

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

NOV 06 2015

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

R. MARKLEY DENNIS, JR., Circuit Court Judge

Appellate Case No. 2015-00051

The State,

Respondent,

v.

Tracy Wheeler Stubblefield,

Appellant

And

AAAA Bail Bonding and Crum
and Forster Indemnity Company,
Sureties for the Defendant, also Appellants

AMENDED BRIEF OF APPELLANTS

Lewis F. Gossett
329 Aristar Road
Columbia, SC 29212
(803) 608-1373
Attorney for Appellants

Sally W. Elliott
Office of the Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803) 734-3970
Attorney for Respondent

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Authorities Cited

1. SC Code Ann. Sec. 17-15-160 (1976)
2. SC Code Ann. Sec. 38-53-200 (1976)

Statement of the Issues on Appeal

Whether the judge erred in failing to consider the lack of the Magistrate's attestation of the Appearance Recognizance with Surety on the bail proceeding form resulting in the estreatment of the bond of the defendant.

Statement of the Case

This case is an appeal of the Bond Estreatment Order of the Circuit Court dated November 21, 2014. (Exhibit 1) The facts of this case began when Defendant Tracy Stubblefield was arrested for possession of methamphetamines in June 2013. On June 24, 2013, Stubblefield was bonded out of jail allegedly pursuant to a power of attorney and bail bond issued from Appellant Crum and Forster Indemnity Company through its executing agent Larry Ballard. At the time, Appellant Crum and Forster was unaware of Ballard's activities. He did not submit the power of attorney, bond paperwork, or required fee to the company. Crum and Forster first became aware that this bond existed when it received the Notice of Forfeited Recognizance dated September 29, 2014. (Exhibit 2)

Defendant Stubblefield was required to appear before the Court of General Sessions on Friday, September 13, 2013. Defendant Stubblefield failed to make this appearance. A bench warrant was issued by the Judge of the Court of General Sessions on May 1, 2014, for the arrest of Defendant Stubblefield. On September 29, 2014, Jennifer McCoy, Assistant Solicitor for the Ninth Judicial Circuit issued a Notice of Forfeited Recognizance. (See Exhibit 2) On November 14, 2014, the Honorable R. Markley Dennis, Jr. held a show cause hearing. On November 21, 2014, Judge Dennis issued a Bond Estreatment Order estreating the \$10,000 amount of the bond. (See Exhibit 1)

On December 26, 2014, Appellant Crum and Forster filed their Notice Of Appeal.

Appellant contends that the lower court erred in its decision by failure to consider the fatal flaw in the bond paperwork -- the failure of the magistrate to complete and attest to the Appearance Recognizance with Surety on the bail proceeding form.

Argument

According to Section 17-15-160 of the South Carolina Code of Laws:

In all recognizances by any person for keeping the peace, good behavior or appearing as a party, surety or witness at any court of criminal jurisdiction within the State the sum of money in which any such person shall be bound shall be made payable to the State and every such recognizance shall be good and effectual in law provided it be signed by every party thereto in the presence of a judge, clerk of a court of common pleas, magistrate or notary public who shall sign the recognizance as a witness. S.C. Code Ann. Section 17-15-160 (1976) (Emphasis added).

This code section makes clear that the bond setting court has an affirmative responsibility to ensure that the surety is present and has signed the appropriate documentation that will cause the court to release a defendant.

Two important pieces of the criminal justice system occur here. First, the court is determining that it is willing to release a defendant and will only do so if it is satisfied that there are in place sufficient inducements for the defendant to appear in court at a later date. Those inducements usually require money. Recognizing that many defendants do not have the means to satisfy substantial bond obligations, the surety system is in place. A surety, after making appropriate arrangements with the defendant, is then willing to guarantee the defendant's appearance in court or to be willing to forfeit the face value of the bond.

