flowers - SL400

Offense: Insurance / False statement, misrep., or assisting, abetting, soliciting, or conspiring - 1st offense,

Offense Code: 3552

Code/Ordinance Sec: 38-55-0540(A)

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 the law.

Date: _____ (L.S.)

Signature of Judge _____

RETURN

A copy of this arrest warrant was delivered to defendant DIANA B. JORDAN on 12.11.2011



Signature of Constable/Law Enforcement Officer _____

RETURN WARRANT TO:

Dutch Fork Magistrate
 1019 Beatty Road
 Columbia, SC 29210

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

