

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY

Thomas L. Hughston, Jr., Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

DAVID ANCRUM,

APPELLANT

---

RECORD ON APPEAL

---

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**SC Court of Appeals**

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STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
COURT OF GENERAL SESSIONS

STATE )  
 )  
 ) V. ) TRANSCRIPT OF RECORD  
 ) 06-GS-10-4179 - 4184  
 )  
DAVID ANCRUM )  
 )  
 )  
DEFENDANT. )

OCTOBER 8, 2007  
CHARLESTON, SOUTH CAROLINA

B E F O R E:  
THE HONORABLE GEORGE C. JAMES, JR., JUDGE.

A P P E A R A N C E S:  
NATHAN S. WILLIAMS, ASSIST. SOLICITOR  
GREGORY K. VOIGT, ASSIST. SOLICITOR  
ATTORNEYS FOR THE STATE  
  
ANDREW D. GRIMES, ESQUIRE  
ATTORNEY FOR THE DEFENDANT

STACY L. SHEPPARD  
CIRCUIT COURT REPORTER

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I N D E X

WITNESSES                      DIRECT   CROSS   REDIRECT   RECROSS

(There were no witnesses.)

E X H I B I T S

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
Court's 1	Plea Agreement	21	
Court's 2	Advisement of Rights	21	

1                   (The following proceedings were held on  
2                   October 8, 2007.)

3                   **THE COURT:** All right. Mr. Williams.

4                   **MR. WILLIAMS:** Thank you, Your Honor. The  
5                   State calls State v. David Ancrum.

6                   Your Honor, this case is a little bit unusual  
7                   in the sense that we're in the middle of a trial on  
8                   a codefendant. Mr. Ancrum has already sat up and  
9                   testified in that trial as far as the preliminary  
10                  motions and I think probably made enough of a  
11                  factual basis for the purposes of the plea.

12                  However, I submitted a sentencing plea  
13                  agreement that states his agreement in this case and  
14                  that part of the plea is his truthful testimony at  
15                  this trial and we don't normally do that, but this  
16                  is an unusual situation. There is a recommendation  
17                  in the case, Your Honor, based upon that. It's an  
18                  open ended 10 to 20-year recommendation. The  
19                  sentence is a 7 to 25, mandatory minimum of 7 up to  
20                  25.

21                  And I've also included a request from the Court  
22                  that we hold sentencing in abeyance for at least six  
23                  months. The defendant is currently speaking with  
24                  other officers or at least they've told me that  
25                  they're interested in things he may have to offer

1 and I don't know the context of that, but it was  
2 requested. And I would ask that the Court allow  
3 another court, another judge to sentence him in six  
4 months based on what I believe he thinks will be the  
5 cooperation in this case, as well as possibly  
6 others.

7 **THE COURT:** All right. Is that your  
8 understanding of the recommendation, Mr. Grimes?

9 **MR. GRIMES:** Yes, sir.

10 **THE COURT:** Do you concur in the request that  
11 sentencing be deferred?

12 **MR. GRIMES:** Yes, sir.

13 **THE COURT:** Do you have any objection to  
14 another judge sentencing your client?

15 **MR. GRIMES:** No, sir.

16 **THE COURT:** All right. I've got -- how many  
17 sentencing sheets do I have?

18 **MR. WILLIAMS:** I believe there are six, Your  
19 Honor -- maybe five.

20 **THE COURT:** All right. Mr. Grimes, of course,  
21 you represent Mr. David Ancrum?

22 **MR. GRIMES:** Yes, sir.

23 **THE COURT:** Have you explained to him the  
24 charges set forth in all of these indictments?

25 **MR. GRIMES:** Yes, sir. I think I handed to

1       your clerk a little summary of some advisement of  
2       rights that Mr. Ancrum signed.

3               **THE COURT:** All right.

4               **MR. GRIMES:** I think the clerk here has the  
5       written plea agreements.

6               **MR. WILLIAMS:** Your Honor, I believe the Clerk  
7       of Court has the plea agreement, as well as the -- I  
8       thought the Court had those.

9               **THE COURT:** Now I've got the plea agreement.  
10              Do you have any concerns about Mr. Ancrum's  
11       ability to understand these charges and the  
12       punishment that he faces?

13              **MR. GRIMES:** No, sir.

14              **THE COURT:** Do you have any concerns about his  
15       competency?

16              **MR. GRIMES:** No, sir.

17              **THE COURT:** Based on your knowledge of the  
18       facts and circumstances in this case, do you think  
19       it's likely that a jury would find Mr. Ancrum guilty  
20       beyond a reasonable doubt?

21              **MR. GRIMES:** Yes, sir.

22              **THE COURT:** All right. And you don't have any  
23       concerns about his competency?

24              **MR. GRIMES:** No, sir.

25              **THE COURT:** Could you swear Mr. Ancrum, please?

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DAVID ANCRUM,

having been duly sworn, testified as follows:

**THE COURT:** All right. Your name is David Ancrum?

**DEFENDANT:** Yes, sir.

**THE COURT:** I'm going to ask you some questions. I want to make sure that the pleas that you're intending to enter in this case are being entered freely, voluntarily, knowingly and intelligently. Do you understand that?

**DEFENDANT:** Yes, sir.

**THE COURT:** If I ask you a question you do not understand or if I say anything that you do not understand, all you have to do is let me know, okay?