The signature and attestation requirements in South Carolina law are specifically designed to protect both the surety and the court. The court, through its completion of the form and through its attestation to the signature of the surety can be certain that it is dealing with an appropriately licensed surety who has made a voluntary decision to commit itself to the obligations of the bond. The court also gains some confidence that there will now be a third party at hand with a sufficient motivation to ensure that the defendant shows up for court. Likewise, the surety is protected by only engaging in those transactions in which it wishes to participate.

In this case, the failure of the bond setting court to fill out the appropriate form and to attest to the surety's signature caused the bail system to break down. The Bail Proceeding Form submitted by the assistant solicitor with the original Notice of Forfeited Recognizance does not contain the required signatures. (See Exhibit 2) The form clearly states that it is the Appearance Recognizance with Surety. The magistrate only signed the first page where the defendant Stubblefield had placed his initials. On the second page, the defendant Stubblefield signed the Acknowledgement by Defendant. At the bottom of the page, however, no one, including the surety or the judge signed the Appearance Recognizance with Surety section.

In fact, there is no information whatsoever in that section about the surety at all. There is yet another section in the last page of the form submitted by the assistant solicitor which does list the surety and contains a stamped signature. There is no place in any of these documents where Mr. Ballard actually signed anything, despite

the requirements in the South Carolina code requiring the signature be by the surety, a responsibility that may not be delegated to another:

A professional or surety bondsman may not sign or countersign blank bail bonds, nor may he give a power of attorney to, or otherwise authorize, anyone to countersign his name to bonds unless the authorized person is a licensed bondsman or runner directly employed by the bondsman giving power of attorney. Copies of all the powers of attorney and revocations of the powers of attorney must be filed immediately with the department and the clerk of the circuit court of the county in the state where the bondsman giving the power of attorney is currently writing or is obligated on bail bonds. S.C. Code Ann. Sec. 38-53-200 (1976).

Appellant contends that the executing agent Larry Ballard likely committed fraud against Appellant Crum and Forster and against the court in several ways. He, or some unidentified party, issued a bond without notifying the Appellant and without submitting required fees. He never informed Appellant of the existence of the bond.

By failing to take the proper steps to ensure that there was a surety aware of and behind the bond in question, the bond setting court set in motion the breakdown of the bail system in this case. Defendant Stubblefield walked out of court that day and has never returned. The surety, Crum and Forster, had no knowledge that the bond even existed. They only learned of the bond when they received the notice from the Department of Insurance which had been served by the assistant solicitor. By that time, it was virtually impossible to attempt to apprehend this defendant, since the surety had no knowledge of him and had never secured adequate information that could facilitate apprehension if necessary. Moreover, the surety now believes that Stubblefield has left the state for parts unknown.

The parties now know that it is likely Mr. Ballard committed extensive fraud against the surety, a number of defendants, and the court. His stamped signature appears on the document, but it is unclear whether he actually ever appeared in court. The lack of certainty about his actual presence in court that day raises even more questions about the integrity of the system. Had the court followed the law as contained in section 17-15-160, Mr. Ballard would have been required to be present and sign the document. It is certain that the judge would not have permitted a stamped signature whether affixed by Mr. Ballard or anyone else. In fact, there is no evidence in this case at any level that any agent authorized by Crum and Forster actually was present in court that day or had anything to do with this bond at all. This possibility and other questions related to this case would not exist if the bond setting court had filled out the form and attested to an actual signature.

The lower court did not adequately consider the requirements of the form and the attestation by the bond setting magistrate. The court stated:

If there is no bond, then obviously there's nothing to estreat. If there's a bond and the clerk of court accepted that and we acted upon that bond, then it is a bond as far as I'm concerned insofar as its effect of releasing the inmate -- the defendant. (Tr. p. 4)

The court further stated:

Sir, I understand you have legitimacy. The problem that I have is that this -- that the clerk of court acted on that. On its face it appears to be a bond. . . . (Tr. p. 6)

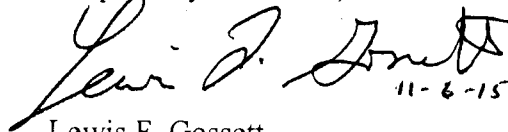
The court's error occurred here when it only considered one aspect of the bond. The court did not consider the requirements of section 17-15-160. The front page of the bond had one signature, but the bond was far from complete and thus invalid without the attestation of the surety's signature.

