

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LAURENS COUNTY
Court of General Sessions
Hon. Donald B. Hocker, Circuit Judge
Hon. Frank R. Addy, Jr., Circuit Judge

RECEIVED

DEC 07 2017

SC Court of Appeals

Appellate Case No. 2016-002524

The State Respondent,

vs.

Terrance Edward Stewart Appellant.

RECORD ON APPEAL
VOLUME II

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ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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LAURENS CO. SC0300000

LAURENS COUNTY SHERIFF'S OFFICE

CASE NUMBER

1 5 0 0 0 2 0 2

NCIC

INC. FINTD.

PROPERTY LISTING

ORIGINAL REPORT
 MODIFIED ORIGINAL

SUPPLEMENTAL REPORT
 CASE STATUS CHANGE

ADDITIONAL VICTIMS
 ADDITIONAL OFFENDERS

ADDITIONAL STOLEN PROPERTY
 ADDITIONAL RECOVERED PROPERTY

PAGE 1

6 SEIZED

5- SMALL PLASTIC BAGS CONTAINING AND OFF WHITE POWDERY SUBSTANCE; TOTAL WEIGHT 1.19GM.

D Heroin

1.190 GM

0.00

TOTAL GROUP

0.00

TOTAL PROPERTY

0.00

SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> ACTIVE	<input type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18	<input type="checkbox"/> EX-CLEAR UNDER 18
				<input type="checkbox"/> UNFOUNDED		<input checked="" type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE: 1. <input type="checkbox"/> OFFENDER DEATH 2. <input type="checkbox"/> NO PROSECUTION 3. <input type="checkbox"/> EXTRADITION DENIED 4. <input type="checkbox"/> VICTIM DECLINES COOPERATION 5. <input type="checkbox"/> JUVENILE - NO CUSTODY							
REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER	
SGT STEVEN ROWE SWEAT	01/21/2016	220	LIEUTENANT BRIAN K. BRIDGES		01/21/2016	208	
SGT MATTHEW A VEAL	01/21/2016	221	FOLLOW-UP INVESTIGATION OFFICER <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO SGT STEVEN ROWE SWEAT		01/22/2016	220	

INCIDENT REPORT SUPPLEMENTAL

Page #: 1

Case Number: 15000202

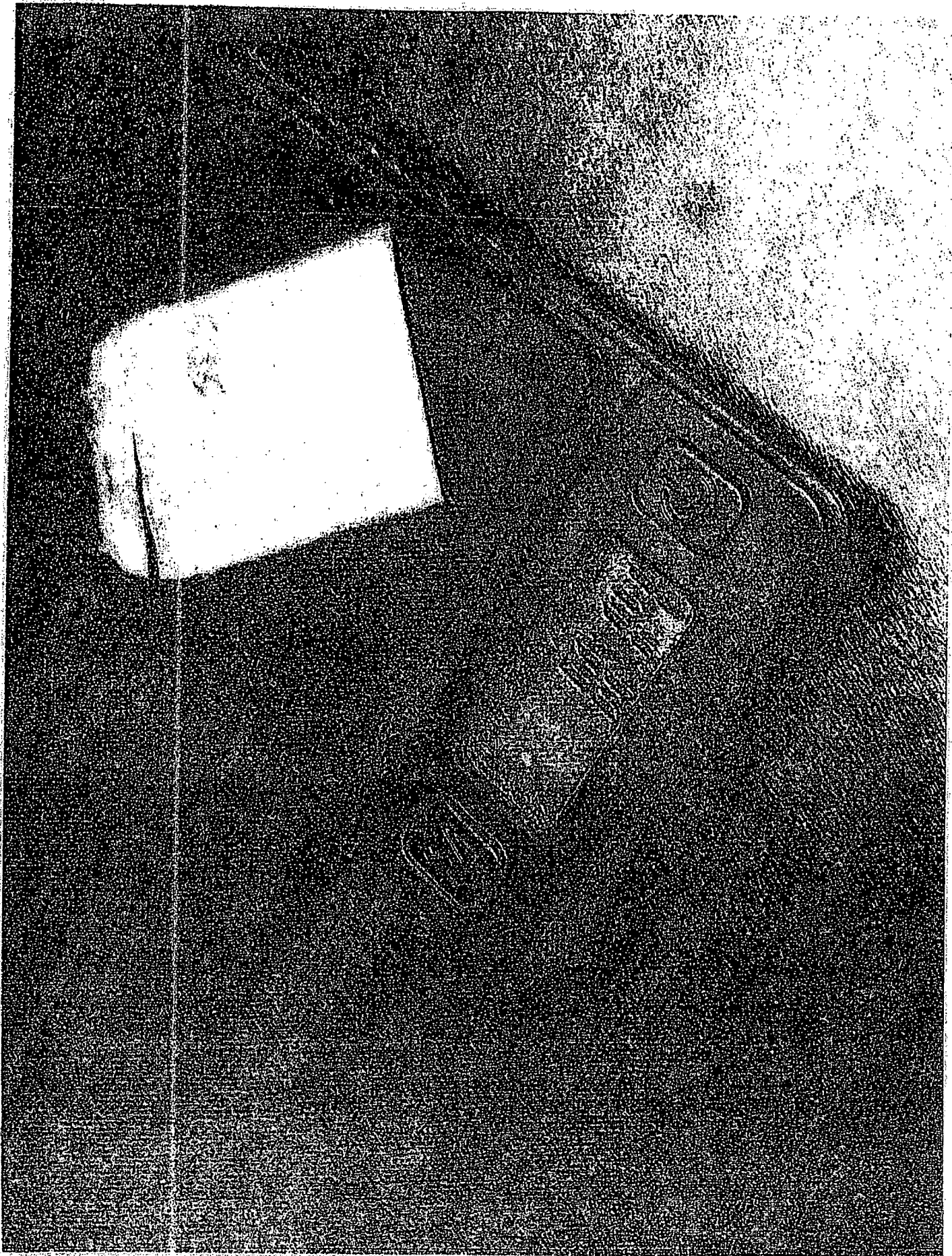
Officer: 86224 SWEAT, STEVEN

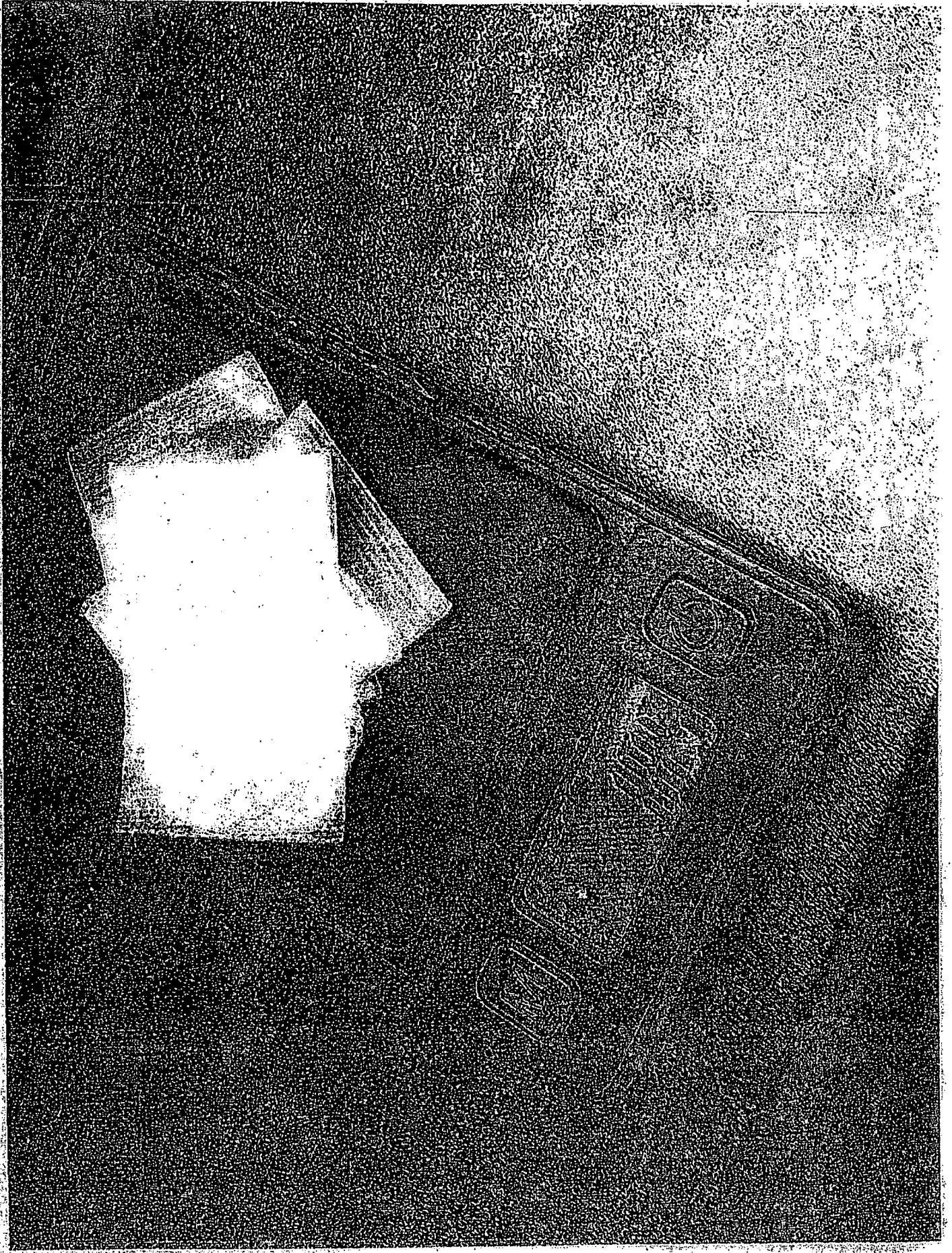
Date Entered/Changed: 01/23/2015

Reviewer:

Review Date:

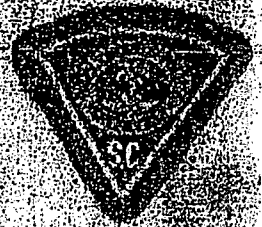
DETAILED STATEMENT OF INVESTIGATION: ON 01-22-14 THIS CASE WAS PRESENTED TO A LAURENS COUNTY MAGISTRATE. UPON REVIEW OF THE CASE, THE JUDGE ISSUED ARREST WARRANT 2015A3010100132 FOR TERRANCE EDWARD STEWART. THIS WARRANT WAS FORWARDED TO THE LCSO WARRANTS DIVISION FOR SERVICE AT THE JAIL. THIS CASE IS CLOSED BY ARREST.