**DEFENDANT:** Yes, sir.

**THE COURT:** If you want to speak to your lawyer at any time, you can do that. Do you understand that?

**DEFENDANT:** Yes, sir.

**THE COURT:** All you have to do is let me know. Do you understand that?

**DEFENDANT:** Yes, sir.

**THE COURT:** If the State through either one of the Solicitors says anything that you do not understand, all you have to do is let me know and

1 they will clarify that. Do you understand that?

2 DEFENDANT: Yes, sir.

3 THE COURT: All right. According to the  
4 information I have, you were born April 12, 1978?

5 DEFENDANT: Yes, that's correct.

6 THE COURT: Are you a lifelong resident of  
7 Charleston County?

8 DEFENDANT: Yes, sir, I am.

9 THE COURT: How far did you go in school?

10 DEFENDANT: Twelfth grade.

11 THE COURT: Did you get a high school diploma?

12 DEFENDANT: No, sir.

13 THE COURT: Have you ever gotten a GED?

14 DEFENDANT: No, sir.

15 THE COURT: What kind of work do you do?

16 DEFENDANT: Carpenter.

17 THE COURT: All right. How long have you been  
18 doing that?

19 DEFENDANT: About five years.

20 THE COURT: Five years?

21 DEFENDANT: Yes, sir.

22 THE COURT: All right. Have you ever been  
23 treated for alcohol abuse, drug abuse or mental  
24 illness?

25 DEFENDANT: No, sir.

1           **THE COURT:** Do you have any of those types of  
2           problems?  
3           **DEFENDANT:** Yes, sir.  
4           **THE COURT:** You do?  
5           **DEFENDANT:** Yes, sir.  
6           **THE COURT:** Which one?  
7           **DEFENDANT:** Both alcohol and drugs.  
8           **THE COURT:** Tell me about your alcohol and drug  
9           abuse.  
10          **DEFENDANT:** I drink occasionally on a regular.  
11          **THE COURT:** You drink what?  
12          **DEFENDANT:** I drink on a regular.  
13          **THE COURT:** Do you abuse drugs?  
14          **DEFENDANT:** Yes, sir.  
15          **THE COURT:** What drug?  
16          **DEFENDANT:** Marijuana.  
17          **THE COURT:** All right. Have you had any  
18          alcohol to drink in the last 24 hours?  
19          **DEFENDANT:** Yes, sir.  
20          **THE COURT:** Tell me about that.  
21          **DEFENDANT:** I drunk like a 12-pack or better.  
22          **THE COURT:** A 12-pack of what.  
23          **DEFENDANT:** Heineken, Ice House.  
24          **THE COURT:** When?  
25          **DEFENDANT:** Yesterday.

1           **THE COURT:** What time?

2           **DEFENDANT:** (No response.)

3           **THE COURT:** What time did you start and what  
4 time did you finish?

5           **DEFENDANT:** I want to say about seven or  
6 eight o'clock.

7           **THE COURT:** What about seven or eight o'clock?

8           **DEFENDANT:** P.m.

9           **THE COURT:** You finished?

10          **DEFENDANT:** Yes, sir.

11          **THE COURT:** All right. How long did it take  
12 you to drink all of that?

13          **DEFENDANT:** Pretty much all day.

14          **THE COURT:** All right. Are you under the  
15 influence of any of that beer now?

16          **DEFENDANT:** No, sir, I'm not.

17          **THE COURT:** Are you sure?

18          **DEFENDANT:** Positive.

19          **THE COURT:** Mr. Grimes, he looks perfectly fine  
20 to me. I'm just asking these questions. Mr.

21 Grimes, do you have any concerns about him being  
22 under the influence of alcohol?

23          **MR. GRIMES:** No, sir.

24          **THE COURT:** Have you had any drugs in the last  
25 24 hours?

1           **DEFENDANT:** No, sir.

2           **THE COURT:** How about over-the-counter  
3 medicine?

4           **DEFENDANT:** No, sir.

5           **THE COURT:** Have you had any marijuana in the  
6 last 24 hours?

7           **DEFENDANT:** No, sir.

8           **THE COURT:** No cocaine or crack?

9           **DEFENDANT:** No, sir.

10          **THE COURT:** All right. Is there anything about  
11 you today, Mr. Ancrum, that would keep you from  
12 being able to understand what you're doing today?

13          **DEFENDANT:** No, sir.

14          **THE COURT:** All right. Your lawyer tells me  
15 that you understand all of these charges; is that  
16 correct?

17          **DEFENDANT:** Correct.

18          **THE COURT:** All right. The indictment that --  
19 are all of these '06 indictments, Mr. Williams?

20          **MR. WILLIAMS:** Yes, Your Honor.

21          **THE COURT:** All right. The indictment ending  
22 in 4180 is for possession with intent to distribute  
23 drugs in proximity of a school. Do you understand  
24 that the State's charging you on or about  
25 February 28, 2006, being in possession of cocaine

1 within a half mile of a school?

2 **DEFENDANT:** Yes, sir.

3 **THE COURT:** At what carries, Mr. Williams, 10  
4 to 15; is that right?

5 **MR. WILLIAMS:** Proximity does, Your Honor.

6 **THE COURT:** All right. You understand that's  
7 the potential sentence you face for that?

8 **DEFENDANT:** Yes, sir.

