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AUG 04 2016

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of General Sessions

Benjamin H. Culbertson, Circuit Court Judge for the Third Judicial Circuit

Appeal Case No. 2016-001567

The State of South Carolina, Plaintiff,

v.

David Viera Diaz, Defendant.

**NOTICE OF APPEAL FROM A SENTENCE IMPOSED BY THE COURT
OF GENERAL SESSIONS**

The Defendant, David Viera Diaz hereby appeals his conviction and sentence in this case. The sentence was imposed by the Honorable Benjamin H. Culbertson on July 21, 2016.



Wallace H. Jordan, Jr.
SC Bar No.: 76222
626 West Evans Street
Post Office Box 2010
Florence, South Carolina 29503-2010
(843) 662-4474 Telephone
(843) 662-6024 Facsimile
Attorney for Defendant

Other Counsel of Record:
Alan Wilson
South Carolina Attorney General
Post Office Box 11508
Columbia, South Carolina 29211
Attorney for Plaintiff

FILED

1-10 yr / \$10,000⁰⁰

STATE OF SOUTH CAROLINA

JUL 27 2016

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

HORRY

JAMES R. PARKS

STATE

CLERK, STATE GRAND JURY INDICTMENT/CASE#: 2015-GS-47 - 33 (COUNT 3)

vs.

DAVID VIERA DIAZ

A/W#: DIRECT PRESENTMENT

AKA:

Date of Offense: 12/1/2012 TO 12/9/2015

Race: H

Sex: M

Age: 28

S.C. Code §: 44-53-370(e)(1)(b)

DOB: [REDACTED]

SS#: [REDACTED]

CDR Code #: 0283

Address:

City, State, Zip: 1 Lambert, SC 29128

DL#

SID#

SC0219986

*CDL Yes No CMV Yes No Hazmat Yes No

RECEIVED SENTENCE SHEET

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

CONVICTED OF or PLEADS AUG 04 2016

TO: TRAFFICKING MARIJUANA 10-100 POUNDS, FIRST OFFENSE

In violation of § 44-53-370(e)(1)(a) of the S.C. Code of Laws, bearing CDR Code # 2360

SC Court of Appeals

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-43

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

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

ATTEST:

Assistant Attorney General SC Bar # 73986

Defendant

Attorney for Defendant

SC Bar # 75081

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed X years and/or to pay a fine of \$ 10,000. provided that upon the service of X days/months/years and or payment of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X 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: 7/21/2016
 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.

The Defendant is to be placed on 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: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED

Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning Substance Abuse Counseling

*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)	\$	\$ 0.40
TOTAL	\$	\$ 280.40

Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

Other: Sentencing deferred \$ 25,000 surety bond to remain in effect.

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

Clerk of Court/Deputy Clerk James R. Parks
Court Reporter: GRACE HULL

Presiding Judge Marjannet Tubbs
Judge Code: 2148
Sentence Date Plea date: May 9, 2016
Sentence date: July 21, 2016
Marjannet Tubbs

0-5yr / \$0-5,000²
[Handwritten signatures]

FILED

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

JUL 21 2016

STATE

HORRY

JAMES R. PARKS
CLERK, STATE GRAND JURY

INDICTMENT/CASE#: 2015 -GS- 47 - 32 (COUNT 1)

vs.

A/W#: DIRECT PRESENTMENT

DAVID VIERA DIAZ

Date of Offense: 4/30/2015

AKA:

S.C. Code §: 44-53-370(b)(2)

Race: H Sex: M Age: 26

CDR Code #: 0186

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip: Kembert, SC 29128

DL#

SID#

SC0219986

*CDL Yes No CMV Yes No Hazmat Yes No

SENTENCE SHEET

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

CONVICTED OF or PLEADS

TO: MANUFACTURING MARIJUANA, FIRST OFFENSE

In violation of § 44-53-370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0186

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45

(CSC w/minor 1st or Lewd Act)

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

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

ATTEST:

[Signature] 73986

Assistant Attorney General

SC Bar #

Defendant

Attorney for Defendant

SC Bar # 75081

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed X years and/or to pay a fine of \$ X; provided that upon the service of X days/months/years and or payment of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X 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: 7/21/2016

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.