The errors here were numerous and at all levels. Either Mr. Ballard committed fraud or someone posing as him got Defendant Stubblefield out of jail. Either way, there is no way for the bond setting magistrate or the Clerk of Court to know as the magistrate did not execute the required parts of the form before Stubblefield was released. The provisions in the law are designed to prevent just this kind of occurrence where a Defendant goes free and the court has no idea who is responsible. The bond is only "effectual in law" if signed by every party in the presence of the magistrate. Clearly, that did not happen here. Appellant should not be held responsible for the failure of the court system to do what the law so clearly requires.

Conclusion

For the foregoing reasons, Appellant respectfully request that the Court of Appeals reverse the circuit court's decision estreating the bond in this case.

Respectfully submitted,

Handwritten signature of Lewis F. Gossett in cursive script, with the date "11-6-15" written in the lower right corner of the signature.

Lewis F. Gossett
Attorney for the Appellant
SC Bar No. 015101

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF GENERAL SESSIONS
BOND ESTREATMENT ORDER

The State,)
versus)
Tracy Wheeler Stubblefield)
Defendant)
and)
)
AAAA Bail Bonds)
And Crum & Forster Indemnity Co.)
Sureties for the Defendant)

Warrant No(s): 2013A1010203447

Bond Amount: \$10,000

2014 NOV 21 AM 11:45
JULIE J. JOHNS
CLERK OF COURT

FILED

WHEREAS, a bench warrant was issued by the Judge of the Court of General Sessions on 05/01/14 for the arrest of the above-named defendant, who having been released under the above warrants pursuant to § 17-15-10 et seq of the South Carolina Code of Laws willfully failed to appear before the Court; and,

WHEREAS, AAAA Bail Bonds and Crum & Forster Indemnity Co. issued its surety bond in the amount of \$10,000.00; and,

WHEREAS, a hearing was held in the court of General Sessions, Charleston County, before the Honorable R. Markley Dennis, Jr. on November 14, 2014, with representatives from Crum & Forster Indemnity Co. present on its behalf.

NOW, THEREFORE, it is ordered that \$10,000, the total bond amount, is estreated in full and due in a single payment on December 15, 2014.

IT IS SO ORDERED this 21st day of November, 2014.

Charleston, South Carolina

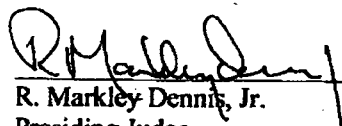

R. Markley Dennis, Jr.
Presiding Judge
Ninth Judicial Circuit

Exhibit 1

Williams 100000
C10-70076907

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
STATE OF SOUTH CAROLINA)
)
vs.)
)
AAAA BAIL BONDS)
AND CRUM & FORSTER)
INDEMNITY CO.)
Stubblefield, Tracy Wheeler)

IN THE COURT OF GENERAL SESSIONS
NINTH JUDICIAL CIRCUIT

NOTICE OF FORFEITED RECOGNIZANCE
FILED
2014 OCT - 1 AM 4:
CLERK OF COURT

TO: Above-captioned defendants as Principals and AAAA BAIL BONDS and CRUM & FORSTER INDEMNITY COMPANY sureties:

You will please take notice that the conditions of the following Recognizance bonds dated and filed in the Charleston County Clerk of Court as follows:

Defendant	Warrant #	Bond Issued Date	Bond Amount	BW Issued Date
Stubblefield, Tracy Wheeler	2013A1010203447	06/22/13	\$10,000	05/01/14

have not been complied with for these reasons: Defendant's failure to appear in the Court of General Sessions when summoned to appear and that such Recognizance has become forfeit by non-compliance;

You are therefore summoned to appear in the office of Assistant Solicitor Jennifer McCoy (101 Meeting Street, 4th Floor) on **Monday, November 3, 2014 at 3:00 PM** to resolve all issues related to the forfeiture on the above listed bonds. Failure to attend this meeting will result in the Solicitor's Office moving for immediate Forfeiture of 100% of the bond(s).