9 **THE COURT:** Indictment that ends in 4179,  
10 trafficking cocaine, says on the same date, you  
11 engaged in the trafficking of cocaine, specifically  
12 in excess of 400 grams. Do you understand that?

13 **DEFENDANT:** Yes, sir.

14 **THE COURT:** That carries up to 25?

15 **MR. WILLIAMS:** Your Honor, he's pleading to the  
16 lesser, the 28 to 100 amount, which carries 7 to 25.

17 **THE COURT:** All right. Do you understand that,  
18 Mr. Ancrum?

19 **DEFENDANT:** Yes, sir, I do.

20 **THE COURT:** The indictment ending in 4183 says,  
21 that's manufacturing crack cocaine, says that on  
22 that same date, you manufactured, distributed,  
23 dispensed, delivered or purchased or aided someone  
24 in doing so with the intent to manufacture that  
25 substance, that being crack cocaine. Do you

1 understand that charge?

2 **DEFENDANT:** Yes, sir.

3 **THE COURT:** What's that carry, Mr. Williams?

4 **MR. WILLIAMS:** It's a 0 to 15 year offense,  
5 Your Honor.

6 **THE COURT:** Do you understand that, Mr. Ancrum?

7 **DEFENDANT:** Yes, sir, I do.

8 **THE COURT:** All right. The indictment ending  
9 in 4184, manufacturing crack cocaine, within  
10 proximity of a school, do you understand that  
11 charge?

12 **DEFENDANT:** Yes, sir.

13 **THE COURT:** That carries 10 to 15 again, right,  
14 Mr. Williams?

15 **MR. WILLIAMS:** Yes, Your Honor.

16 **THE COURT:** All right. The indictment ending  
17 in 4181, trafficking crack cocaine, says that on  
18 that same date, you were in possession of in excess  
19 of 200 grams of crack cocaine.

20 Well, what's he pleading to?

21 **MR. WILLIAMS:** The trafficking in the amount of  
22 28 to 100, which is a 7 to 25 year offense.

23 **THE COURT:** Do you understand that, Mr. Ancrum?

24 **DEFENDANT:** Yes, sir, I do.

25 **THE COURT:** The indictment ending in 4182,

1 possession with intent to distribute crack cocaine  
2 within proximity of a school, says that on that same  
3 date, you were in possession of crack cocaine with  
4 intent to distribute that substance within a half  
5 mile of a school. Do you understand that carries 10  
6 to 15 -- or is that 10 to 15?

7 **MR. WILLIAMS:** Yes, Your Honor. I think the  
8 cocaine is a zero to ten.

9 **THE COURT:** All right. Do you understand that,  
10 Mr. Ancrum?

11 **DEFENDANT:** Yes, sir, I do.

12 **THE COURT:** All right. Do you understand that  
13 when you plead guilty, you give up some very  
14 important rights?

15 **DEFENDANT:** Yes, sir, I do.

16 **THE COURT:** First of all, you would give up  
17 your right to remain silent. Do you understand  
18 that?

19 **DEFENDANT:** Yes, sir.

20 **THE COURT:** You have the right under the  
21 constitution to say nothing. If you plead guilty,  
22 you have to give up that right. Do you want to give  
23 up that right and continue to speak to me today?

24 **DEFENDANT:** Yes, sir.

25 **THE COURT:** All right. Do you understand that

1           you have a right under the constitution to a jury  
2           trial, which means 12 people could be selected and  
3           put on a jury and they would have to be convinced  
4           beyond a reasonable doubt that you were guilty. Do  
5           you understand that?

6           **DEFENDANT:** Yes, sir.

7           **THE COURT:** Do you want to give up your right  
8           to a jury trial and plead guilty?

9           **DEFENDANT:** Yes, sir.

10          **THE COURT:** You also have a right to confront  
11          and be confronted by witnesses the State would call  
12          against you, which means you have the right to be  
13          present and see them, hear what they have to say and  
14          then have your lawyer cross-examine them. Do you  
15          understand that right?

16          **DEFENDANT:** Yes, sir.

17          **THE COURT:** Do you want to give up that right?

18          **DEFENDANT:** Yes, sir.

19          **THE COURT:** All right. Do you understand that  
20          with regard to the trafficking charge and the  
21          possession within proximity charge, those are what  
22          the law calls serious offenses. Do you understand  
23          that?

24          **DEFENDANT:** Yes, sir, I do.

25          **THE COURT:** Mr. Grimes, what have you explained

1 to him about the three strikes law?

2 MR. GRIMES: I've explained to him that if he  
3 gets three strikes, he will get a life without  
4 parole sentence, that this offense will count as one  
5 strike because it was all out of one series of  
6 events.

7 THE COURT: All right. Do you understand that,  
8 Mr. Ancrum?

9 DEFENDANT: Yes, sir.

10 THE COURT: Does he have any other convictions  
11 for serious offenses or most serious offenses?

12 MR. GRIMES: No, sir.

13 THE COURT: All right. So you understand that  
14 this is one strike against you?

15 DEFENDANT: Yes, sir.

16 THE COURT: Do you understand that with regard,  
17 I guess, to the PWID, that if you ever get convicted  
18 of any subsequent offenses of that nature or drug  
19 offenses, that your sentencing will be enhanced or  
20 higher simply because of your prior drug  
21 convictions; do you understand that?