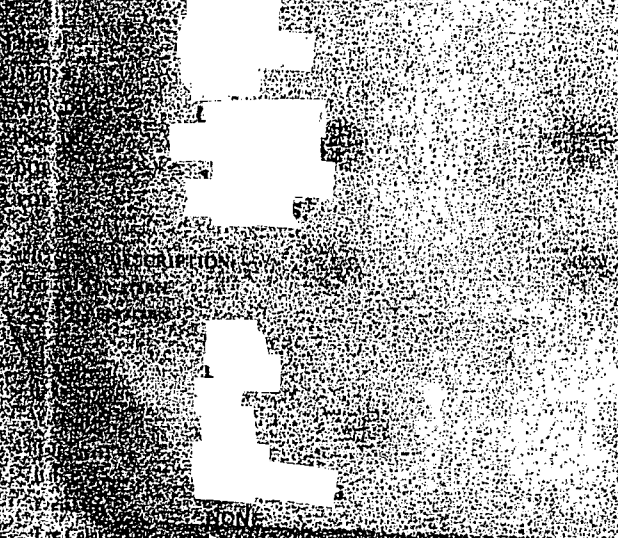




GREENVILLE POLICE DEPARTMENT MUGSHOT PROFILE



STEWART, TERRANCE EDWARD



Race: [REDACTED]
 Hair: [REDACTED]
 Eyes: [REDACTED]
 Complexion: [REDACTED]
 Skin Tone: [REDACTED]
 Teeth: [REDACTED]

Aliases:

Last	First	Middle	AKA
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Scars/Marks/Tattoos:

Date	Location	Description
[REDACTED]	[REDACTED]	[REDACTED]

TATTOO
 TATTOO D'VANG CHEDDAR

Charges:

Category	Description
[REDACTED]	[REDACTED]

ARREST WARRANT

2015A3010100132

STATE OF SOUTH CAROLINA

County/ Municipality of

Laurens

THE STATE
against

1500202

Terrance Edward Stewart

Address:

Phone: _____ SSN: _____

Sex: _____ Race: B Height: 6 1 Weight: 300

DL State: _____ DL#: _____

DOB: _____ Agency ORI #: SC0300000

Prosecuting Agency: Laurens County Sheriff's Office

Prosecuting Officer: M Veal - 2083

Offense: Drugs / Dist. other than listed in Schedules I through V. excluding I(b), (c), LSD and Schedule

Offense Code: 3128

Code/Ordinance Sec: 44-53-0440

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

on 01-22-15

[Signature]
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
100 Hillcrest Square
P.O. Box 287
Laurens, SC 29360

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/ Municipality of

Laurens

Personally appeared before me the affiant M Veal who

being duly sworn deposes and says that defendant Terrance Edward Stewart

did within this county and state on or about 1/22/2015

State of South Carolina (or ordinance of County/ Municipality of Laurens) violate the criminal laws of the

DESCRIPTION OF OFFENSE: Drugs / Dist. other than listed in Schedules I through V. excluding I(b), (c), LSD and Schedule II drugs

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 on January 22, 2015 in the County of Laurens, one Terrance Edward Stewart did distribute a quantity of Heroin to a confidential informant of the Laurens County Sheriff's Office.

Signature of Affiant

STATE OF SOUTH CAROLINA

County/ Municipality of

Laurens

Affiant's Address 216 West Main Street
Laurens, SC 29360-

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 1/22/2015 defendant Terrance Edward Stewart

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

County/ Municipality of Laurens) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Dist. other than listed in Schedules I through V. excluding I(b), (c), LSD and Schedule II drugs

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 1/22/2015

[Signature]
Signature of Issuing Judge

Thomas L. Copeland
Judge Code: 7023

Judge's Address P.O. Box 925
Laurens, SC 29360

Judge's Telephone (864)683-4485

Issuing Court Magistrate Municipal Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 016

AGENCY I.D. SC0300000 DATE/TIME OF ARREST 01/22/2015 0925 **BOOKING REPORT** LAURENS COUNTY SHERIFF'S OFFICE CASE NUMBER 1,500,0208

DEFENDANT NAME (LAST, FIRST, MIDDLE) STEWART, TERRANCE EDWARD PAGE 1 SEX M DATE OF BIRTH DOCKET NUMBER
 AGE ETH HEIGHT WEIGHT HAIR EYES SOCIAL SECURITY NUMBER VISIBLE SCARS AND MARKS NCIC I.D. NUMBER
 N
 ALIASES (NUMBER AND STREET) CITY STATE ZIP CODE RESID PHONE NUMBER
 35 SC J
 ALIAS NONE PLACE OF BIRTH DRIVERS LICENSE NUMBER STATE
 EMPLOYER OR OCCUPATION NEXT OF KIN ADDRESS (CITY AND STATE)
 UNEMPLOYED /MOTHER /GI
 BOOKING OFFICER'S NAME NUMBER ARRESTING OFFICER AGENCY NUMBER
 DET DEPUTY SHANESE ARDETAL CU C9191 DEPUTY HUBER R. TOMLINSON LAURENS COUNTY T3777
 ARRESTEE ARMED YES NO WEAPON TYPE: SEMI-AUTO FULL-AUTO ON VIEW ARREST SUMMONED CUSTODY
 JUVENILE DISPOSITION: 1. HANDLED; RELEASED 2. REFERRED TO OTHER AUTHORITY J-This Jurisdiction S-State O-Outside State U-Unknown

ADDITIONAL CASE NUMBERS MORE IN REMARKS

IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A B C

CHARGE ID	35A A	35A B	35A C
CHARGE	DRUGS / DIST. OTHER THAN MARIJUANA	DRUGS / TRAVELING IN HEROIN	DRUGS / MANUF. POSS. OF OTHER
STATUTE	44-53-0440 / 3128	44-53-0370 (E) (3) (B) / 0287	44-53-0370 (B) (2) / 0186
TICKWARR #	2015A3010100132	2015A3010100133	2015A3010100134
BOND AMOUNT			
BOND TYPE	DENIED	DENIED	DENIED/LYLES
RET. DATE			
DISPOSITION			
	DAYS	AMOUNT	DAYS
SENTENCE			
TIME SERVED			
GOOD TIME			
BALANCE			
PAID			
RECEIPT NUMBER			
RELEASE DATE	TIME	RELEASING OFFICER	NUMBER
			AGENCY RELEASED TO

SIGNATURE OF RECEIVING OFFICIAL X LIST REMARKS BELOW
 TRIAL DATE: / / REMARKS: extra lock key was placed in tote 313 on 1-25-15--agt hardy also placing 3 shirts and 3 pair of socks in tote 313 due to being extras

TOTAL RESTITUTIONS (IF ANY): TOTAL RESTITUTIONS COLLECTED:

QUANTITY	ITEM	QUANTITY	ITEM
1	BLUE SHIRT		
1	PAIR WHITE TENNIS SHOES		
1	PAIR BLUE JEAN PANTS		
1	GRAY JACKET		
1	PACK OF CIGARETTES		
3	T SHIRTS 01/25-TEAGUE		
3	UNDERWEAR 01/25-TEAGUE		
3	PAIR SOCKS 01/25-TEAGUE		

I HEREBY STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTES ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.
 X DEFENDANT'S SIGNATURE AT THE TIME OF ARREST OFFICER

I HEREBY STATE, ON THE DATE OF MY RELEASE, THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.
 X

AGENCY I.D. SC0300000 DATE/TIME OF ARREST 01/22/2015 0925 **BOOKING REPORT** CASE NUMBER 1,5,0,0,0,2,0,8
 LAURENS COUNTY SHERIFF'S OFFICE

DEFENDANT NAME (LAST, FIRST, MIDDLE) STEWART, TERRANCE EDWARD RACE B SEX M DATE OF BIRTH DOCKET NUMBER
 AGE ETH. HEIGHT WEIGHT HAIR EYES SOCIAL SECURITY NUMBER VISIBLE SCARS AND MARKS NCIC I.D. NUMBER
 ADDRESS (NUMBER AND STREET) CITY STATE ZIP CODE RESID. J PHONE NUMBER
 ALIAS NONE PLACE OF BIRTH DRIVERS LICENSE NUMBER STATE
 EMPLOYER OR OCCUPATION NEXT OF KIN /MOTHER ADDRESS (CITY AND STATE)

OFFICER NAME NUMBER ARRESTING OFFICER AGENCY NUMBER
 DET DEPUTY SHANESE ARDEIRAL CU C9191 DEPUTY HUBER R. TOMLINSON LAURENS COUNTY T3777
 ARRESTEE ARMED YES NO WEAPON TYPE: SEM-AUTO FULL-AUTO ON VIEW ARREST SUMMONED CUSTODY
 JUVENILE DISPOSITION: 1. HANDLED, RELEASED 2. REFERRED TO OTHER AUTHORITY J-This Jurisdiction B-State O-Outside State U-Unknown
 ADDITIONAL CASE NUMBERS MORE IN REMARKS

IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A B C						
CHARGE I.D.	35A	A	520	B	520	C
CHARGE	DRUGS / POSS. OF	DRUGS / POSS. OF	WEAPONS / POSS. WEAPON DURING	WEAPONS / POSS. WEAPON DURING	WEAPONS / POSSESSION OF FIREARM	WEAPONS / POSSESSION OF FIREARM
STATUTE	44-53-0370 (D) (4) / 0659	44-53-0370 (D) (4) / 0659	16-23-0490 / 0549	16-23-0490 / 0549	16-23-0500(A) / 3434	16-23-0500(A) / 3434
TICKWARR #	2015A3010100135	2015A3010100135	2015A3010100136	2015A3010100136	2015A3010100137	2015A3010100137
BOND AMOUNT						
BOND TYPE	DENIED	DENIED	DENIED	DENIED	DENIED	DENIED
RET. DATE						
DISPOSITION						
	DAYS	AMOUNT	DAYS	AMOUNT	DAYS	AMOUNT
SENTENCE						
TIME SERVED						
GOOD TIME						
BALANCE						
PAID						
RECEIPT NUMBER						
RELEASE DATE	TIME	RELEASING OFFICER	NUMBER	AGENCY RELEASED TO		

SIGNATURE OF RECEIVING OFFICIAL X LIST REMARKS BELOW
 TRIAL DATE: / / REMARKS: extra lock key was placed in tote 313 on 1-25-15--sgt hardy also placing 3 shirts and 3 pair of socks in tote 313 due to being extras

TOTAL RESTITUTIONS (IF ANY): TOTAL RESTITUTIONS COLLECTED:
 DEFENDANT'S PERSONAL PROPERTY RECEIPT TOTAL CASH AT TIME OF ARREST \$ 0.00

QUANTITY	ITEM	QUANTITY	ITEM
1	BLUE SHIRT		
1	PAIR WHITE TENNIS SHOES		
1	PAIR BLUE JEAN PANTS		
1	GRAY JACKET		
1	PACK CIGARETTES		
3	T SHIRTS 01/25-TEAGUE		
3	UNDERWEAR 01/25-TEAGUE		
3	PAIR SOCKS 01/25-TEAGUE		

I HEREBY STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTES ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.
 X DEFENDANT'S SIGNATURE AT THE TIME OF ARREST OFFICER

I HEREBY STATE, ON THE DATE OF MY RELEASE, THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.
 From: J - LA-0020256 ID: 0000106209 X

AGENCY I.D. **BC030000** DATE/TIME OF ARREST **01/22/2015 0925** **BOOKING REPORT** LAURENS COUNTY SHERIFF'S OFFICE CASE NUMBER **15,000,208**

DEPONDANT NAME (LAST, FIRST, MIDDLE) **STEWART, TERRANCE EDWARD** RACE **W** SEX **M** DATE OF BIRTH **11/11/1977** DOCKET NUMBER **15000208**

AGE **37** ETH **C** HEIGHT **5'11"** WEIGHT **220** HAIR **B** EYES **B** SOCIAL SECURITY NUMBER **091-11-1111** VISIBLE SCARS AND MARKS **None** NCIC I.D. NUMBER **None**

ADDRESS (NUMBER AND STREET) **313 C** CITY **LAURENS** STATE **GA** ZIP CODE **30556** RESID **None** PHONE NUMBER **None**

ALIAS **None** PLACE OF BIRTH **None** DRIVERS LICENSE NUMBER **None** STATE **None**

EMPLOYER OR OCCUPATION **UNEMPLOYED** NEXT OF KIN **MOTHER** ADDRESS (CITY AND STATE) **None**

BOOKING OFFICER'S NAME **DET. DEPUTY SHANESE ARDEIRAL CU** NUMBER **C9191** ARRESTING OFFICER **DEPUTY HUBER R. TOMLINSON** AGENCY **LAURENS COUNTY** NUMBER **23777**

ARRESTEE ARMED YES NO WEAPON TYPE: SEMI-AUTO FULL-AUTO ON VIEW ARREST SUMMONED CUSTODY

JUVENILE DISPOSITION: 1. HANDLED, RELEASED 2. REFERRED TO OTHER AUTHORITY J-This Jurisdiction S-State O-Outside State U-Unknown

ADDITIONAL CASE NUMBERS **None** MORE IN REMARKS

IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A B C

CHARGE I.D.	240 A	240 B	240 C			
CHARGE	REC / RECEIVING STOLEN GOODS	REC / RECEIVING STOLEN GOODS	REC / RECEIVING STOLEN GOODS			
STATUTE	16-13-0180(A) / 3740	16-13-0180(A) / 3740	16-13-0180(A) / 3740			
TICKET #	2015A3010100138	2015A3010100139	2015A3010100140			
BOND AMOUNT						
BOND TYPE	DENIED	DENIED	DENIED			
RET. DATE						
DISPOSITION						
	DAYS	AMOUNT	DAYS	AMOUNT	DAYS	AMOUNT
SENTENCE						
TIME SERVED						
GOOD TIME						
BALANCE						
PAID						
RECEIPT NUMBER						

RELEASE DATE **None** TIME **None** RELEASING OFFICER **None** NUMBER **None** AGENCY RELEASED TO **None**

SIGNATURE OF RECEIVING OFFICIAL X _____ LIST REMARKS BELOW

TRIAL DATE: / / REMARKS: extra lock key was placed in tote 313 on 1-25-15--sgt hardy also placing 3 shirts and 3 pair of socks in tote 313 due to being extras

TOTAL RESTITUTIONS (IF ANY): _____ TOTAL RESTITUTIONS COLLECTED: _____

DEFENDANT'S PERSONAL PROPERTY RECEIPT

QUANTITY	ITEM	QUANTITY	ITEM
1	BLUE SHIRT		
1	PAIR WHITE TENNIS SHOES		
1	PAIR BLUE JEAN PANTS		
1	GRAY JACKET		
1	PACK CIGARETTES		
3	T SHIRTS 01/25-TEAGUE		
3	UNDERWEAR 01/25-TEAGUE		
3	PAIR SOCKS 01/25-TEAGUE		

TOTAL CASH AT TIME OF ARREST **\$0.00**

I HEREBY STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTES ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

X _____ DEFENDANT'S SIGNATURE AT THE TIME OF ARREST _____ OFFICER

I HEREBY STATE, ON THE DATE OF MY RELEASE, THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

From: J-1A-0020258 ID: 0000106209 X

AGENCY I.D. SC0300000	DATE/TIME OF ARREST 01/22/2015 0925	BOOKING REPORT LAURENS COUNTY SHERIFF'S OFFICE	CASE NUMBER 1,500,0208
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DEFENDANT NAME (LAST, FIRST, MIDDLE) STEWART, TERRANCE EDWARD		RACE	SEX	DATE OF BIRTH	DOCKET NUMBER				
AGE	ETH	HEIGHT	WEIGHT	HAIR	EYES	SOCIAL SECURITY NUMBER	VISIBLE SCARS AND MARKS	NCIC	I.D. NUMBER
ADDRESS (NUMBER AND STREET)				CITY	STATE	ZIP CODE	RESID.	PHONE NUMBER	
PLACE OF BIRTH				DRIVERS LICENSE NUMBER		STATE			

EMPLOYER OR OCCUPATION UNEMPLOYED	NEXT OF KIN MOTHER	ADDRESS (CITY AND STATE)	
BOOKING OFFICER'S NAME DET DEPUTY SHANESE ARDEIRAL CU	NUMBER C9191	ARRESTING OFFICER DEPUTY HUBER R. TOMLINSON	AGENCY NUMBER LAURENS COUNTY 23777

ARRESTEE ARMED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	WEAPON TYPE: <input type="checkbox"/> SEMI-AUTO <input type="checkbox"/> PISTOL	<input type="checkbox"/> ON VIEW ARREST	<input type="checkbox"/> SUMMONED	<input checked="" type="checkbox"/> CUSTODY
JUVENILE DISPOSITION: 1. <input type="checkbox"/> HANDLED, RELEASED 2. <input type="checkbox"/> REFERRED TO OTHER AUTHORITY		J-This Jurisdiction S-State O-Outside State U-Unknown		

ADDITIONAL CASE NUMBERS	MORE IN REMARKS <input checked="" type="checkbox"/>
-------------------------	---

CHARGE	IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A B C					
	CHARGE I.D.	90% A	90% B	C		
CHARGE	CHILDREN / LEGAL CUSTODIAN	CHILDREN / LEGAL CUSTODIAN				
STATUTE	63-05-0070 / 2481	63-05-0070 / 2481				
TICKWARR #	2015A3010100141	2015A3010100142				
BOND AMOUNT						
BOND TYPE	DENIED	DENIED				
RET. DATE						
DISPOSITION						
	DAYS	AMOUNT	DAYS	AMOUNT	DAYS	AMOUNT
SENTENCE						
TIME SERVED						
GOOD TIME						
BALANCE						
PAID						
RECEIPT NUMBER						

RELEASE DATE	TIME	RELEASING OFFICER	NUMBER	AGENCY RELEASED TO
--------------	------	-------------------	--------	--------------------

SIGNATURE OF RECEIVING OFFICIAL X _____ LIST REMARKS BELOW

TRIAL DATE: / / REMARKS: extra lock key was placed in tote 313 on 1-25-15--sgt hardy also placing 3 shirts and 3 pair of socks in tote 313 due to being extras

TOTAL RESTITUTIONS (IF ANY):	TOTAL RESTITUTIONS COLLECTED:
------------------------------	-------------------------------

DEFENDANT'S PERSONAL PROPERTY RECEIPT	TOTAL CASH AT TIME OF ARREST	\$ 0.00
---------------------------------------	------------------------------	---------

QUANTITY	ITEM	QUANTITY	ITEM
3	BLUE SHIRTS		
1	PAIR WHITE TENNIS SHOES		
1	PAIR BLUE JEAN PANTS		
1	GRAY JACKET		
1	PACK CIGARETTES		
3	T SHIRTS 01/25-TEAGUE		
3	UNDERWEAR 01/25-TEAGUE		
3	PAIR SOCKS 01/25-TEAGUE		

I HEREBY STATE THAT THE PROPERTY LISTED ABOVE CONSTITUTES ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

X _____	DEFENDANT'S SIGNATURE AT THE TIME OF ARREST	OFFICER
---------	---	---------

I HEREBY STATE, ON THE DATE OF MY RELEASE, THAT THE ABOVE LISTED PROPERTY WAS RETURNED TO ME, IN SATISFACTION OF ALL CLAIMS TO PROPERTY ON MY PERSON AT THE TIME OF MY ARREST.