You are further summoned to appear before the term of Court of General Sessions for this County at **9:00 AM on Friday, November 14, 2014**, to show cause, if any you can, why judgment should not be confirmed against you in the amount of such bond(s) not resolved in the meeting scheduled in the above proceeding paragraph.

CHARLESTON, SC
September 29, 2014

Jennifer McCoy

Jennifer McCoy
Assistant Solicitor

Holcomb

Exhibit 2



South Carolina Department of Insurance

Capitol Center
1201 Main Street, Suite 1000
Columbia, South Carolina 29201

NIKKI R. HALEY
Governor

RAYMOND G. FARMER
Director

Mailing Address:
P.O. Box 100105, Columbia, S.C. 29202-3105
Telephone: (803) 737-6160

October 10, 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CRUM & FORSTER INDEMNITY COMPANY
ATTN: Legal Secretary
Post Office Box 1973
Morristown, NJ 07962-0000


Dear Sir:

On October 10, 2014, I accepted service of the attached Notice of Forfeited Recognizance on your behalf. I am, hereby, forwarding that accepted process on to you pursuant to the provisions of S.C. Code Ann. § 38-5-70. By forwarding accepted process on to you, I am meeting a ministerial duty imposed upon me by S.C Code Ann. § 15-9-270. I am not a party to this case. The State of South Carolina Department of Insurance is not a party to this case. It is important for you to realize that service was effected upon your insurer on my date of acceptance for service.

You must promptly acknowledge in writing your receipt of this accepted process. When replying, please refer to File Number 156463, State of South Carolina v. CRUM & FORSTER INDEMNITY COMPANY, et al., 2013A1010203447.

By:

Sincerely Yours,


David E. Belton
Senior Associate General Counsel
(803)737-6132

Raymond G. Farmer
Director
State of South Carolina
Department of Insurance

Attachment

CC: Jennifer McCoy
101 Meeting Street, 4th Floor
Charleston, SC 29401

2013A1010203447

Criminal Charging Document No.

BAIL PROCEEDING FORM II

STATE OF SOUTH CAROLINA
COUNTY OF Charleston

IN THE [X] COURT OF GENERAL SESSIONS
[] MAGISTRATE COURT
[] MUNICIPAL COURT OF

STATE OF SOUTH CAROLINA

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

Tracy Stubblefield
NAME OF DEFENDANT

Offense Charged: Poss. of Meth

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- [] The release of the defendant on recognizance will not reasonably assure his appearance as required.
[] The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact:

[Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

- 1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows:

CASH IN LIEU OF BOND

[] The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

[] The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of, his release to be obtained by payment to the court of % (not to exceed 10%) of the full amount of the bond, deposits to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State.

APPEARANCE RECOGNIZANCE WITH SURETY

[] The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of

3. That the defendant shall appear at (check one):

[X] the term of COURT OF GENERAL SESSIONS beginning on at o'clock, M, at and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

[] the session of [] MAGISTRATE COURT [] MUNICIPAL COURT beginning on at o'clock, M, at If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.

SIGNATURE OF JUDGE

DATE

**BAIL PROCEEDING
FORM II**

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS
ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

TRACY STUBBLEFIELD
NAME OF DEFENDANT

Offense Charged: POSSESSION OF METHAMPHETAMINE

At a bail proceeding conducted by the undersigned judge, for the defendant named above, it was determined by the court (check one or both):

- The release of the defendant on recognizance will not reasonably assure his appearance as required.
- The release of the defendant on recognizance will result in an unreasonable danger to the community.