22 DEFENDANT: Yes, sir.

23 THE COURT: All right. Do you understand that  
24 when you plead guilty, you don't get a jury trial?

25 DEFENDANT: Yes, sir.

1           **THE COURT:** Do you understand that when you  
2 plead guilty, you give up any defenses you may have?

3           **DEFENDANT:** Yes, sir.

4           **THE COURT:** Do you understand that, Mr. Ancrum?

5           **DEFENDANT:** Yes, sir, I do.

6           **THE COURT:** All right. Do you understand that  
7 if you made any incriminating statements to the  
8 police, if you plead guilty, you give up the right  
9 to contest the voluntariness of those statements?

10          **DEFENDANT:** Yes, sir, I do.

11          **THE COURT:** All right. With regard to the  
12 indictment for possession with intent to distribute  
13 cocaine within the proximity of a school, do you  
14 plead guilty or not guilty?

15          **DEFENDANT:** I plead guilty.

16          **THE COURT:** The indictment for trafficking  
17 cocaine -- is that correct, Mr. Williams?

18          **MR. WILLIAMS:** Yes, Your Honor, the 28 to 100  
19 grams.

20          **THE COURT:** Do you plead guilty or not guilty  
21 to that?

22          **DEFENDANT:** I plead guilty.

23          **THE COURT:** The indictment 4183 for  
24 manufacturing crack cocaine, guilty or not guilty?

25          **DEFENDANT:** I plead guilty.

1           **THE COURT:** The indictment 4184, manufacturing  
2 crack cocaine within proximity of a school, guilty  
3 or not guilty?

4           **DEFENDANT:** I plead guilty.

5           **THE COURT:** The indictment for trafficking in  
6 crack cocaine, that's 4181, guilty or not guilty?

7           **DEFENDANT:** Plead guilty.

8           **THE COURT:** The indictment 4182, which is  
9 possession with intent to distribute crack cocaine  
10 within proximity of a school, guilty or not guilty?

11          **DEFENDANT:** I plead guilty.

12          **THE COURT:** Are you guilty of all of these  
13 charges?

14          **DEFENDANT:** (No response.)

15          **THE COURT:** Are you guilty?

16          **DEFENDANT:** Yes, sir.

17          **THE COURT:** You said you're pleading guilty,  
18 are you guilty?

19          **DEFENDANT:** No, I'm not guilty, but I'm  
20 pleading guilty.

21          **THE COURT:** All right. Mr. Williams, what are  
22 we going to do about that? He says he's not guilty,  
23 he's just pleading guilty. I'm not going to accept  
24 his plea on that basis.

25          **MR. WILLIAMS:** Your Honor, I think he has

1           talked with his lawyer about the hand of one theory.  
2           I think he understands that his degree of  
3           culpability is probably different than that of the  
4           principal in this case and that we're certainly  
5           proceeding on a theory that he conspired or assisted  
6           or aided and abetted the principal, and, in fact,  
7           that's a big reason for why we have the agreement we  
8           do.

9           **THE COURT:** Mr. Grimes, do you need to talk to  
10          your client?

11          **MR. GRIMES:** May I have a moment, Your Honor?

12          **THE COURT:** Yeah, sure. Go ahead.

13          **MR. GRIMES:** May I step outside the courtroom?

14          **THE COURT:** Yes, sir.

15                       (Pause.)

16          **MR. GRIMES:** Thank you, Your Honor. We've gone  
17          over the hand of one, the hand of all, the  
18          conspiracy, talked about some other evidence that  
19          was in discovery. And I think he understands the  
20          questions better now, the basis for a guilty plea.

21          **THE COURT:** All right. Mr. Ancrum, have you  
22          had enough time to talk to your lawyer?

23          **DEFENDANT:** Yes, sir, I did.

24          **THE COURT:** Is there anything that you want to  
25          discuss with him at this point?

1           **DEFENDANT:** No, sir.

2           **THE COURT:** All right. Now, you've indicated  
3 to me that you are entering a plea of guilty to all  
4 seven of these charges; is that correct?

5           **DEFENDANT:** That's correct.

6           **THE COURT:** And then when we broke, you said  
7 that you were pleading guilty, but you weren't  
8 guilty. Now, have you had a chance to discuss that  
9 issue with your lawyer?

10          **DEFENDANT:** Yes, sir.

11          **THE COURT:** All right. I'll ask you again, are  
12 you pleading guilty to all of these charges because  
13 you are, in fact, guilty?

14          **DEFENDANT:** Yes, sir, I am.

15          **THE COURT:** So are you guilty?

16          **DEFENDANT:** Yes, sir.

17          **THE COURT:** All right, sir. Do you understand  
18 that there is a recommendation -- or there's going  
19 to be a deferred sentencing and the recommendation  
20 of the State, if you provide truthful testimony in  
21 accordance with the agreement that's been signed,  
22 that the State's recommending 10 to 20 years  
23 incarceration?

24          **DEFENDANT:** Yes, sir.

25          **THE COURT:** Do you understand that the

1 sentencing judge will not have to follow that  
2 recommendation?

3 **DEFENDANT:** Yes, sir, I do.

4 **THE COURT:** All right. Mr. Williams, does the  
5 State and, Mr. Grimes, does the defendant want to  
6 make this plea agreement an exhibit or do you retain  
7 that yourselves?

8 **MR. WILLIAMS:** We can make it an exhibit, Your  
9 Honor.

10 **THE COURT:** All right. We'll make that Court's  
11 Exhibit 1 to Mr. Ancrum's plea.