WITNESSES

Matthew Veal
Laurens County Sheriff

WARRANT NUMBER

2015D3000100078

True Bill

511 *Marlette Thompson*
Foreman of the Grand Jury

Date: *6-19-15*

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

June Term, 2015

Indictment # *15GS30-0957*

THE STATE

vs.

Terrance Edward Stewart

INDICTMENT FOR

Distribution of Heroin

§44-53-0370

CDR: 0185

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

INDICTMENT FOR

**Distribution of Heroin
§44-53-0370**

At a Court of General Sessions, convened on the 19th day of June, 2015, the Grand Jurors of Laurens County present upon their oath:

That Terrance Edward Stewart did, on or about January 22, 2015, in Laurens County, willfully, unlawfully, and knowingly distribute, dispense, or deliver, and/or did otherwise aid, abet, attempt, or conspire to distribute, dispense, or deliver a controlled substance analogue, or a controlled substance defined in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug, in violation of the provisions of Section 44-53-370 of the South Carolina Code of Laws, 1976, as amended.

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


Assistant Solicitor

WITNESSES

Matthew Veal
Laurens County Sheriff

WARRANT NUMBER

2015A3010100133

True Bill

Marjette Thompson

Foreman of the Grand Jury

Date: *6-19-15*

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

June Term, 2015

Indictment # 15GS30- 0958

THE STATE

vs.

Terrance Edward Stewart

INDICTMENT FOR

Trafficking in Heroin

§44-53-0370

CDR: 0287

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

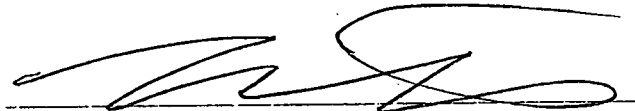
INDICTMENT FOR

**Trafficking in Heroin
§44-53-0370**

At a Court of General Sessions, convened on the 19th day of June, 2015, the Grand Jurors of Laurens County present upon their oath:

That Terrance Edward Stewart did, on or about January 22, 2015, in Laurens County, willfully, unlawfully, and knowingly traffic in morphine, opium, salt, isomer, or salt of an isomer thereof, including heroin as described in Section 44-53-190 or 44-53-210, or any mixture containing any of these substances, in that the said defendant(s) did distribute, manufacture, cultivate, deliver, purchase, or bring into this State, and/or did provide financial assistance or otherwise aid, abet, attempt, or conspire to distribute, manufacture, cultivate, deliver, purchase, or bring into this State, and/or was knowingly in actual or constructive possession of more than 14 grams of any morphine, opium, salt, isomer, or salt of an isomer thereof, including heroin as described in Section 44-53-190 or 44-53-210, or any mixture containing any of these substances, in violation of Section 44-53-370 of the South Carolina Code of Laws, 1976, as amended

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



Assistant Solicitor

WITNESSES

Matthew Veal
Laurens County Sheriff

WARRANT NUMBER

2015A3010100134

True Bill

Marlette Thompson

Foreman of the Grand Jury

Date: *6-19-15*

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

June Term, 2015

Indictment # 15GS30-0959

THE STATE

vs.

Terrance Edward Stewart

INDICTMENT FOR

Possession with Intent to Distribute Oxycodone

§44-53-0370

CDR: 0185

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS


INDICTMENT FOR

**Possession with Intent to Distribute Oxycodone
§44-53-0370**

At a Court of General Sessions, convened on the 19th day of June, 2015, the Grand Jurors of Laurens County present upon their oath:

That Terrance Edward Stewart did, on or about January 22, 2015, in Laurens County, willfully, unlawfully, and knowingly possess with the intent to distribute, dispense, or deliver, and/or did otherwise possess with the intent to distribute, dispense, or deliver Oxycodone, a controlled substance analogue, or a controlled substance defined in Schedule I (b) and (c) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug, in violation of the provisions of Section 44-53-370 of the South Carolina Code of Laws, 1976, as amended.

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



Assistant Solicitor

STATE OF SOUTH CAROLINA)
 COUNTY OF Laurens)
 STATE VS.)
Terrance Edward Stewart)
 AKA: _____)
 Race: _____ Sex: M Age: _____)
 DOB: _____ SS#: _____)
 Address: _____)
 City, State, Zip: _____)
 DL#: _____ SID#: _____)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 15GS30-0958
 A/W#: 2015A3010100133
 Date of Offense: 1/22/2015
 S.C. Code § : 44-53-0370
 CDR Code #: 0287

SENTENCE SHEET 25 yrs.
and \$200,000

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Drugs / Trafficking in Heroin, morph., etc., 14 g or more, but less than 28 g

in violation of § 44-53-0370 of the S.C. Code of Laws, bearing CDR Code # 0287
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

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: [Signature] 73081
 Scott, C. Dale 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 25 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ 100,000; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with 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: all charges (including Federal if possible)
 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. Since January 22, 2015
 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 (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: \$ _____
 Payment Terms: _____
 Set by SCDPPPS _____

Recipient: _____

*Fine:		\$ 100,000
§ 14-1-206 (Assessments 107.5 %)		\$ 107,500
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 6233.25

_____ 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 \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

A TRUE COPY OF ORIGINAL

[Signature]
 Lynn W. Lancaster
 Laurens County SCCP & GS

Appointed PD or appointed County Clerk
 Proviso 61.6 requires \$500 be paid to Clerk
 during probation and shall be collected before
 any other fees.

TOTAL \$ 214,008.25
 Clerk of Court/ Deputy Clerk [Signature]
 Court Reporter: Tara Scott
 SCCA/217 (07/2016)

Presiding Judge [Signature]
 Judge Code: 2159
 Sentence Date: 12/14/16

STATE OF SOUTH CAROLINA

COUNTY OF Laurens VS. STATE

Terrance Edward Stewart

AKA: _____

Race: _____ Sex: _____ Age: _____

DOB: _____ SS#: _____

Address: _____

City, State, Zip: _____

DL#: _____ SID#: _____

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Drugs / Poss. of narc. in Schedule I(b),(c), LSD & Schedule II - 3rd or sub. offe

in violation of § 44-53-0370 of the S.C. Code of Laws, bearing CDR Code # 0178
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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: [Signature] 73081
Scott, C. Dale 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 5 ^(five) 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 with 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: all charges (including Federal if possible)
 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. since January 22, 2015
 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment
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
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 8.25

TOTAL \$ 283.25

Clerk of Court/ Deputy Clerk Lynn W. Lancaster
Court Reporter: Tara Scott
SCCA/217 (07/2016)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 15GS30-0959
A/W#: 2015A3010100134
Date of Offense: 1/22/2015
S.C. Code § : 44-53-0370
CDR Code #: 0185

SENTENCE SHEET 0-5 yrs
0 - \$10K

CONVICTED OF or PLEADS TO: _____
in violation of _____ of the S.C. Code of Laws, bearing CDR Code # _____
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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: _____
_____ 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 _____ 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 with 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 _____ 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment
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
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 8.25

TOTAL \$ 283.25

Clerk of Court/ Deputy Clerk Lynn W. Lancaster
Court Reporter: Tara Scott
SCCA/217 (07/2016)

Presiding Judge [Signature]
Judge Code: 2159
Sentence Date: 12/14/16

paid to Public Defender Fund
A TRUE COPY OF ORIGINAL

Lynn W. Lancaster
Lynn W. Lancaster
Laurens County CCCP & GS

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Laurens)
STATE VS.)

INDICTMENT/CASE#: 15GS30-0957

Terrance Edward Stewart)

A/W#: 2015D3000100078

AKA:)

Date of Offense: 1/22/2015

Race: Sex: M Age:)

S.C. Code §: 44-53-0370

DOB: SS#:)

CDR Code #: 0185

Address: 3511 L)

City, State, Zip:)

DL#: SID#:)

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Distribution of Heroin 3rd

SENTENCE SHEET

10-30ys
0-550K

CONVICTED OF or PLEADS

in violation of § 44-53-0370 of the S.C. Code of Laws, bearing CDR Code # 0185
 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: Scott, C. Dale 73081 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 10 (ten) 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 with 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: all charges (including Federal if possible)
 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. Since January 22, 2015

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 (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
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
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§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25
§ 14-1-213 (Drug Court Surcharge)	\$150	\$ 150
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§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 8.25

TOTAL \$ 283.25

Clerk of Court/ Deputy Clerk Lynn W. Lancaster

Court Reporter: Tara Scott

SCCA/217 (07/2016)

PTUP _____ 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

pts. of \$ _____ beginning _____

\$ **A TRUE COPY OF ORIGINAL**

Other: _____

Appointed PD or appointed other counsel,

Proviso 61.6 requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge Lynn W. Lancaster

Judge Code: 2159

Sentence Date: 12/14/16

STATE OF SOUTH CAROLINA)
LYNN W. LANCASTER)
IN THE COURT OF GENERAL SESSIONS)
COUNTY OF LAURENS)

2015 JUL 22 A 11:17

State,)

Vs.)