This determination was based upon the following findings of fact:

[Considerations: Nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

1. That the above named defendant be released from custody on the condition that he will personally appear before the designated court at the place, date and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
2. That the above named defendant be released from custody provided as follows (check all that apply):

CASH IN LIEU OF BOND

The defendant, acknowledges himself to be indebted to the State of South Carolina in the sum of _____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

The defendant, acknowledging himself to be indebted to the State of South Carolina in the full amount of _____, his release to be obtained by payment to the court of _____ % (not to exceed 10%) of the full amount of the bond, deposits _____ to secure his release from custody. Should the defendant fail to perform the conditions of this Order, the full amount shall be levied on his real and personal property for the use of the State.

APPEARANCE RECOGNIZANCE WITH SURETY

The defendant will provide good and sufficient surety approved by the court, in the form hereinafter set forth in this Order, acknowledging an indebtedness to the State in the amount of \$10,000.00.

3. That the defendant shall appear at (check one):

the term of COURT OF GENERAL SESSIONS beginning on Friday, September 13, 2013 at 2:00 o'clock, P.M. at CHARLESTON COUNTY JUDICIAL CENTER, 100 BROAD STREET, CHARLESTON and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

the session of _____ beginning on _____ at _____ o'clock, _____, at _____ If no final disposition is made during that session, the defendant shall appear at such other times and places as ordered by the court.

INITIALS OF DEFENDANT TS

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described hereinafter in the Order.

[Signature]
SIGNATURE OF JUDGE: Baldwin

June 22, 2013
DATE

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

ADDRESS _____		SIGNATURE OF DEFENDANT: <u>Tracy Stubblefield</u> TRACY STUBBLEFIELD	
CITY/STATE/ZIP _____	TELEPHONE _____	DATE: <u>June 22, 2013</u>	_____
SOCIAL SECURITY NUMBER _____	DRIVER'S LICENSE OR ID NUMBER _____	No Attorney on Record ATTORNEY REPRESENTING ACCUSED (IF KNOWN) _____	

SPECIAL CONDITIONS OF RELEASE

a. Placement in custody. The defendant is placed in the custody of: _____
NAME OF PERSON OR ORGANIZATION

who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED) _____ DATE _____

b. Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

c. Part-time Release. The defendant will be released from custody from _____ o'clock, _____ o'clock,

on _____ on condition that he return to the custody of _____
DATE(S) _____ TIME _____ AM/PM _____ TIME _____ AM/PM
at _____ as designated.
LOCATION _____

d. Other Conditions. The defendant will comply with the following other conditions of release: **You are required to appear for your 2nd Court Appearance on Friday, November 22, 2013 at 9:00 A.M. at the Court of General Sessions located at 100 Broad Street, Charleston.**

APPEARANCE RECOGNIZANCE WITH SURETY

On the _____ day of _____, _____, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of _____, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

NAME OF SURETY BONDSMAN COMPANY _____	TELEPHONE _____	SIGNATURE OF SURETY BONDSMAN _____
ADDRESS OF SURETY BONDSMAN _____		
CITY/STATE/ZIP _____		SIGNATURE OF JUDGE: _____
NAME OF INSURANCE COMPANY _____		DATE: _____
ADDRESS OF INSURANCE COMPANY _____		
CITY/STATE/ZIP _____		

Form Approved by SC Attorney General
because 17-15-03
March 21 2012

SCCA/511A (Revised 3/2012)

ARREST WARRANT

2013A1010203447

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

THE STATE

against

Tracy Wheeler Stubblefield

Address: 1941 Satcher Blvd

Augusta, GA 30906-

Phone: SSN: 259-67-8760

Sex: F Race: W Height: 5-1 Weight: 90

DL State: GA DL #: 050336380

DOB: 9/21/1977 Agency ORI #: SC0100100

Prosecuting Agency: Charleston City Police Department

Prosecuting Officer: Officer Scurry - 0999

Offense: Drugs / Manufacture, distribution, etc. of methamphetamine, 1st

Offense Code: 3198

Code/Ordinance Sec: 44-53-0275 (B) (1)

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.