The Defendant is to be placed on 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: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED

Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning
Substance Abuse Counseling

*Fine: \$ _____

Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly
prmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

§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 (SCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 8.40

TOTAL \$ 208.40

Other: - Sentencing deferred
\$25,000.00 surety bond
remains in effect.

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

Clerk of Court/Deputy Clerk

Court Reporter: Trace Huling

[Signature: James R. Parks]

Presiding Judge: *[Signature: M. J. Culbertson]*
Judge Code: 2148
Sentence Date: May 9, 2016
Plea date: May 9, 2016
Sentence date: July 21, 2016
[Signature: M. J. Culbertson]

FILED

1-10 yr / \$10,000.00

STATE OF SOUTH CAROLINA

JUL 21 2016

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

HORRY

JAMES R. PARKS

STATE

CLERK, STATE GRAND JURY

INDICTMENT/CASE#: 2015-GS-47 - 33 (COUNT 1)

VS.

DAVID VIERA DIAZ

A/W#: DIRECT PRESENTMENT

AKA:

Date of Offense: 12/1/2012 TO 12/9/2015

Race: H

Sex: M

Age: 26

S.C. Code §: 44-53-370(e)(1)(b)

DOB: [REDACTED]

SS#: [REDACTED]

CDR Code #: 0283

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL#

SID#

SC0219986

*CDL Yes No CMV Yes No Hazmat Yes No

SENTENCE SHEET

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

CONVICTED OF or PLEADS

TO: TRAFFICKING MARIJUANA 10-100 POUNDS (CONSPIRACY), FIRST OFFENSE

In violation of § 44-53-370(e)(1)(a) of the S.C. Code of Laws, bearing CDR Code # 2360

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

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

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

ATTEST:

[Signature]

73986

Assistant Attorney General

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed X years and/or to pay a fine of \$10,000.00, provided that upon the service of X days/months/years and or payment of \$ X; plus costs and assessments as applicable*; the balance is suspended with probation for X months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

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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: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED

Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning Substance Abuse Counseling

*Fine:	\$	
§14-1-206 (Assessments 107.5%)	\$	
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§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
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§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
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3% to County (if paid in installments)	\$	\$ 1.40
TOTAL	\$	\$ 288.40

Random Drug/Alcohol Testing
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Other: Sentencing deferred \$25,000.00 suspended bond to remain in effect.

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

Clerk of Court/Deputy Clerk
Court Reporter:

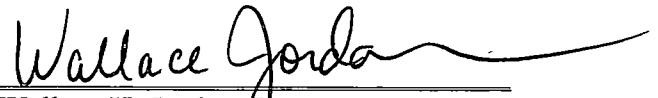
James R. Parks
Grace [Signature]

Presiding Judge: [Signature]
Judge Code: 2148
Sentence Date: Plea date: May 9, 2016
Sentence date: July 21, 2016
[Signature]

The Honorable Jimmy Richardson, II
Georgetown County Solicitor
PO Box 1276
Conway, SC 29442

David C. Cook, Esquire
PO Box 1449
Lancaster, SC 29721

David Viera Diaz, Defendant/Inmate
SC Department of Corrections
Kirkland Correctional Reception & Evaluation Center
4344 Broad River Rd
Columbia, SC 29210



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Attorney for Defendant

Wallace H. Jordan, Jr., P.C.
Attorney at Law

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Telephone: (843) 662-4474
Facsimile: (843) 662-6024

August 2, 2016

ATTN: Brandon
The South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

SC Court of Appeals
AUG 04 2016
RECEIVED

RE: The State v. David Viera Diaz
Appeal No.: 2016-001567
My File No.: 16-167

Dear Brandon:

Please find enclosed a copy of the Amended Notice of Appeal, along with attached Sentencing Sheets and Certificate of Service for my client David Viera Diaz.

Should you have any questions upon receipt of this letter and its enclosures, please do not hesitate to contact me.

Sincerely,

Wallace Jordan, Jr.
Wallace Jordan, Jr.

WJJ/kos
Enclosures

RECEIVED
AUG 04 2016
SC Court of Appeals