Terrance Edward Stewart,)

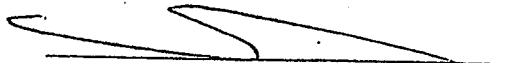
Defendant.)

LAURENS COUNTY)
CLERK OF COURT)
Indictment Numbers: 2015-GS-30-957
through 967)
MOTION TO SUPPRESS)

Claude H. Howe, III, of the Laurens County Public Defender's Office, Attorney for the defendant in these cases, hereby moves for an Order of this Court suppressing the evidence seized as a result of a search warrant issued by Glenda L. Tucker, Magistrate, dated January 21, 2015. This Motion is based upon the fact that there was no probable cause for the issuance of the search warrant, all in violation of the defendant's Fourth Amendment rights as set forth in the United States Constitution and Article One (1), Section ten (10) of the South Carolina Constitution, together with appropriate statutory and case law.

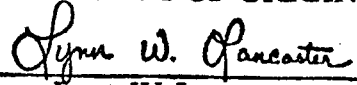
I SO MOVE.

Clinton, South Carolina
July 22, 2015



CLAUDE H. HOWE, III
Laurens County Public Defender

ATRUE COPY OF ORIGINAL



Lynn W. Lancaster
Laurens County CCCP & GS

contends that the search warrant violated the more stringent provisions of Section 17-13-140, of the South Carolina Code of Laws. (Section 17-13-140 is exhibit 3). Section 17-13-140 provides as follows:

A warrant issued hereunder shall be issued only upon affidavit sworn to before the magistrate, municipal judicial officer, or judge of a court of record establishing the grounds for the warrant. If the magistrate, municipal judge, or other judicial officer abovementioned is satisfied that the grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a warrant identifying the property and naming or describing the person or place to be searched. ~~In the case of a warrant issued by a magistrate or a judge of a court of record, it shall be directed to any peace officer having jurisdiction in the county where issued, including members of the South Carolina Law Enforcement Division, and shall be returnable to the issuing magistrate. In case of a warrant issued by a judge of a court of record, it shall be returnable to a magistrate having jurisdiction of the area where the property is located or the person to be searched is found. If any warrant is issued by any municipal judicial officer to municipal police officers, the return shall be made to the issuing municipal judicial officer.~~ Any warrant issued shall command the officer to whom it is directed to forthwith search the person or place named for the property specified.

The case and statutory law on search warrants is well developed. The magistrate has to make certain findings before the search warrant is issued. A magistrate may only issue a search warrant only upon a finding of probable cause. State v. Bellamy, 336 S.C. 140, 143, 519 S.E.2d 347, 348 (1999). "This determination requires the magistrate to make a practical, common-sense decision of whether, given the totality of the circumstances set forth in the affidavit, including the veracity and basis of knowledge of persons supplying the information, there is a fair probability that contraband or evidence of a crime will be found at a particular place." State v. King, 349 S.C. 142, 150, 561, S.E.2d 640, 644 (Ct.App.2002). "The affidavit must contain sufficient underlying facts and information upon which the magistrate may make a determination of probable cause. The magistrate should determine probable cause based on all of the information available to the magistrate at the time the warrant was issued." State v. Dupree. 354 S.C. 676, 684, 583 S.E.2d 437, 441 (Ct.App.2003) (citations omitted).

In terms of a court's review of the magistrate's decision, "[t]he duty of the reviewing court is to ensure the issuing magistrate had a substantial basis upon which to conclude that probable cause existed." State v. Baccus, 367 S.C. 41, 50, 625 S.E.2d 216, 221 (2006). "The Affidavit itself must be sworn under oath before the magistrate. The

Affidavit is a voluntary *ex parte* statement reduced to writing and sworn to affirmed before some person legally authorized to administer an oath or affirmation.” State v. McKnight, 291 S.C. 110, 352 S.E.2d 471 (1987). “Mere conclusory statements which give the magistrate no basis to make a judgment regarding probable cause are insufficient.” State v. Robinson, 335 S.C. 620, 518 S.E.2d 269 (Ct.App.1999), citing State v. Weston, 329 S.C. 287, 494, S.E.2d 801 (1997). “Furthermore, if an affidavit is based upon information furnished by a confidential informant, the reliability of the confidential informant must be established.” State v. Dupree, 354 S.C. 676, 583 S.E.2d 437. “If no oral testimony is taken, a magistrate’s probable cause determination is limited to the four (4) corners of the search warrant affidavit.” State v. Kinloch, Opinion No. 27473, (2014).

The particular language in the Affidavit in this case, which was apparently presented to Judge Tucker, is as follows:

A confidential informant working with the Laurens County Sheriff’s Office in an undercover capacity has given information to law enforcement pertaining to the illegal sale and storage of illegal narcotics at the above described premises. Officers have corroborated this information during recent narcotics operations and other search warrants at this location in the past. This information obtained within the last 72 hours of the issuance of this warrant.

Although the language in the Affidavit must be looked at in the totality of the circumstances, the defense would contend that each sentence should be analyzed in determining what facts the magistrate was presented with. Looking at the first sentence, it states that a confidential informant has given information to law enforcement. The Affidavit does not state with any specificity whatsoever what information was presented to law enforcement and then presented to the magistrate. It clearly is conclusory and provides only general, speculative information. The second sentence provides officers have corroborated this information during recent narcotics operations and other search warrants at this location in the past. Again, the Affidavit contains no specifics as to what and how corroboration was made. “Corroboration” is an important term. Black’s Law Dictionary defines “corroboration, as confirmation or support by additional evidence or authority”, (Blacks Law Dictionary, pg. 370). Furthermore, “corroborating evidence” is defined in Blacks Law Dictionary as, “evidence that differs from but strengthens or

confirms what other evidence shows," esp. that which needs support. (Blacks Law Dictionary, pg. 596). One may also draw an analogy to a corroborating witness in a South Carolina Family Court divorce hearing, where one is seeking a divorce on a year separation. The corroborating witness has to come to court and specifically testify under oath that the persons seeking to divorce has in fact been separated from his spouse for more than one year. In this case, the Affidavit does not say how anything was corroborated by law enforcement. In fact, from a reading of the Affidavit, one cannot even tell in the first sentence what the information the confidential informant has given to law enforcement and what in turn law enforcement have to the magistrate. The last part of the second sentence mentions "other search warrants at this location in the past". There are no specifics whatsoever concerning other search warrants, and when and how and under what circumstances the search warrants were obtained, if in fact other search warrants were obtained. The final sentence of the Affidavit provides that this information obtained within the last 72 hours of the issuance of this warrant. Again, there are no specifics as to what information was obtained. Therefore, clearly on its fact, the Affidavit should not survive the requirements of the Fourth Amendment, Article One, Section Ten, of the South Carolina Constitution, and the more stringent requirements of Section 17-13-140, of the South Carolina Code of Laws. [Furthermore, it has not been established that the informant in this case is reliable. In fact there is no mention of the reliability required by our case law. State v. Dupree, 354 S.C. 676, 583 S.E.2d 437 (Ct.App.2003). Finally, this court, as the reviewing court may only consider the information brought to the magistrate's attention. State v. Fletcher, 363 S.C. 221, 609 S.E.2d 572 (Ct.App.2005).]

SUPPLEMENTAL ORAL TESTIMONY

The defense expects the State to attempt to supplement the Affidavit submitted to the magistrate through oral testimony. Clearly the case law provides that the magistrate may consider sworn oral testimony to supplement a search warrant insufficient in itself to establish probable cause. State v. Bowie, 360 S.C. 210, 600 S.E.2d 112. However, in this particular case, the defendant contends that the State should not be allowed to offer sworn testimony to supplement the Affidavit. The defendant's position is supported by the following:


The defense attaches an Order issued by Judge Frank R. Addy, Jr., dated July 13, 2015. (Judge Addy's Order is exhibit 3) Judge Addy issued his Order reflecting that all discovery has been issued and that the State would be prohibited from offering additional evidence not already provided. The State will most likely claim that the defense has been provided with video evidence, which the State contends supports evidence that the defendant distributed heroin to the confidential informant. Clearly the defense has that evidence. However, the defense contends that in seeking Judge Addy's Order, the defense was attempting to make sure that no other evidence whatsoever would come in that the defense would not have an opportunity to investigate and prepare for. The defense still does not know in preparation for this hearing what the magistrate was told orally. This information could have clearly been provided to the defense through discovery. In fact, the defense contends that this information should have been provided to it through discovery, pursuant to Criminal Practice Rule 5, and Brady v. Maryland, 374 U.S. 83 (1963). A Rule 5, Brady Motion has been filed in this case. Criminal Practice rule 5 (a) (3), provides that the prosecution shall respond to the defense request for disclosure no later than thirty (30) days after the request is made, or within such other time as may be ordered by the court. Judge Addy's Order, expanded that requirement in this particular case, and his Order indicated the state had clearly provided all discovery. The defense contends that that discovery should have included any testimony which would be offered from law enforcement to orally supplement the search warrant Affidavit in this case. Had the defense been provided with any new information concerning this sworn oral testimony it would have had an opportunity to investigate it, talk with witnesses, and learn what those witnesses would be able to say. Judge Addy's Order is

very clear, and pursuant to Criminal Practice Rule 5, (d) (2), this Court has the authority to address any failures to comply with discovery. Since the defense has not received this information it is prejudiced, and the only remedy is to not allow any evidence and testimony of any oral testimony to support the search warrant Affidavit. Brady v. Maryland, further supports the defense contention because had to defendant know what the magistrate was presented with, it might very well lead to exculpatory and material evidence. State v. Frazier, 394 S.C. 213, 715, S.E.2d 650 (Ct.App.2011). Specifically, the defense may have been able to gather information on the alleged other search warrants. If no other search warrants were submitted, the defense would then have the opportunity to contend that the magistrate was furnished with false or misleading information in the Affidavit, which could not be cured by subsequent oral testimony. State v. Robinson, 408 S.C. 268, 758 S.E.2d 725 (Ct.App.2014), State v. Jones, 331 S.C. 228, 500 S.E.2d 499 (1998). Therefore, a motion to challenge the veracity of the search warrant, pursuant to Franks v. Delaware, 438 U.S. 154 (1978), may have or may still become necessary. Without receiving this basic information through normal discovery, the defense is handcuffed in knowing where to go.