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Tracy Wheeler Stubblefield on 6-22-13

Signature of Court/Clerk/Deputy Clerk

RETURN WARRANT TO:

General Sessions
Charleston County Judicial Center
100 Broad Street, Suite 106
Charleston, SC 29401

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Personally appeared before me the affiant Officer Scurry / 0999 who

being duly sworn deposes and says that defendant Tracy Wheeler Stubblefield

did within this county and state on or about 6/21/2013 violate the criminal laws of the

State of South Carolina (or ordinance of County/ Municipality of Charleston)

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of methamphetamine, 1st

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:

SEE ATTACHED AFFIDAVIT

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Charleston

Affiant's Address: 180 Lockwood Blvd,

Charleston, SC 29403-

Affiant's Telephone: (843)577-7434

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 6/21/2013

defendant Tracy Wheeler Stubblefield

violated the criminal laws of the State of South Carolina (or ordinance of

County/ Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of methamphetamine, 1st

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 6/22/2013

Signature of Judge/Clerk

Priscilla Bridges Baldwin

Judge Code: 5749

(L.S.)

Judge's Address: 3870 Leads Avenue, Suite 106

North Charleston, SC 29405-7469

Judge's Telephone: (843)746-9822

Issuing Court: Magistrate Municipal Circuit

06/22/2013 9:42AM

0002/005

NO. 7362 P. 7/10

843 746 9960

JUN. 22. 2013 9:42AM

CONSENT TO VIDEO CONFERENCING

Siblefield-Tracy

Name of Defendant:

Warrant/Ticket Numbers

Type of Proceeding

- Initial Appearance (non-capital case)
- Bond Hearing
- Preliminary Hearing
- Contested Motion
- Guilty Plea and Sentencing (Magistrate's/Municipal Court-Offense)

County of Charleston

- Trial Court: General Sessions
- Magistrate Court
- Municipal Court

By my signature below, I, the defendant, consent to the use of video conference equipment in this criminal proceeding. The court will maintain the videotape of these proceeding for a period of thirty (30) days from today's date, after which the videotape may be destroyed. I have been fully informed of my rights to be personally present before the court for this proceeding and with that knowledge, I voluntarily waive that right.

Attorney for Defendant

[Handwritten Signature]
Signature of Defendant

The defendant waived his rights to personally appear at this criminal proceeding both orally and by writing.

Appearance for hearing date

[Handwritten Signature]
Signature of Judge:

TRACY STUBBLEFIELD
Name of Defendant

2013A1010203447

Criminal Charging Document No.

COUNTY OF CHARLESTON

Charges: POSSESSION OF METHAMPHETAMINE	Trial Court: General Sessions
--	-------------------------------


CHECKLIST FOR MAGISTRATES AND MUNICIPAL JUDGES

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 should 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.

BAILABLE PROCEEDING / FIRST APPEARANCE (NON-BAILABLE OFFENSE)

1. Form used at bail proceeding Bond Form I (personal recognizance) Bond Form II (surety, cash, percentage) None (Non-Bailable Offense)
2. For cases in which bond was 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 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 In writing (NOTE: Defendant must be informed of right both orally and in writing.)
4. 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 or 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 _____ located at _____ for indigency screening. Defendant is responsible for a statutory fee of _____ for indigency screening.
6. 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 reside constitutes an additional misdemeanor charge and, if in possession of a dangerous weapon, an additional felony charge.
7. 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.

Appearance or
Hearing Date: Friday, September 13, 2013 at 2:00 p.m.


Judge's Signature: Baldwin

Second
Appearance Date: Friday, November 22, 2013 at 9:00 a.m.