12 How about this advisement of rights?

13 **MR. GRIMES:** I'd like to make it a court's  
14 exhibit.

15 **THE COURT:** All right. That'll be Number 2.

16 **MR. GRIMES:** Thank you, Your Honor.

17 (Court's Exhibit Numbers 1 and 2 were marked  
18 for identification purposes.)

19 **THE COURT:** All right. Has anybody promised  
20 you anything to get you to plead guilty?

21 **DEFENDANT:** No, sir.

22 **THE COURT:** Has anybody threatened you,  
23 intimidated you or physically forced you to do this?

24 **DEFENDANT:** No, sir.

25 **THE COURT:** Are you pleading guilty of your own

1 free will?

2 DEFENDANT: Yes, sir, I am.

3 THE COURT: Have you had enough time to talk to  
4 your lawyer?

5 DEFENDANT: Yes, sir.

6 THE COURT: Have you understood all of your  
7 talks with him?

8 DEFENDANT: Yes, sir.

9 THE COURT: And, again, have you talked to him  
10 as long as you wanted to and as often as you wanted  
11 to?

12 DEFENDANT: Yes, sir.

13 THE COURT: Has he done everything that you  
14 think he could have done to help you in this case?

15 DEFENDANT: Yes, sir.

16 THE COURT: Has he done anything that you think  
17 he should not have done?

18 DEFENDANT: Can you repeat that question?

19 THE COURT: Has your lawyer done anything you  
20 think he shouldn't have done?

21 DEFENDANT: No, sir.

22 THE COURT: All right. Do you have any  
23 complaints about the police or the Solicitor's  
24 office?

25 DEFENDANT: No, sir.

1           **THE COURT:** So are you completely satisfied  
2 with your lawyer's services?

3           **DEFENDANT:** Yes, sir.

4           **THE COURT:** And, again, based on your  
5 conversations with him and your own knowledge of the  
6 facts, are you entering these pleas voluntarily?

7           **DEFENDANT:** Yes, sir.

8           **THE COURT:** Have you understood all of my  
9 questions?

10          **DEFENDANT:** Yes, I have.

11          **THE COURT:** Is there anything you want me to go  
12 back over?

13          **DEFENDANT:** No, sir.

14          **THE COURT:** Do you understand that if you want  
15 to appeal these pleas and the sentence that's  
16 ultimately passed, do you understand you only have  
17 ten days to do so?

18          **DEFENDANT:** Yes, sir.

19          **THE COURT:** All right.

20                 All right. Mr. Williams, give me the facts  
21 just for the record in this case and any record that  
22 he's got.

23          **MR. WILLIAMS:** Thank you, Your Honor.

24                 Briefly, Your Honor, this occurred on  
25 February 28th of 2006. However, certainly the

1           conduct that makes Mr. David Ancrum guilty sort of  
2           preceded that. He was involved in an ongoing  
3           enterprise, for lack of a better term, with Mr. Eric  
4           Ancrum who's up for trial this week.

5           And, essentially, Your Honor, David was  
6           involved with being with Eric, doing things for him  
7           as needed. He certainly wasn't in control or had  
8           dominion and control over all of those drugs, but he  
9           certainly would work with Eric when Eric needed him  
10          to do something, that involved sometimes deliveries,  
11          picking up money, different types of things, but in  
12          the context of all of these drugs that were coming  
13          in and out of Eric Ancrum's apartment, David was  
14          essentially there for it. And that happened on  
15          February 28th.

16          When the police got a search warrant, David was  
17          inside the residence. They found his fingerprints  
18          on some of the Pyrex dishware. I've spoken with  
19          David about that. He tells me that he had  
20          possession of that Pyrex prior to the drugs that  
21          were made in there, but he admits readily that he  
22          certainly knew what that stuff was used for, he knew  
23          what was going on in there. He had a key to that  
24          apartment and he had dominion and control over the  
25          premises to the extent that, Your Honor, when the

1 drugs were inside the house, he stayed inside there  
2 for about 45 minutes while Eric Ancrum was breaking  
3 up kilograms of cocaine and putting them into bags.

4 The police recovered approximately eight and a  
5 half kilograms of cocaine out of the apartment, some  
6 of that had been converted into crack cocaine,  
7 manufactured into crack cocaine and it all occurred  
8 within a half mile of the middle school listed in  
9 the indictments.

10 Your Honor, he has a prior trespassing,  
11 receiving stolen goods under a thousand, purse  
12 snatching and malicious injury to real property in  
13 1998 and, in 2001, a possession of crack and a B&E  
14 auto.

15 **THE COURT:** All right. Mr. Ancrum, did the  
16 Solicitor give a correct account of your involvement  
17 in this enterprise?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** All right. And the -- for my  
20 purposes today, do you understand -- I'm not going  
21 to sentence you, I'm not going to be the one  
22 sentencing you, but do you understand that you  
23 cannot rely on any assumptions about parole or early  
24 release when you decide whether or not you're going  
25 to plead guilty; do you understand that?

1           **DEFENDANT:** Yes, sir.

2           **THE COURT:** In other words, you have to assume  
3 that you're going to serve the entire sentence that  
4 a judge gives you. Do you understand that?

5           **DEFENDANT:** Yes, sir.