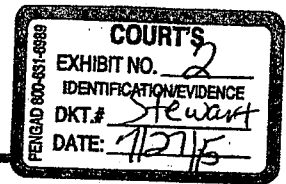
For all of these reasons, the defense contends that the evidence against Mr. Stewart should be suppressed.

LAUREN^s, South Carolina
July 22, 2015

Respectfully submitted,



CLAUDE H. HOWE, III



Hocker, Donald B.

From: Dale Scott <dscott@greenwoodsc.gov>
Sent: Monday, July 27, 2015 12:06 PM
To: Hocker, Donald B.; Hocker, Donald B. Law Clerk (John D. Jenkins); Walter Bentley; Chip Howe; Chelsea McNeill; Margaret Boykin
Subject: Suppression hearing

Judge,

in response to Defense Motion to Suppress, I would offer the following;

The State has provided defense with incident report, buy video and CI information from a January 21, 2015 controlled buy conducted at the home of Terrance Stewart. The incident report details how information that put Stewart on law enforcement's radar came to the Laurens County sheriff's office. This case file, coupled with the buy video contains substantially all of the information Dep. Sweat (search warrant affiant) would have provided the magistrate through sworn oral testimony. The State did reach an agreement that the defense had all discoverable material and it is reflected in an Order signed by Judge Addy on July 13, 2015. The State is unaware of any requirement that the Defense is entitled to a transcript of sworn oral testimony but again, all of the information that would have been presented to an issuing magistrate would have been contained through discovery. A defendant asserting a Brady violation must demonstrate that the evidence the State failed to disclose was:

- 1) favorable to the defendant
- 2) in possession of or known to the State
- 3) suppressed by the State
- 4) and material to the guilt or punishment
(State v. Frazier, 394 SC 213)

Furthermore, if a defense attorney wishes to obtain information on something unique (such as transcripts of sworn oral testimony) the best practice is to request that specific information.

The defense argues that the affidavit, on its face, lacks specificity and contains conclusory statements. A magistrate must determine probable cause based on all the information available to him at the time of issuance of the warrant (State v. Crane 296 SC 336). Affidavits are not meticulously drawn by lawyers, but are normally drafted by non-lawyers in the haste of a criminal investigation, and should therefore be viewed in a common sense and realistic fashion (State v. Sullivan 267 SC 610). The State will show at suppression hearing that the controlled buy was conducted on the afternoon of January 21, 2015 and the Search Warrant was granted around 7:00 PM that night. This warrant was then executed in the early morning of July 22, 2015. The State expects to show the Court why, in this case, there was a necessary "haste of criminal investigation." If the information listed in the affidavit is insufficient, our courts have held the magistrate may take sworn oral testimony to supplement the affidavit (State v. Bowie, 360 SC 210). In our case, the sworn oral testimony provided by Dep. Sweat is curative of any deficiency found in the affidavit. Aside from *Bowie* and *Crane*, the State would also rely on the following for the position that the Magistrate in this case rightfully relied on sworn oral testimony (State v. Johnson 302 SC 243; State v. Weston 329 SC 287; State v. Martin, 347 SC 522; State v. McKnight, 291 SC 110). This practice in obtaining search warrants is well established.

If an affidavit is based upon information furnished by a CI, the reliability of the CI must be established. The Court has adopted a totality of the circumstances test where veracity and basis of knowledge were relevant to, but not inflexible requirements of a determination of probable cause (State v. Weston, 329 SC 287). Under this "totality of circumstances" test, reviewing courts consider all circumstances, including status, basis of knowledge, and veracity of informant, when determining whether or not probable cause existed to issue a search warrant. A deficiency in one of the elements of veracity and reliability may be compensated for, in determining

the overall reliability of a tip, by a strong showing as to the other, or by some other indicia of reliability (Illinois v. Gates, 462 US 213). The State, through proffered testimony would show the Court that this case would have law enforcement corroboration of the CI's initial tip that would have been presented to the issuing magistrate. "Where the affidavit is based in part on information provided by an informant of unknown reliability, police corroboration of details provided in the tip may establish probable cause (see Gates). A controlled buy supervised by law enforcement officers would alone provide a magistrate with probable cause (Davis v. State, 256 Ga.App. 299). In our case, Dep. Sweat will testify he was present with the CI when the controlled buy was conducted.

The State would offer the above and proffered testimony from the Affiant to the Search warrant, for the proposal that the search warrant in this case should not be suppressed.

NOTE: This e-mail is a public record which may be subject to disclosure pursuant to the Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 *et seq.*, to a person or party requesting the same.

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
)
COUNTY OF LAURENS) Case No.: 2015-GS-30-0957 through -0967

STATE OF SOUTH CAROLINA,)
)
)
vs.)
)
TERRANCE EDWARD STEWART,)
)
)
Defendant.)
)

**ORDER DENYING DEFENDANT'S
MOTION TO SUPPRESS**

This matter came before the Court on July 28, 2015 pursuant to an Order issued on June 30, 2015 by the Honorable Frank R. Addy, Jr. granting the Defendant's Motion for a Speedy Trial. At the time the Motion was made, the Defendant had agreed to have a Bench Trial on the charges. Solicitor Dale Scott and Solicitor Margaret Boykin were present on behalf of the State. Mr. Chip Howe and Ms. Chelsea McNeill were present on behalf of the Defendant.

A. Defendant's Motion to Suppress Evidence Resulting from Search

Before the Trial, the Defendant moved to suppress the evidence seized as a result of the search of [redacted], South Carolina. Magistrate Tucker had issued a Search Warrant. The Defendant argued that the Affidavit and supplemental oral testimony presented to Judge Tucker were insufficient to establish probable cause necessary for issuance of the search warrant. The State conceded that the written Affidavit lacked sufficient specificity, but relied on the oral supplemental testimony given to the Magistrate by Officer Sweat. Officer Sweat testified, in camera, that he offered testimony to the Magistrate at the time of obtaining the Search Warrant as follows:

1. That a reliable confidential informant told the Fountain Inn police department that a black male had been selling heroin in the Fountain Inn area of the county.
 2. That this informant had himself purchased heroin from this person.
 3. That this informant had previously overdosed (not fatally) on heroin as had other individuals.
 4. That the informant gave a description of this person, which eventually matched the Defendant.
-
5. That the informant indicated that this person was known as "Cheddar," which is an alleged alias of the Defendant's.
 6. That the informant described the location of the person's home which matched up to the Defendant's home at [REDACTED]
 7. That Officer Sweat participated in a controlled buy between the informant and the Defendant which was recorded, audio and video.
 8. That the controlled buy ended up with a purchase of five bags of a substance later tested as heroin.
 9. That after viewing the video, Officer Sweat went to the Magistrate's home to obtain the Search Warrant.
 10. That Officer Sweat testified to the Magistrate the results of his investigation, the controlled buy, and that other search warrant(s) had been issued relating to [REDACTED] [REDACTED], but none relating to the Defendant.
 11. That Officer Sweat testified that he did not give the Magistrate any information that was not contained in his Incident report, the controlled buy video, and the information

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DBA

related to the confidential informant. (All of this had previously been provided to defense in discovery).

The Defense further objected on the grounds that the oral testimony, even though conceding that it can be proper to supplement a written Affidavit, should not be used by the State because it violates another Order issued by Judge Addy on July 13, 2015 reflecting that all discovery had been produced and the State would be precluded from offering any additional evidence not already provided. They argue a Brady violation has occurred by the State's attempt to offer the testimony of Officer Sweat with respect to the oral testimony he gave Magistrate Tucker.

Lastly, the Defense requested the Court to find the search warrant invalid based on: (1) The Return of the search was provided to and signed off by another Magistrate; and (2) Magistrate Tucker failed to produce a log of this Search Warrant as required by statute.

After careful consideration of the witness testimony as well as the arguments presented by the State and Defense Counsel:

A. The Motion to Suppress is respectfully denied.

1. The written Affidavit and the supplemental oral testimony established sufficient probable cause for the Search Warrant to have been issued. In addition, while this Court is not necessarily finding that the oral testimony given to the Magistrate would be discoverable, the fact remains that all of the information given to the Magistrate by Officer Sweat was provided in discovery.
2. The fact of another Magistrate accepting the search Return and the fact that the Magistrate was not able to produce a Log of the search were both ministerial acts, thus requiring a showing of prejudice by the Defendant and none were shown.