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

ADDRESS _____ SIGNATURE OF DEFENDANT _____
 CITY/STATE/ZIP _____ TELEPHONE _____ DATE _____
 SOCIAL SECURITY NUMBER _____ DRIVER'S LICENSE OR ID NUMBER _____ ATTORNEY REPRESENTING ACCUSED (IF KNOWN) _____

SPECIAL CONDITIONS OF RELEASE

a. Placement in custody. The defendant is placed in the custody of: _____
 NAME OF PERSON OR ORGANIZATION

ADDRESS _____ CITY/STATE _____ ZIP _____ TELEPHONE _____
 who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED) _____ DATE _____

b. Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions:

c. Part-time Release. The defendant will be released from custody from _____ o'clock, _____ to _____ o'clock, _____
 on _____ on condition that he return to the custody of _____
 at _____ as designated.
 DATE(S) _____ TIME AM/PM _____ NAME OF PERSON OR ORGANIZATION _____
 LOCATION _____

d. Other Conditions. The defendant will comply with the following other conditions of release:

APPEARANCE RECOGNIZANCE WITH SURETY

On the 24th day of June, 2013, personally appeared before the undersigned judge a surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of 10,000.00, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

A AAA Bail Bonds
4476 LEEDS PLACE W. STE B
N. Charleston, SC 29405
PH (843) 766-0730, FAX (843) 747-2242
AGENT FOR Crum & Forster Ind. Co.
Larry G. Ballard
E-Mail: babetpickles@bellsouth.net
Crum & Forster Ind. Co.
P.O. Box 2807
Houston, TX 77252
(713) 954-8389

SIGNATURE OF SURETY BONDSMAN _____

SIGNATURE OF JUDGE _____

DATE _____

STATE OF SOUTH CAROLINA)	
)	COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)	
State of South Carolina,)	
)	
)	
v.)	Case No. 13-GS-10-5056
)	
Tracy Stubblefield,)	
)	
Defendant)	

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on November 14, 2014, before The Honorable R. Markley Dennis, Jr. in Courtroom 4D of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by counsel as follows:

APPEARANCES:

Jennifer McCoy, Assistant Solicitor
 Appearing for State

Lewis Gossett
 ... Appearing for AAAA Bail Bonds

ALSO PRESENT:

Al Holcombe

Deborah Garrison
Circuit Court Reporter – 9th Judicial Circuit
 P O Box 901
 Johns Island, South Carolina 29457
dgarrison@sccourts.org

1 THE COURT: What else do we have?

2 SOLICITOR: The next one, Your Honor,
3 is also kinda of an unusual situation.

4 THE COURT: All right.

5 SOLICITOR: This involves Tracy Wheeler
6 Stubblfield, who was written a ten thousand
7 dollar bond by Larry Ballard with A Triple A
8 Bail Bonds.

9 Your Honor, Larry Ballard is no longer in
10 the business. Somebody on behalf of the surety
11 company who had underwritten this bond is here
12 today, and I will let them introduce them-
13 selves.

14 THE COURT: Okay.

15 MR. GOSSETT: Your Honor, I am Lewis
16 Gossett and I am representing the surety
17 company and Mr. Al Holcombe.

18 And counsel is right, this is a very
19 unusual situation. What we have determined at
20 this point is that -- with this and quite a few
21 others, and we are really on the beginning of
22 this effort, is that we believe Mr. Ballard
23 executed a number of bonds without authority
24 from the surety company. We also believe that
25 he fabricated the bond and powers. In fact,

1 we've got copies of those documents where
2 they're clearly, uh, forged -- not forged but
3 they're clearly manufactured by him at his
4 computer; bonds with left-out language, that
5 sort of thing.

6 We don't know the full extent of what he
7 did. We found out that this bond existed when
8 the notice of estreatment was sent.

9 THE COURT: Let me ask you a question,
10 Mr. Gossett, -- and I understand that, and
11 that's a wonderful cause of action against Mr.
12 Ballard, but what has that got to do with the
13 fact that you owe money to the State of South
14 Carolina?

15 MR. GOSSETT: Well, we didn't know.

16 THE COURT: Oh, I understand that you
17 didn't know. But my question is this, -- I
18 haven't heard yet that the person doesn't
19 exist, that there is no crime, that there is no
20 reason for the bond. That, I would be happy to
21 do.

22 MR. GOSSETT: Right.

23 THE COURT: The fact that Mr. Ballard
24 may have forged somebody's -- that doesn't
25 change the obligation. It may change the

1 resource, but it doesn't help me.

