

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Oconee County

S.C. SUPREME COURT

Honorable R. Scott Sprouse, Circuit Court Judge

DAN L. TEMPLE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2016-001756

SUPPLEMENTAL APPENDIX

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Appellate Defender

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ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

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STATE OF SOUTH CAROLINA)
)
COUNTY OF0020 OCONEE)
_____)

IN THE GENERAL SESSIONS COURT
FOR THE TENTH JUDICIAL CIRCUIT
)
INDICTMENT NO.: 2013-GS-37-184
2013-GS-37-185

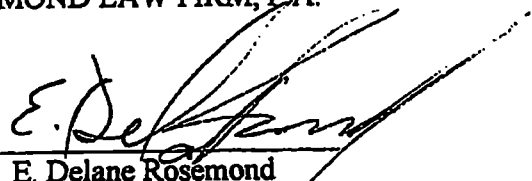
State of South Carolina,)
)
-vs-)
)
DAN L. TEMPLE,)
)
Defendant.)
_____)

**NOTICE OF MOTION
AND
MOTION TO SUPPRESS**

TO: LINDSEY SIMMONS, ASSISTANT SOLICITOR:

PLEASE TAKE NOTICE that the undersigned will move before the Presiding Judge of the Tenth Judicial Circuit of the Oconee County Court on the tenth (10th) day after service hereof or as soon as counsel may be heard for an Order suppressing any drugs found as a result of the unlawful search warrant issued in the above reference matter because the law enforcement officer did not have probable cause to obtain a search warrant, no information attesting to the informant's reliability, the lack of jurisdiction, the issuance thereof violated the Fourth Amendment to the United States Constitution and Article 1, § 10 of the South Carolina Constitution.

ROSEMOND LAW FIRM, P.A.

BY: 

E. Delane Rosemond
Attorney for the Defendant
P. O. Box 1498
Seneca, SC 29679
(864) 888-2832

Seneca, South Carolina
January 27, 2013

STATE OF SOUTH CAROLINA

County Of Oconee

Dan L. Temple
320 Bypass 123 Room 103
Seneca, SC 29672

SEARCH WARRANT

Date 07/24/2012

Officer Tim Hunnicutt

COURT'S
EXHIBIT NO. <u>1</u>
IDENTIFICATION/EVIDENCE
DKT. #
DATE <u>3-18-13</u>

I CERTIFY THIS TO BE A
TRUE COPY OF THE ORIGINAL.

Will J. Dewald
COURT CLERK / MAGISTRATE

STATE OF SOUTH CAROLINA

SEARCH WARRANT

COUNTY OF OCONEE

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR OF THE MUNICIPALITY OF SENECA

It appearing from the attached affidavit that there are reasonable grounds to believe that certain property subject to seizure under provisions of Section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises:

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

320 Bypass 123 Room #103 in Seneca, SC (34*41'52.35"N / 82*56'44.80"W). From the Seneca Police Department turn left onto E. N. 1st St. and travel approximately 1.4 miles. Take a left turn onto Bypass 123. Travel approximately 0.5 miles then take a right turn into the Town & Country Motel parking area. Room 103 has a red door and has the number 103 on it. Room 103 will be the third door past the office.; Further described as a one-story multi-unit brick building with red doors and a red metal roof. To be searched all persons, rooms, attics, and other parts within the premise of 320 Bypass 123 Room #103 including all garages, trash containers, vehicles, out buildings, and storage areas designated for the use of 320 Bypass 123 Room #103 and the curtilidge of said property.

Now, therefore, you are hereby authorized to search the subject premises for the property described below and to seize such property if found:

DESCRIPTION OF PROPERTY

Cocaine (and / or Crack Cocaine), a schedule II controlled substance, Lortabs, a schedule III controlled substance, counterfeit money and Paraphernalia, including but not limited to, containers of various types commonly associated with the storage of cocaine/lortabs/counterfeit money and implements used in administering or ingesting cocaine/lortabs as well as books and records associated with the purchase and sale of cocaine/lortabs. Also all items by personal property tending to establish the identity of persons in control of areas searched.

This Search Warrant shall not be valid for more than ten days from the date of issuance.

A written inventory of all property seized pursuant to this Search Warrant shall be made to

Dan L. Temple and Judge Derrick

within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such person as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found after reasonable diligence in attempting to locate the person, a copy shall be attached to a prominent place on such premises.

Seneca, S.C.

July 24, 2012 6:46 pm

[Signature] (L.S.) Signature of Judge

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF OCONEE

Personally appeared before me, one T. Hunnicutt who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT

Cocaine (and / or Crack Cocaine), a schedule II controlled substance, Lortabs, a schedule III controlled substance, counterfeit money and Paraphernalia, including but not limited to, containers of various types commonly associated with the storage of cocaine/lortabs/counterfeit money and implements used in administering or ingesting cocaine/lortabs as well as books and records associated with the purchase and sale of cocaine/lortabs. Also all items by personal property tending to establish the identity of persons in control of areas searched.