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DJA

B. Defense Counsel's Motion to be Relieved and Case to Proceed with Jury Trial


After the Court's ruling on the Suppression Motion, the Defendant indicated to the Court that he would like to relieve his appointed Counsel, Mr. Chip Howe and Ms. Chelsea McNeill, and proceed with a jury trial. Upon good cause shown, Chip Howe and Chelsea McNeill are hereby immediately relieved as Counsel for the Defendant in this case. In addition, pursuant to the Defendant's request, this case shall proceed with a jury trial. The Defendant has the right to be appointed a new attorney to represent him at the trial.

C. Speedy Trial Satisfied

On June 25, 2015, the Defendant moved for this Court for a personal recognizance bond while also seeking a speedy trial. Judge Addy issued an Order dated June 30, 2015 denying the Defendant's request for a personal recognizance bond, but granting his request for a speedy trial. Judge Addy ordered that "if this case was not reached by the conclusion of the December 7, 2015 term of Court, Mr. Stewart may again move for a PR bond so that he may begin serving his federal sentence."

Due to the State's action in bringing this case before the Court in compliance with Judge Addy's June 30th Order, the State has satisfied the Defendant's request for a speedy trial. Therefore, the Defendant shall remain in custody until such time as the State is able to call this case for a jury trial.

[Signature Page to Follow]





Donald B. Hocker
Circuit Court Judge

LAURENS, SC
July 31, 2015



DBH

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
 COUNTY OF LAURENS)

The State,)
)
 -vs-) Brief in Support of
)
 Terrance Edward Stewart,) Motion to Dismiss Charges
)
 Defendant.) 2015-GS-30-0958, 0959, 0961

Under South Carolina Code § 44-53-410 a prosecution in State Court is barred if the same act is tried in Federal Court resulting in either a conviction or acquittal.¹ In this case there is no dispute that the exact same act upon which the trafficking heroin and the sale of heroin are the same acts tried in federal court when the sentence of Terrance Edward Stewart was doubled because of these acts. The transcript of the sentencing hearing shows that prior to the federal judge enhancing his sentence because of these act, Mr. Stewart was looking at 72 months in prison. After finding Mr. Stewart had in fac committed the acts in question his sentence was raised to 144 months.

As the federal sentencing hearing involved the same charges involved in this prosecution, the only question before the court is whether the findings by federal district court judge Herlong is a conviction within the meaning of the state. The statute does not contain a definition of the word “conviction.” This Court, therefore, must given the word the meaning that has generally

¹ “ If a violation of this article is a violation of a Federal law or the law of another state, the conviction or acquittal under Federal law or the law of another state for the same act is a bar to prosecution in this State.” S.C. Code Ann. §44-53-410

application. The legislature did not. This court, therefore, must give the word the meaning as has traditionally been used in our state and that includes any finding of guilt in a criminal proceeding.

The federal government was well aware of the statute. As the Fourth Circuit noted in 1984, "The government admits that Count Four was dismissed so that pending state charges on the same crime would not be precluded. Code of Laws of South Carolina § 44-53-410 bars state prosecution for the same offense once jeopardy has attached in the federal action." *United States v. Manbeck*, 744 F.2d 360, 371 (4th Cir. 1984). The federal government was not required to use the present charge to enhance the punishment of Mr. Stewart. They elected to use it and as such have now precluded the prosecution of the charges in State court.

As Mr. Stewart has in fact been found guilty of the same act in a criminal proceeding in federal court, the State is now precluded from further prosecuting Mr. Stewart. The plain meaning of S. C. Code § 44-53-410 prevents this prosecution.

March 28, 2016

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Attorney for
Terrance Edward Stewart

STATE OF SOUTH CAROLINA)	
COUNTY OF LAURENS)	IN THE COURT OF GENERAL SESSIONS
)	INDICTMENT # 2015-GS-30-0957, 0958,
THE STATE)	0959
)	
vs)	
)	STATE'S RESPONSE TO DEFENDANT'S
TERRANCE EDWARD STEWART)	MOTION TO DISMISS
)	
)	
)	
)	

PROCEDURAL HISTORY

The Defendant, Terrance Edward Stewart, pled guilty to a federal charge of Conspiracy to Distribute 100 Grams or More of Heroin on November 18, 2014. On January 22, 2015, while out on bond and awaiting sentencing, Stewart was arrested in Laurens County on numerous charges, including Distributing Heroin and Trafficking Heroin. On March 25, 2015, Stewart was sentenced on his federal guilty plea by the Honorable Henry M. Herlong, Jr. During the sentencing hearing, Judge Herlong heard testimony from Sergeant Matthew Veal of the Laurens County Sheriff's Office regarding Stewart's latest criminal charges. This new State case, based on the January 22nd arrest, was a completely isolated incident from Stewart's federal charges and he was not charged for this incident on the federal level. Judge Herlong took these new charges into consideration on Stewart's federal sentence on two separate grounds.

The first consideration involved "Acceptance of Responsibility", which is a tool under the Federal sentencing guidelines that can reduce a defendant's offense level up to three levels. U.S.S.G. § 3E1.1. In considering whether a defendant has accepted responsibility for his actions, a Judge can consider numerous factors including whether the defendant has voluntarily

withdrawn from criminal conduct. U.S.S.G. § 3E1.1, comment. (n.1). Continued criminal conduct after an arrest is indicative of an unwillingness to turn away from the criminal lifestyle and refusal to accept responsibility of ones actions. *United States v. Scroggins*, 880 F.2d 1204 (1989). Judge Herlong found that since Stewart had been selling drugs subsequent to his Federal guilty plea he had lost his acceptance of responsibility, and thus decided not to reduce his offense level. Tr. 59:15.

The second consideration involved an upward variance from the sentencing guideline range under 18 U.S.C. Sec. 3553(a). Under that section, a Judge can consider numerous factors in imposing an appropriate sentence. Those factors include: nature of the offense, history and characteristics of the defendant, need to promote respect for the law, provide just punishment for the offense, adequate deterrence to criminal conduct, and protection of the public from further crimes of the defendant. 18 U.S.C. Sec. 3553(a). If the Judge finds that the guideline sentence is not appropriate for the specific defendant he may vary upwards or downwards based on those factors. Judge Herlong decided that the range of 97 to 121 months was not appropriate for Stewart considering his recent relevant criminal conduct in Laurens County, therefore he varied upward in the sentence. Tr. 67:10. Stewart received 144 months incarceration with 4 years of supervised release to follow.

On January 22, 2016, the Defendant filed a motion to dismiss his Laurens County charges. The defendant argues that his Laurens County charges were "prosecuted" during the Federal sentencing hearing and that Judge Herlong "convicted" him of those charges during that hearing. For the reasons set forth below, the State requests that this Court deny the motion to dismiss.

ARGUMENT

Judge Herlong's consideration of the pending Laurens County charges in denying acceptance of responsibility credits and imposing an upward variance in Terrance Stewart's federal sentence did not result in a prosecution or conviction.

The Defendant bases his motion to dismiss on the assertion that he was prosecuted and convicted of his Laurens County charges during his Federal sentencing hearing and therefore the State is barred from prosecuting Stewart in State court. Although not specifically stated in the motion to dismiss, the State assumes that the issue being raised centers around the Double Jeopardy Clause of the Fifth Amendment. Specifically, whether consideration of pending State charges in a Federal sentencing hearing followed by subsequent State prosecution of those charges would constitute a violation of the Double Jeopardy Clause.

The Double Jeopardy Clause of the Fifth Amendment provides: "Nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb." The Courts have interpreted the clause to protect against successive prosecution and against multiple punishments for the same offense. *North Carolina v. Pearce*, 395 U.S. 711 (1969); *Witte v. United States*, 515 U.S. 389, 115 S.Ct. 2199 (1995). Historically, courts have found double jeopardy protections were inapplicable to sentencing proceedings because the determinations at issue did not place a defendant in jeopardy for an offense. *Nichols v. United States*, 511 U. S. 738, 747 (1994); *Bullington v Missouri*, 461 U.S. 430 (1981). In 1995, the United States Supreme Court in *Witte v. United States* specifically addressed the issue of the double jeopardy clause and how it is affected when a Judge considers other criminal conduct at a sentencing hearing for a separate offense.

The Court in *Witte* stated that double jeopardy principles do not bar later prosecution or punishment for criminal activity that was considered at the sentencing phase for a separate crime. *Id.* at 2206. The court supported this notion by explaining that “a defendant in that situation is punished, for double jeopardy purposes, only for the offense of which the defendant is convicted.” *Id.* at 2205. The court ruled, in accordance with the ruling in *Williams v Oklahoma*, 358 U.S. 576 (1959), that use of relevant conduct in sentencing to increase the punishment for a charged offense does not punish the offender for the relevant conduct.

The Maryland Court of Appeals case of *Kahn v. State*, 694 A.2d 485, 115 Md.App. 636 (1996) had a nearly identical procedural history to those in Terrance Stewart’s case. The Defendants in *Kahn* were indicted in Federal court for fraud related charges and found guilty at trial. They were then indicted in State court for similar types of crimes. At the sentencing hearing for the federal convictions, a State employee testified regarding the pending State indictments and the Judge used that in his consideration for an upward variance in the Defendant’s sentences. The Defendants filed a motion to dismiss the State charges, claiming that they would be placed in double jeopardy because the State charges had been used in the consideration of the higher sentence. They were alleging, as Stewart is now, that they had already been punished for the State charges. The Court phrased the issue at hand as “Does the Double Jeopardy clause of the Fifth Amendment or the Due Process Clause of the Fourteenth Amendment bar the State’s prosecution of an indictment after the State presented evidence in a federal criminal proceeding as to the existence of the indictment?” *Id.* at 639. The Court ruled the State was not barred from prosecution of those indictments.