6           **THE COURT:** All right. From a factual  
7 standpoint, there's a substantial, factual basis for  
8 these pleas. They're entered freely, voluntarily,  
9 knowingly and intelligently and I will accept all of  
10 the pleas. And sentencing will be deferred until  
11 another time. Six months, is that right, or up to  
12 six months?

13           **MR. WILLIAMS:** Yes, Your Honor. We planned on  
14 rescheduling sentencing in six months and seeing  
15 where Mr. Ancrum was.

16           **THE COURT:** All right. Anything you want to  
17 put on the record today, Mr. Grimes, about the plea  
18 itself?

19           **MR. GRIMES:** No, sir. I think the advisement  
20 has been put on. And I agree with Mr. Williams'  
21 depiction of the factual summary. We've heard,  
22 David Ancrum's own testimony, 404(b) motions is some  
23 further basis for the plea.

24           **THE COURT:** I also find that Mr. Ancrum's had  
25 the advice of an attorney with whom he's satisfied.

1           Mr. Ancrum, is there anything you want to say  
2 today other than what you've already said?

3           **DEFENDANT:** No, sir.

4           **THE COURT:** All right. Thank you very much. I  
5 accept your pleas.

6           **MR. GRIMES:** Thank you, Your Honor.

7

8

END OF PROCEEDINGS

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## C E R T I F I C A T E

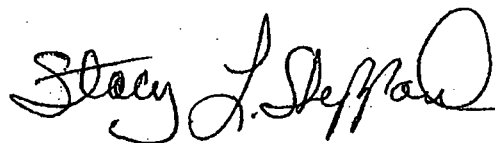
STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the guilty plea of the captioned cause, relative to appeal in the Criminal Court for Charleston County, South Carolina, on the 8th of October, 2007.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

September 13, 2011



Stacy L. Sheppard, RPR  
Circuit Court Reporter

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS  
DOCKET NO.

STATE OF SOUTH CAROLINA,

TRANSCRIPT OF PROCEEDINGS

VS.

March 17, 2011  
Charleston, South Carolina

DAVID ANCRUM,

Defendant.

BEFORE:

THE HONORABLE THOMAS L. HUGHSTON, JR., Judge

APPEARANCES:

GREGORY VOIGT, ESQ.  
ASSISTANT SOLICITOR  
ATTORNEY FOR THE STATE

ANDREW GRIMES, ESQ.  
ASSISTANT PUBLIC DEFENDER  
ATTORNEY FOR THE DEFENDANT

HEATHER GAYLE BURNS, RDR  
OFFICIAL COURT REPORTER  
9<sup>TH</sup> JUDICIAL CIRCUIT

1                   THE COURT: All right.  
2                   David Ancrum. Is that your  
3                   name?

4                   THE DEFENDANT: Yes,  
5                   sir.

6                   THE COURT: All right,  
7                   Mr. Ancrum. I have here six  
8                   indictments, six sentencing  
9                   sheets in connection with  
10                  charges that the State has  
11                  made against you. This is my  
12                  first opportunity to look at  
13                  these and I'm just opening  
14                  them up where I can see  
15                  everything and all these do  
16                  relate to events that the  
17                  State claims happened on  
18                  February twenty-eight, 2006,  
19                  various I believe drug charges  
20                  that were -- charges related  
21                  to illegal drugs that were  
22                  made against you and it is my  
23                  understanding in looking at  
24                  these documents before me that  
25                  you appeared before Judge

1 James on October eighth, 2007  
2 and pled guilty to these six  
3 charges that I have before me  
4 now and Judge James signed off  
5 on the sentence sheets on  
6 October eighth, 2007 where he  
7 accepted the plea and deferred  
8 sentencing and now these cases  
9 are being brought before me  
10 today for sentencing and the  
11 charges are as shown on the  
12 indictments and the sentence  
13 sheets. One is -- the first  
14 one I'm looking at is  
15 indictment number 4183, that's  
16 the last four numbers, et  
17 cetera, I mean et cetera and  
18 that, and I see the possession  
19 with intent to distribute or  
20 distribution of crack cocaine.  
21 Started out as manufacturing  
22 crack cocaine and for that I  
23 can sentence him to up to  
24 fifteen years in the  
25 penitentiary. Is that

1 correct?

2 MR. VOIGT: I believe  
3 so, your Honor.

4 THE COURT: All right.  
5 And then the next one again,  
6 this was a proximity charge,  
7 possession with intent to  
8 distribute or distribution of  
9 crack cocaine within a half  
10 mile of the Adelson Hebrew  
11 School out west of the Ashley,  
12 out, actually out, I believe  
13 it's near what I call the  
14 North Area Bridge, and I  
15 believe that's ten years in  
16 the penitentiary on that.

17 And then the next one  
18 I'm looking at is trafficking  
19 in crack cocaine, twenty-eight  
20 to a hundred grams, first  
21 offense. And what is that,  
22 trafficking?

23 MR. VOIGT: Seven to  
24 twenty-five.

25 THE COURT: Minimum

1           seven, maximum twenty-five  
2           years on that. And then the  
3           next one is a proximity  
4           charge; possession with intent  
5           to distribute or distribution  
6           of crack cocaine within a  
7           half-mile again of the Adelson  
8           Hebrew Academy.

9                         So I want to make  
10           sure that we don't have any  
11           question about that. Are  
12           there, are there two charges,  
13           two separate charges --

14                        **MR. VOIGT:** I believe  
15           one for cocaine and one for  
16           cocaine base, your Honor.

