

CERTIFIED COPY

2016 OCT 19 AM 11:45

Melanie Higgins-Ward

CLERK OF COURT
HORRY COUNTY

FILED
HORRY COUNTY

2016 OCT 19 AM 11:46

MELANIE HIGGINS-WARD
CLERK OF COURT

49

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
STATE OF SOUTH CAROLINA)
VS.)
NELSON HERCULES CASTRO)
DEFENDANT,)

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTEENTH JUDICIAL CIRCUIT
INDICTMENT #: 2010GS2600445
WARRANT #: J323654
CASE #: 09H03565

ORDER AMENDING SENTENCE SHEET

RECEIVED

OCT 21 2016

SC Court of Appeals

FILED
HORRY COUNTY
2010 APR 12 AM 10:34
CLERK OF COURT
M. J. HARRIS
WARD

On April 8, 2010, the Defendant was sentenced on the charge of Trafficking in Cocaine (28 - 100 grams), 1st Offense, warrant number J323654, to 15 Years, by the undersigned judge, who now wishes to amend the sentence to require that Nelson H. Castro is to be housed at a facility of SCDC that is separate and apart from the facility where inmates Genaro Bustos-Bustos and Angel Penalzoa are housed.

IT IS THEREFORE ORDERED that the sentence of Nelson Hercules Castro be amended to read:

Incarceration for a period of 15 Years and that Nelson H. Castro is to be housed at a facility of SCDC that is separate and apart from the facility where inmates Genaro Bustos-Bustos and Angel Penalzoa are housed; to include housing for R & E purposes.

AND IT IS SO ORDERED.


LARRY B. HYMAN
PRESIDING JUDGE
FIFTEENTH JUDICIAL CIRCUIT

4-12-2010

Date
Conway, South Carolina

M. J. HARRIS
CLERK OF COURT
HORRY COUNTY

2016 OCT 19 AM 11:46

CERTIFIED COPY

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Horry
STATE VS.

INDICTMENT/CASE#: 2010GS2600445

A/W#: J323654

Date of Offense: 8/28/2009

S.C. Code § : 44-53-0370(e)(2)(b)1

CDR Code #: 2359

RECEIVED

OCT 21 2016

SENTENCE SHEET SC Court of Appeals

Nelson Hercules Castro

AKA: _____

Race: H Sex: M Age: 28

DOB: _____ SS#: _____

Address: _____

City, State, Zip: Myrtle Beach, SC 29577

DL#: _____ SID#: _____

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was
TO: Trafficking in cocaine, 28--100 g, 1st offense

|| CONVICTED OF or PLEADS

in violation of § 44-53-0370(e)(2)(b)1 of the S.C. Code of Laws, bearing CDR Code # 2359

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

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:

Graustein, Scott A.

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 15 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 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.

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

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 \$ _____

§ 47.12 (Public Def/Prob) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ _____

§ 14-1-213 (Drug Court Surcharge) \$100 \$ 100.00

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

§ 90.7 (SCCJA Surcharge) \$5 \$ 5.00

3% to County (if paid in installments) \$ 6.90

TOTAL \$ 236.90

Clerk of Court/ Deputy Clerk Melanie Higgins

Court Reporter: Dixie Eubank

SCCA/217 (11/2009)

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ 25.00 beginning 9/7/2009

\$ _____ paid to Public Defender Fund

Other: _____

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

Presiding Judge _____

Judge Code: 2152

Sentence Date: 4-8-20

RECEIVED
2016 OCT 19 AM 11:46
CLERK OF COURT
HARRIS COUNTY

Handwritten signatures and stamps, including a date stamp: 2016 OCT 19 AM 11:05 and a 'CERTIFIED COPY' stamp.

DOCKET NO. 2010-GS-26-445

WITNESSES

Joe Necessary 15th Circuit Drug Enforcement Unit

**The State of South Carolina
County of Horry**

Scott A. Graustein 09H03565

COURT OF GENERAL SESSIONS

JANUARY, 2010 TERM

ARREST WARRANT NUMBER

J323654
CDR: 2359 44-53-0370(e)(2)(b)1
DOA: 8/28/2009

THE STATE

vs.