The Court explained that the Defendants’ argument was two-fold: the Defendants were being subjected to multiple punishments and the State’s involvement in the sentencing hearing

amounted to a prosecution. The Court rejected both of these arguments. As to the multiple punishments argument, the court stated that use of other relevant criminal conduct at sentencing did not violate the double jeopardy clause. The court quoted *Smith v State* 308 Md. 162 (1986), "We believe that when a sentencing judge takes into account various aspects of the defendant's background, including other offenses committed, in order to assess the defendant's need for rehabilitation, the sentence thereby imposed does not constitute punishment for these aspects of the defendant's background." As to the subsequent prosecution argument, the court explained "the lack of procedural protections precludes a sentencing hearing from being a prosecution of criminal conduct. *Kahn* at 648. Furthermore, the court stated that the State made no prosecutorial decisions, the only prosecution that occurred was that by the United States.

The Court then concluded by stating concerns it would have if this were to be considered a violation of the Double Jeopardy Clause. "Were we to endorse appellants' argument, we would hold unconstitutional as double jeopardy all testimony by any State government witness, in a proceeding by a separate sovereign, as to the proven or alleged criminal activity of a person accused or convicted under the separate sovereign's criminal law. The Double Jeopardy Clause would become a sword for appellants, not a shield." *Khan* at 649.

Here, Judge Herlong's consideration of Terrance Stewarts pending Laurens County charges did not violate the Double Jeopardy Clause. As explained above, Judge Herlong could consider the Defendant's pending Laurens County charges simply for understanding the background and personality of the defendant. The fact that the Defendant lost his acceptance of responsibility and received an upward variance has absolutely no bearing on his State charges. The Judge rightfully considered his ongoing criminal activity as an important factor in handing down the appropriate sentence for the Defendant's federal conviction.

The State's position is further supported by the language in the federal sentencing transcript. The attorney for Terrance Stewart, Mr. Crane, stated "I would reiterate, Judge, he hasn't been convicted. He has been arrested. He may or may not ever get convicted." Tr. 58:13. Judge Herlong stated that the charges were still pending by saying, "The question is not whether he's been convicted, the question is whether he's been dealing drugs subsequent to his plea." Tr. 59:5. After hearing the testimony and ruling that his acceptance of responsibility had been taken away, Judge Herlong reiterated that the Laurens County charges were still pending. "And then you got – you pled guilty and you went back to Laurens County and started selling drugs again. You don't have to answer that because that's still pending." Tr 64:10. It was clear, by all parties, that the Defendant's Laurens County charges were not being prosecuted at that time.

The Defendant cites South Carolina Code § 44-53-410 as the applicable law for dismissal of his charges. That code section essentially States that a conviction of a criminal act in Federal court bars prosecution of that same act in State court. The State's position is that South Carolina Code Section § 44-53-410 is not applicable to this particular case because Terrance Stewart was neither prosecuted in the Federal sentencing hearing nor convicted of his crimes during the hearing. Therefore, based upon the legal principle of double jeopardy and the governing case law, the State is not barred from prosecuting Terrance Stewart in State Court on his Laurens County charges. Accordingly, the charges should not be dismissed.

CONCLUSION

For the foregoing reasons, the Defendant's motion to dismiss charges should be denied.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LAURENS)

IN THE COURT OF GENERAL SESSIONS.

STATE OF SOUTH CAROLINA)
)
vs.)
)
TERRANCE EDWARD STEWART)
)
Defendant)

ORDER
2015-GS-30-958, 959, 961

The Defendant filed a Motion to Dismiss Charges. A hearing was held on March 28, 2016. Margaret Boykin and Dale Scott appeared on behalf of the State and Rauch Wise appeared on behalf of the Defendant who was also present.

The Defendant is charged in State Court with certain drug offenses as outlined in the above Indictments (incorporated herein by reference).

The Defendant pled guilty in Federal Court to certain drug offense(s) unrelated to the above state drug offenses. Sentencing was deferred. Prior to sentencing in Federal Court, the Defendant was arrested on the state drug offenses. At the federal sentencing hearing on March 25, 2015, the Defendant claims that the Judge took into consideration these pending state drug offenses in enhancing the sentence he received on the federal drug offense(s). Accordingly, the Defendant argues that Section 44-53-410, South Carolina Code of Laws bars prosecution of the state drug offenses based upon a double jeopardy argument. The Transcript of the federal sentencing hearing was marked as an exhibit at this hearing and also is incorporated herein by reference.

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-1-

The Court denies the Defendant's Motion. Based upon Witte vs. U.S., 511 U.S. 738 (1994) and Kahn vs. State, 694 A.2d 485 (1996), double jeopardy would not attach at the time of sentencing in the federal case and therefore not bar a later prosecution on unrelated charges in state court that were considered in determining the sentence in federal court. Consequently, Section 44-53-410 would not bar prosecution of these state court charges.

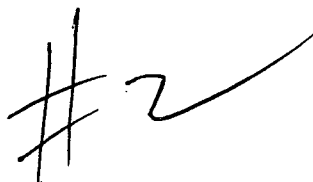
SO ORDERED.



DONALD B. HOCKER
CIRCUIT COURT JUDGE

Laurens, S.C.
Date: 3-28-16

-2-



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Laurens County
Court of General Sessions

Donald B. Hocker Circuit Court Judge

Case No. 2015-GS-30-0957, 0958, 0959

The State, Respondent

-vs-

Terrance Edward Stewart, Appellant.

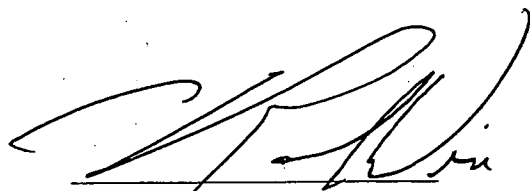
Notice of Intent to Appeal

Terrance Edward Stewart appeals the denial of his Motion to Dismiss the Indictments on the ground that the State does not have the authority to try him as the prosecution is a violation of the statutory double jeopardy provisions of South Carolina Code § 44-53-410. This appeal is taken from the written order of the Honorable Donald B. Hocker dated March 28, 2016 and entered on the record on that date.

March 28, 2016

Other Counsel of Record:

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Attorney for
Terrance Edward Stewart

The South Carolina Court of Appeals

The State, Respondent,

v.

Terrance Stewart, Appellant.

Appellate Case No. 2016-000729

ORDER

Terrance Stewart appeals the circuit court's denial of his motion to dismiss, arguing the prosecution against him violates double jeopardy. The State moved to dismiss Stewart's appeal, arguing the circuit court's order denying Stewart's motion to dismiss is not immediately appealable. We grant the motion. *See State v. Miller*, 289 S.C. 426, 426-27, 346 S.E.2d 705, 705-06 (1986) ("[A] criminal defendant may not appeal until sentence has been imposed."); *State v. Isaac*, 405 S.C. 177, 183, 747 S.E.2d 680, 681 (2013) (recognizing "the denial of a motion to dismiss a criminal case on the ground of double jeopardy . . . is not immediately appealable"). The remittitur will be sent as provided in Rule 221, SCACR.



FOR THE COURT

Columbia, South Carolina

FILED

cc:

Clarence Rauch Wise, Esquire
Alan McCrory Wilson, Esquire
Margaret Graham Boykin, Esquire
John Benjamin Aplin, Esquire

June 14, 2016

The South Carolina Court of Appeals

The State, Respondent,

v.

Terrance Stewart, Appellant.

Appellate Case No. 2016-000729

ORDER

We dismissed this appeal on June 14, 2016, holding the circuit court's order denying Appellant's motion to dismiss on the ground of double jeopardy was not immediately appealable. Appellant has now filed a motion to reinstate this appeal and hold it in abeyance pending the South Carolina Supreme Court's resolution of *State v. Rearick*, Case No. 2014-001692. Because *Rearick* concerns the same question of appealability, this appeal shall be held in abeyance pending our Supreme Court's decision in *Rearick*. This court will consider the motion to reinstate after the Supreme Court's decision in *Rearick* is filed. Appellant shall provide this Court with status updates every sixty days.

 C.J.
FOR THE COURT

Columbia, South Carolina

FILED

August 11, 2016

cc:

Clarence Rauch Wise, Esquire
Alan McCrory Wilson, Esquire
Margaret Graham Boykin, Esquire
John Benjamin Aplin, Esquire

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LAURENS COUNTY
Court of General Sessions

Frank R. Addy, Jr., Circuit Judge

Case No. 2015-GS-30-057, 058, 059

The State, Respondent,

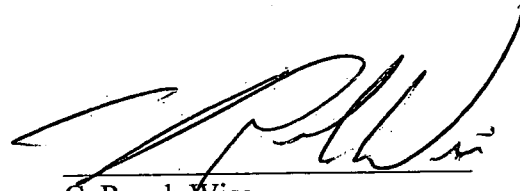
vs.

Terrance Edward Stewart Appellant.

NOTICE OF INTENT TO APPEAL

Terrance Edward Stewart appeals the ruling of the Honorable Frank R. Addy, Jr. dated
December 14, 2016.

Deanna 15th, 2016



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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LAURENS COUNTY
Court of General Sessions
Honorable Donald Hocker, Circuit Judge
Hon. Frank R Addy, Jr., Circuit Judge

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SC Court of Appeals

Appellate Case № 2016-002524

The State of South Carolina, Respondent,

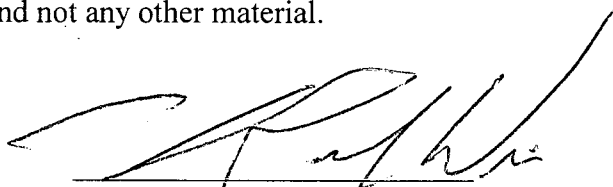
vs.

Terrance Edward Stewart, Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

November 28, 2017



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