17                        **THE COURT:** And maybe  
18           that is -- so that's clear to  
19           me on the sentencing sheet.  
20           One does say cocaine base and  
21           the other one says drugs but  
22           it was indicted as crack  
23           cocaine. So is that meant to  
24           be, was it pled to cocaine?  
25           Is that the way it is?

1                   MR. VOIGT: That's my  
2 understanding, your Honor.

3                   THE COURT: You  
4 understand why I'm, you  
5 understand why I'm talking  
6 about it?

7                   MR. VOIGT: Well, your  
8 Honor --

9                   THE COURT: I've got  
10 two charges here that I'm  
11 looking at. I just want to  
12 make sure that we don't have  
13 any slip-ups where some  
14 question down the line and  
15 all. I've been looking at the  
16 indictment number 4182 and it  
17 started out possession with  
18 intent to distribute crack  
19 cocaine within a half-mile of  
20 the school and that's what  
21 he's pleading guilty to. And  
22 the other one says, it started  
23 out as a manufacturing crack  
24 cocaine within a half-mile of  
25 the school and he's pleading

1 to possession with intent to  
2 distribute as I understand it.

3 MR. VOIGT: I think  
4 manufacturing would be  
5 included.

6 THE COURT: What?

7 MR. VOIGT: I think  
8 manufacturing would be  
9 included in --

10 THE COURT: Well, the  
11 question is, is it crack or is  
12 it cocaine? It seems to be, I  
13 find that -- I don't think it  
14 could be two cracks and he, he  
15 says the answer to that is one  
16 of them is crack and one of  
17 them is cocaine. If you want  
18 to look and see what I'm  
19 talking about.

20 MR. GRIMES: Well, I'm  
21 going to say they're two  
22 trafficking charges for crack  
23 cocaine, the manufacturing  
24 crack.

25 THE COURT: Well, I'm

1 not dealing with those. I'm  
2 dealing with what he's, what  
3 he's pleading guilty to.

4 MR. GRIMES: And  
5 there's an accompanying in  
6 proximity charges for each one  
7 of those.

8 THE COURT: There's two  
9 proximity charges that I'm  
10 looking at. They both started  
11 out as crack.

12 MR. GRIMES: Yes, your  
13 Honor.

14 THE COURT: One of them  
15 is crack. He says the other  
16 one is now cocaine.

17 MR. VOIGT: Well, there  
18 should be three proximity  
19 charges.

20 THE COURT: Well, I  
21 haven't gotten to the third  
22 one yet. I'm just trying to  
23 figure out and make sure that  
24 we're not pleading -- he's not  
25 getting sentenced twice for

1 the same act.

2 MR. GRIMES: No. One  
3 is for the trafficking, one is  
4 for manufacturing crack. One  
5 is for trafficking crack, one  
6 is for manufacturing crack,  
7 one is for trafficking  
8 cocaine.

9 THE COURT: Okay. That  
10 still doesn't make sense to me  
11 but anyway, we'll move next to  
12 the next one. And that's  
13 trafficking in cocaine as  
14 opposed to the earlier one  
15 which was trafficking in  
16 crack. And the trafficking in  
17 cocaine, twenty-eight to a  
18 hundred grams, what does that  
19 carry?

20 MR. VOIGT: That is  
21 seven to twenty-five.

22 THE COURT: The same  
23 thing. Seven to twenty-five  
24 years on that. And then the  
25 last one is another proximity

1 charge and it started out as  
2 possession with intent to  
3 distribute cocaine within a  
4 half-mile. So again we're  
5 back to two of the same  
6 charges on the same day.

7 MR. VOIGT: I think  
8 there were multiple stashes  
9 discovered, your Honor, which  
10 --

11 MR. GRIMES: There were  
12 some drugs discovered I think  
13 in a, in a microwave and there  
14 were (phonetic) --

15 THE COURT: I couldn't  
16 understand you.

17 MR. GRIMES: I believe  
18 that the manufacturing crack  
19 was some discovered in a  
20 microwave in a Pyrex dish and  
21 that was the basis for  
22 manufacturing the crack  
23 charge, and there was a  
24 separate stash of crack in the  
25 house I believe. He was kind

1 of double charged. We, given  
2 the plea agreement originally  
3 --

4 THE COURT: All right.  
5 Okay. I just, I just --

6 MR. GRIMES: I think it  
7 was agreed to.

8 THE COURT: All right.  
9 So now we're here today for  
10 the purposes of sentencing.  
11 So, and I've been furnished,  
12 by the way I've been  
13 furnished, Mr. Grimes, your  
14 attorney, Mr. Ancrum, has  
15 furnished me with this  
16 notebook that I have in my  
17 hand which I have read and  
18 he's brought, took  
19 particularly one matter to my  
20 attention to this and we'll  
21 address that and I'll allow  
22 him to address it, but now  
23 we're here for the purposes of  
24 sentencing and I'll be glad to  
25 hear from the State in regard

1 to that.

2 MR. VOIGT: May it  
3 please the Court, your Honor,  
4 this matter is, has some  
5 considerable age on it. In  
6 2006 two individuals were  
7 caught in an apartment when  
8 the police execute a search  
9 warrant, and there were  
10 approximately eight kilograms  
11 of cocaine and large amount of  
12 crack cocaine and there were  
13 Pyrex dishes used for cooking  
14 crack cocaine.