Nelson Hercules Castro H/ M
Myrtle Beach SC 29577
DOB:
SSN:

ATTORNEY: Floyd, W. Thomas

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 1-21-10

VERDICT

Foreperson of Petit Jury

Date:

FILED
HORRY COUNTY
2016 OCT 19 AM 11:46
MELANIE HUBBINS-WARD
CLERK OF COURT

RECEIVED

OCT 21 2016

SC Court of Appeals

Melanie Hubbins-Ward
CLERK OF COURT
HORRY COUNTY

2016 OCT 19 AM 11:46

CERTIFIED COPY

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on JANUARY 21, 2010, the Grand Jurors of Horry County present upon their oath:

TRAFFICKING COCAINE (28 - 100 GRAMS)

CDR: 2359 44-53-0370(e)(2)(b)(1)


RECEIVED

OCT 21 2016

SC Court of Appeals

That **Nelson Hercules Castro** did in Horry County on or about August 28, 2009, knowingly sell, deliver, purchase or bring in this State, or aid, abet, attempt or conspire to sell, deliver, purchase or bring into this State, or was in actual or constructive possession, or attempted to become in actual or constructive possession of a quantity of Cocaine in an amount of more than twenty-eight (28) grams, but less than one-hundred (100) grams, same being a controlled substance all within the meaning of Section 44-53-370, et seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized, and being in violation of section 44-53-370(e)(2)(b), S. C. Code of Laws, 1976, as amended, for the crime of trafficking.

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


J. GREGORY PEMBREE
FIFTEENTH CIRCUIT SOLICITOR

FILED
HORRY COUNTY
2016 OCT 19 AM 11:46
MEAGHER, JESSIE S. WARD
CLERK OF COURT

Melanie Hugson-Ward
CLERK OF COURT
HORRY COUNTY

2016 OCT 19 AM 11:46

CERTIFIED COPY

ARREST WARRANT

J-323654

STATE OF SOUTH CAROLINA

County/ Municipality of

Horry

THE STATE against

DEU D9-165

Nelson Magdaleno Hercules Castro

Address:

Myrtle Beach, SC 29577-1011

Phone: SSN:

Sex: M Race: H Height: 5 5 Weight: 150

DL State: SC DL #: 100165130

DOB: Agency ORI #: SC0260900

Prosecuting Agency: Horry County - Deu

Prosecuting Officer: Joe Necessary - DEU8

Offense: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 2nd offense

Offense Code: 0388

Code/Ordinance Sec: 44-53-0370(e)(2)

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.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Nelson Hercules - Castro on 09/29/09

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions PO Box 677 1301 2nd Avenue Conway, SC 29528

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Horry

Personally appeared before me the affiant Joe Necessary

being duly sworn deposes and says that defendant Nelson Magdaleno Hercules Castro

did within this county and state on or about 08/28/2009

State of South Carolina (or ordinance of County/ Municipality of Horry

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 2nd offense

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 8/28/09 Agents with the 15 Circuit Drug Enforcement Unit made a controlled cocaine purchase in the Myrtle Beach area of Horry County. Agents purchased a quantity of a white powder substance in exchange for a sum of official police funds. The white powder substance field tested positive for the presence of cocaine and had a weight greater then 28 grams. An NCIC records check was made and shown a prior drug conviction. Therefore there is probable cause to believe that the defendant committed the offense of Trafficking of Cocaine 2nd, a violation of SC code sec. 44.53-370 (E)(2) (B).

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Horry

Affiant's Address P.O. Box 1276 Conway, SC 29528-

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 8/28/2009 defendant Nelson Magdaleno Hercules Castro

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

County/ Municipality of Horry) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 2nd 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 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 08/28/2009

Signature of Issuing Judge (L.S.)

Christopher John Arakas

Judge Code: 5080

Judge's Address J. Ruben Long Detention Center Conway, SC 29526-1071

Judge's Telephone (843)365-9222

Issuing Court: X Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

FILED HORRY COUNTY

2006 OCT 19 AM 11:15

MELANE WILKINS WARD CLERK OF COURT

RECEIVED

OCT 21 2016

SC Court of Appeals

OCT 19 AM 11:46

CERTIFIED COPY

CLERK OF COURT HORRY COUNTY

Handwritten mark

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF GENERAL SESSIONS
OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

CERTIFICATE OF REPRESENTATION
(APPOINTING AS COUNSEL)

-VS-)
NELSON CASTRO)

J.M. LONG, III

DEFENDANT)