2 MR. GOSSETT: We've also got with this
3 particular one where the runner actually did
4 the work and actually Mr. Ballard's name was
5 stamped on there. It wasn't signed. Nor was
6 it signed by a judge.

7 THE COURT: If there is a challenge
8 that the bond does not exist, -- I think that's
9 what I meant to say if I didn't communicate
10 that.

11 MR. GOSSETT: Yes, sir.

12 THE COURT: If there is no bond, then
13 obviously there's nothing to estreet. But if
14 there a bond and the clerk of court accepted
15 that and we acted upon that bond, then it is a
16 bond as far as I am concerned insofar as its
17 effect of releasing the inmate -- the
18 defendant.

19 Insofar as your ability to recoup that,
20 that's not a matter that's before me.

21 SOLICITOR: And, Your Honor, I didn't
22 mean -- Mr. Holcombe has expressed to me that
23 he knows who the defendant is and is concerned,
24 because it is a counterfeit bond, that he could
25 be charged with kidnaping for bringing him in.

1 I think that was his concern. So he expressed
2 that if he had an Order from Your Honor, that
3 ---

4 THE COURT: Well, I'd be happy to --
5 you have to tell me, is it a bond? Is it a
6 legitimate bond on file that was signed by a
7 judge?

8 SOLICITOR: The front page is signed by
9 Judge Baldwin (phonetic), Your Honor. Yes,
10 sir, we do have a copy of that.

11 MR. GOSSETT: Your Honor, there -- going
12 with that could help us with that in getting
13 this defendant under the circumstances. There
14 is one other aspect of this that is important
15 at this point.

16 THE COURT: Yes, sir.

17 MR. GOSSETT: We've begun significant
18 discussions with the State's Attorney General
19 Office and the Department of Insurance about
20 what has transpired here. We do not know the
21 full scope of what's happened. We have been
22 trying to work with the local clerks of court
23 in three counties to find out exactly what this
24 man wrote.

25 THE COURT: I appreciate that. I

State of South Carolina v. Tracy Stubblefield

Case No. 13-GS-10-5056

Hearing of November 14, 2014

Before The Honorable R. Markley Dennis

6

1 really and truly -- what's the bond that we
2 have?

3 SOLICITOR: A ten thousand dollar bond,
4 Your Honor.

5 THE COURT: That is the only bond that
6 I'm interested in.

7 MR. GOSSETT: Yes, sir. If ---

8 THE COURT: I mean, I can't help with
9 that. That bond, if it is a legitimate bond,
10 bring him in and we're home free.

11 MR. HOLCOMBE: Your Honor, could I
12 say something?

13 THE COURT: Sure.

14 MR. HOLCOMBE: The law says that no
15 one without a license could put in a bond.
16 These bonds was put in and stamped by a surety
17 runner, which cannot bind a bond.

18 THE COURT: Sir, I understand you have
19 legitimacy. The problem that I have is that
20 this -- that the clerk of court acted on that.
21 On its face it appears to be a bond. We don't
22 have to serve -- to me it's like when somebody
23 says, 'I served the defendant.' I don't have
24 to bring them in an satisfy myself that that
25 document is true. You can rely on it. We rely

1 on them every day. If we didn't, nobody would
2 ever get out of jail.

3 So, listen, this is the wrong place, the
4 wrong forum to deal with this. This is a bond
5 estreatment on ten thousand dollars. Get him in
6 and you won't have to do it.

7 You are estreeted until -- you've got
8 thirty days. Thank you.

9 (HEARING CONCLUDED)

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RECEIVED

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SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

CERTIFICATE

I, the undersigned Deborah Garrison, Circuit Court Reporter for the 9th Judicial Circuit, hereby certify that the foregoing is a complete and accurate transcript of the hearing held in the within action heard on November 14, 2014 before The Honorable R. Markley Dennis, Jr.;

I further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.



Deborah Garrison

Charleston, South Carolina
May 17, 2015