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING) TO BE SEARCHED

320 Bypass 123 Room #103 in Seneca, SC (34*41'52.35"N / 82*56'44.80"W). From the Seneca Police Department turn left onto E. N. 1st St. and travel approximately 1.4 miles. Take a left turn onto Bypass 123. Travel approximately 0.5 miles then take a right turn into the Town & Country Motel parking area. Room 103 has a red door and has the number 103 on it. Room 103 will be the third door past the office.; Further described as a one-story multi-unit brick building with red doors and a red metal roof. To be searched all persons, rooms, attics, and other parts within the premise of 320 Bypass 123 Room #103 including all garages, trash containers, vehicles, out buildings, and storage areas designated for the use of 320 Bypass 123 Room #103 and the curtilidge of said property.

REASON FOR AFFIANT'S BELIEF THAT THE PROPERTY SOUGHT IS ON SUBJECT PREMISES

See Attachment A

Sworn to and Subscribed before me

T. Hunnicutt

this 24 day of July, 2012 }

Affiant

[Signature]
(L.S.)
Signature of Judge

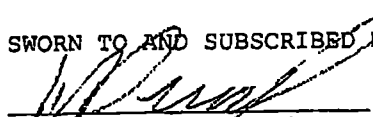
Address 205 N. Depot St.
Seneca, SC 29678
Phone (864) 885-2718

STATE OF SOUTH CAROLINA) ATTACHMENT A
COUNTY OF OCONEE) AFFIDAVIT FOR SEARCH WARRANT


Personally appeared before the undersigned Officer T. Hunnicutt who on oath does depose and state:

1. That the affiant, Tim Hunnicutt, is an Investigator in the Narcotics Division with the Seneca Police Dept. and has been involved in numerous narcotics investigations and has been a sworn law enforcement officer for approximately eleven (11) years.
2. That during this time, the affiant has investigated various types of narcotic cases and has participated in the investigation, apprehension and arrest of numerous narcotic violators.
3. That on July 17, 2012 an undercover operative working under the direction of the Seneca Police Department was distributed a quantity of crack cocaine from Dan Temple in the area of the 100 block of Bypass 123 Seneca, SC.
4. That on July 17, 2012 an undercover operative working under the direction of the Seneca Police Department/Oconee Sheriff's Office was distributed a quantity of crack cocaine from Dan Temple in the area of the 100 block of Bypass 123 in Seneca, SC.
5. That on July 23, 2012 an undercover operative working under the direction of the Seneca Police Department was distributed a quantity of crack cocaine from Dan Temple in the area of the 1000 block of Bypass 123 in Seneca, SC.
6. Within the last 72 hours an undercover operative working under the direction of the Seneca Police Department was distributed a quantity of lortabs from Dan Temple at 318 Bypass 123 in Seneca, SC. Temple was seen walking to and from the Town & Country Motel.
7. Within the last 72 hours an undercover operative working under the direction of the Seneca Police Department was given a counterfeit 100 dollar bill by Dan Temple at 318 Bypass 123. He asked the undercover operative to take it to a store and exchange it for real US currency. The undercover operative turned the counterfeit money over to agents. Agents gave the undercover operative 100 dollars in documented funds. The undercover operative met with Dan Temple at the Town & Country Motel and gave temple the documented funds. Temple was observed by agents exiting and re-entering room 103 at Town & Country Motel.
8. Based upon the Undercover Operation on the above listed dates, establishing a continuing criminal enterprise, the affiant believes illegal drugs, proceeds from illegal drug transactions, and drug paraphernalia and counterfeit money will be present at this residence.

SWORN TO AND SUBSCRIBED BEFORE ME THIS 24th DAY OF July 2012.



Signature of Judge



Officer T. Hunnicutt

RETURN

I received the attached Search Warrant 7/24, 20 12, and have executed it as follows:

July 25, 20 12 at 8:42 o'clock 11 M, I searched (the person) described in the warrant and (the premises)

I left a copy of the warrant with Dan Temple
Name of person searched or "at the place of search" with.

Together with a receipt for the items seized.

The following is an inventory taken pursuant to the warrant: 2 crack rock on end table,

822 cash, 13 orange capsule #4136, purple pill bottle containing crack, 12 yellow
tablets (xanax), 2 crack pipes, 5 pink tablets 21150, clear baggie in brown
bag, gateway laptop SN - S1006108425, Acer Aspire one Netbook
SN 14113187874 Samsung Cell Phone, iPod (CH-R355C
FCC ID A3L5CNR355

This inventory was made in the presence of P. White
AND Dan Temple

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this 25

day of July 20 12

[Signature] (L.S.)
Signature of Judge 345 pm

[Signature]
(Signature of Officer Executing Warrant)