RECEIVED

FILE NO: 26A16-00003256

OCT 21 2016

SC Court of Appeals

FILED
HORRY COUNTY
2016 SEP -6 PM 12:58

TO: Clerk of Court of General Sessions of the Fifteenth Judicial Circuit
Office of the Solicitor
Appointed Counsel
Defendant

This certifies that the above captioned Defendant is eligible for the services of the Public Defender, such determination having been made on, 23rd day of August, 2016, regarding the charge(s) of:

J-323654 Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 2nd offense

The Defendant's Counsel is **J.M. Long, III**. The office of the Public Defender requests on the Defendant's behalf any and all evidence in the possession of you and or your agents pursuant to S.C. Criminal Practice Rule 5, and Brady v. Maryland 373 U.S. 383 (1963). The formal Motion for Discovery is attached.

Handwritten signature

CONWAY, SC

MORRIE E. WEST
CLERK OF COURT
FIFTEENTH CIRCUIT
PUBLIC DEFENDER

DATED: September 01, 2016

2016 OCT 19 AM 11:46

CERTIFIED COPY

Handwritten mark resembling a stylized 'K' or '4'.

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
)

IN THE COURT OF GENERAL SESSION
OF THE FIFTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)
-VS-)
)

NOTICE AND MOTION FOR PRODUCTION
OF SPECIFIC EVIDENCE AND
DISCLOSURE OF WITNESSES

NELSON M. CASTRO
DEFENDANT)
_____)

RECEIVED

OCT 21 2016

SC Court of Appeals

FILED
HORRY COUNTY
2016 SEP -6 PM 12:58

FILE NO: 26A16-00003256

TO: SOLICITOR FOR THE FIFTEENTH JUDICIAL CIRCUIT

YOU WILL PLEASE TAKE NOTICE that unless the prosecution responds to the Defendant's request for disclosure within 30 days, or within such time as may be ordered by the Court, Counsel for the Defendant will move this Court for an Order compelling that the State:

1. Make available for Defendant any and all written and oral statements by the Defendant which are, or may come to be, in the possession of the State.
2. Make available for purposes of inspection, and copying, any and all police reports relating to the investigation and circumstances surrounding the crime which the Defendant is charged with, including any and all statements taken from witnesses and the Defendant.
3. Make available to the Defendant all tangible objects obtained during the investigation of this case, including, but not limited to:
 - (a) All tangible objects obtained from the scene of the crime; and
 - (b) All tangible objects obtained from the State's witnesses in this case
 - (c) All tangible objects the State intends to introduce into evidence at Trial which are relevant to the offense charged.
4. Make available any witnesses known to the State who have knowledge of facts which might be favorable to the Defendant.
5. Make available any promises made or actions taken by the State which caused or might have caused any witnesses for the State to testify on behalf of the State.
6. Make available any inconsistent statements made by witnesses for the State or any statements made by witnesses for the State which tend to exculpate the Defendants or to negate participation by the Defendants in the alleged crime.
7. Make available to the Defendant all results of laboratory tests, scientific tests, or physical examinations conducted in connection with this case, including but not limited to:
 - (a) Analysis of handwriting
 - (b) Photographs secured of the scene of the crime
 - (c) Comparison of fingerprints
8. Make available any facts which tend to exculpate the Defendant.

CLERK OF COURT
HORRY COUNTY

2016 SEP 26 10:00 AM

CERTIFIED COPY

9. Make available any and all scientific or medical, psychiatric, legal or other information, reports or records which might tend to reflect on the credibility or competence of any of prospective witnesses for the State.

10. Make available to the Defendant the names and addresses of all persons who have knowledge of this case or who have been interviewed by the investigating officers in connection with this case.

11. Make available to the Defendant, the SLED, FBI, and local arrest and conviction records of all persons, including the Defendant, named in connection with this proceeding.

12. Make any chemist, analyst, and all persons within the chain of custody appear in Court for the purpose of personally testifying. Attorney for the Defense thus objects to the introduction of any chemist's or analyst's report pursuant to Rule 6, S.C. Rules of Criminal Procedure.

13. Make available to the Defendant all video and audio recordings and/or notarized affidavits made pursuant to South Carolina Code § 56-5-2953 and any other applicable South Carolina Statute or regulation, including but not limited to:

- (a) Police and booking reports;
- (b) Police logs;
- (c) Alcohol influence reports;
- (d) Accident reports
- (e) Reports dealing with defendant's refusal to submit to testing;
- (f) Notes taken from any recording by Law Enforcement regarding conversations with potential prosecution witnesses
- (g) Any notes taken by Law Enforcement with regards to this case which the officer intends to rely on, or make use of, at trial.
- (h) The names of the officers or other witnesses who were with the Defendant within one hour of the arrest who had the opportunity to observe the appearance and behavior of the Defendant, to include the identity of any officer present at the scene of arrest.
- (i) The time and place where the Defendant was given the Miranda warning and the name of the officer who advised him/her of the same.
- (j) Any reports made by any laboratory or hospital concerning any examination made of any physical (urine, blood, etc.), photographic, or written evidence related to the Defendant's case.
- (k) The records of analysis and the results of any chemical, urine, or breathalyzer tests administered to the Defendant.

14. Make available to the Defendant following information regarding the person(s) who administered the Defendant's chemical/breathalyzer tests:

- (a) The person's name and the name of his/her employer;
- (b) The date of his/her original certification to give chemical/breathalyzer tests and the grade he/she received on the exam;
- (c) The date of his/her most recent certification to give said tests; And his/her compliance with statutes and regulations providing for standards of training for persons administering such tests.

15. If the Defendant's blood alcohol concentration was determined on the basis of a test involving the use of any machine, provide the following information:

- (a) The type of machine used and the make, model, and serial number of particular machine;

2016 OCT 19 AM 11:58
FILED

CERTIFIED COPY

- (b) The manufacturer and the date of manufacture of the machine;
- (c) The owner's manual and the instruction manual;
- (d) The software program used in said machine;
- (e) The date of purchase by the agency owning the machine;
- (f) The location of machine;
- (g) The number of prior tests conducted on the machine;
- (h) All maintenance information for the last two years, including all repairs done and all calibrations made on the machine;
- (i) The results of all tests performed in the thirty (30) days prior to the date of the Defendant's arrests, including any tests in which the machine malfunctioned;
- (j) Any checklist to be used by the operator of the machine, either before, during, or after the admission of a test.

This information is requested pursuant to Rule 5 of the South Carolina Rules of Criminal Procedure. This information is further requested pursuant to Brady vs Maryland, 373 U.S. 383, 10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963), U.S. vs Agurs, 427 U.S. 97, 49 L Ed 2nd 342, 96 S. Ct. 2392 1976, State vs Mixon 274 S.E. 2nd 406 (1981), City of Rock Hill vs Suchenski, 374 S.C. 12, 646 S.E.2d 879 (2007). Further this information is requested on the grounds that it is essential to insure the Defendant's right to a fair trial, right to confrontation of witnesses, the right to effective Counsel and due process of law guaranteed by the South Carolina Constitution, and the United States Constitution.

WHEREFORE, Defendant prays:

- (a) That the Solicitor be Ordered to produce all information described herein and allow the Defendant the right to examine, inspect, copy and photograph, such materials and information at a specific time and place to be fixed by the Court.
- (b) That the information be provided no later than 30 days from the date of this request, as reflected by the Clerk of Court's time-stamp appearing on the face of this Document.
- (c) That the Court enter an Order requiring the Solicitor's Office to make continuing disclosure of all matters requested herein up to and during the Trial of the charges against the Defendant.

RESPECTFULLY SUBMITTED,



ORRIE E. WEST
FIFTEENTH CIRCUIT
PUBLIC DEFENDER

DATED: September 01, 2016
CONWAY, SOUTH CAROLINA

Horry County
Clerk of Court

2016 OCT 19 AM 11:46

CERTIFIED COPY

FILED
2016 SEP 28
Horry County

STATE OF SOUTH CAROLINA
IN THE COUNTY OF HORRY

) IN THE COURT OF GENERAL SESSIONS
) INDICTMENT NUMBER: 10-GS-26-0445

STATE OF SOUTH CAROLINA

vs.

) VERDICT FORM

Nelson Hercules Castro

) DEFENDANT.

RECEIVED

OCT 21 2016

SC Court of Appeals

As to the charge of TRAFFICKING COCAINE (28 - 100 grams) we, the jury, unanimously find the defendant: (Circle one)

GUILTY

NOT GUILTY

[Signature]
Foreperson

4-8-10
Date

FILED
HORRY COUNTY
2016 OCT 19 AM 11:46
HELANE THOMAS-WARD
CLERK OF COURT

CLERK OF COURT
HORRY COUNTY
2016 OCT 19 AM 11:46
CERTIFIED COPY