15 The one that was  
16 culpable, the one that the  
17 officers had information on as  
18 being the drug dealer was a  
19 fellow by the name of Eric  
20 Ancrum which, to the best of  
21 our knowledge, is no relation  
22 whatsoever to David Ancrum.  
23 Eric Ancrum is currently  
24 serving two life sentences.  
25 We tried him and David Ancrum

1 testified in that trial on  
2 behalf of the State.

3 Because David Ancrum  
4 has a previous cocaine  
5 possession conviction he was  
6 technically a second. The  
7 State has agreed to treat  
8 these matters all as a first  
9 and the State also agreed to  
10 allow him to plead guilty  
11 under a hundred grams which  
12 substantially gave him a  
13 different sentence, sentencing  
14 agreement, was negotiated with  
15 Nat Williams of our office as  
16 well as Mr. Grimes. Mr.  
17 Grimes has given you the best  
18 copy that we have or that he  
19 has. I don't, we don't know  
20 exactly where the original may  
21 have gone, may have gone. The  
22 clerk's office may have it or  
23 Judge James may have put it  
24 somewhere. That indicates  
25 that the State was going to

1        recommend to you a sentencing  
2        range of ten to twenty years.  
3        There was a further provision  
4        in that that allowed Mr.  
5        Ancrum to stay out because  
6        federal authorities had  
7        interest in information that  
8        he may have had to make other  
9        cases.

10                    As I told the Court  
11        and my understanding in  
12        talking with Mr. Williams as  
13        well as D.E.A. agents was that  
14        the D.E.A. did not really act  
15        on that immediately. It took  
16        some time and when they did  
17        they didn't -- nothing came of  
18        that. Several months ago I  
19        contacted Mr. Grimes to tell  
20        him that I would be placing  
21        this on the docket so that  
22        sentencing, so we'd finally  
23        wrap this up and that this  
24        case would finally be closed.  
25        The State as I posited to the

1 Court at the bench, the State  
2 is interested in achieving a  
3 legal sentence for this  
4 defendant and with those  
5 parameters I would yield to  
6 the Court.

7 THE COURT: That's very  
8 appropriately stated. Thank  
9 you. All right. I might note  
10 that apparently the plea  
11 agreement that you're talking  
12 about was entered into in  
13 October of 2007 and as you  
14 reflected at that time the  
15 State agreed to recommend, and  
16 in this acknowledgment here  
17 that this is just a  
18 recommend -- that it was a  
19 recommendation and that  
20 ultimately the ultimate  
21 authority, the ultimate  
22 decision would be made by the  
23 judge, appropriate that that  
24 was acknowledgment in the  
25 agreement and the

1        recommendation that the State  
2        has made, was making at that  
3        time was ten to twenty years  
4        concurrent and that it  
5        contemplates I believe  
6        sentencing to be deferred is  
7        what is says, sentencing to be  
8        deferred for six months from  
9        the date of this agreement.  
10       So it is contemplated that  
11       sentencing would be around six  
12       months later.

13                MR. GRIMES: Yes, sir.

14                THE COURT: And now we  
15       are --

16                MR. GRIMES: Three and  
17       a half years.

18                THE COURT: -- three  
19       and a half years later and  
20       all, and it's, anyway it's  
21       not, it's nobody's, I'm not  
22       placing any blame or anything  
23       by that. I'm just telling you  
24       what the facts are and all.  
25       All right. So now any, so

1 any, now I'll be glad --  
2 anything else from the State?

3 MR. VOIGT: Not, not at  
4 this time.

5 THE COURT: All right.  
6 Now we'll switch to the other  
7 side, Mr. Grimes. And I have  
8 read, as I said, the materials  
9 that you have given me  
10 including that Law Review  
11 article and all which brings,  
12 which brought, which brought  
13 something to my attention that  
14 I never run into before, what  
15 makes this job interesting,  
16 and continuing, continuing a  
17 challenge and all and that's,  
18 that's a Law Review article  
19 that you gave me from the  
20 Catholic University Law Review  
21 and which deals with credit,  
22 possible credit for periods of  
23 what it calls "mistaken  
24 liberties" and I have read  
25 that, and I never heard of

1 that before, so I appreciate  
2 your bringing that to my  
3 attention.

4 MR. GRIMES: Well,  
5 first I'd like to -- I  
6 received some character  
7 letters this morning. I  
8 received some character  
9 letters this morning from Mr.  
10 Ancrum's family.

11 THE COURT: All right.

12 MR. GRIMES: They're in  
13 court as you can see.

14 THE COURT: Let me read  
15 those then if you want me to.

16 MR. GRIMES: Yes, sir.  
17 Thank you. And I apologize  
18 for not getting them to you  
19 sooner.

20 THE COURT: All right.  
21 I read, I mean I read over it  
22 generally.

23 MR. GRIMES: Thank you,  
24 your Honor. In paragraph five  
25 of the plea agreement, the

1 first attachment, there is a  
2 provision there to that,  
3 provided the defendant, David  
4 Ancrum, cooperates pursuant to  
5 the provisions of this plea  
6 agreement and that cooperation  
7 is deemed by attorneys for the  
8 State to provide substantial  
9 assistance in the investi-  
10 gation and prosecution of  
11 another person who has  
12 committed an offense.

13 THE COURT: Well, what  
14 are you -- where are you  
15 reading?

16 MR. GRIMES: Paragraph  
17 five.

18 THE COURT: I don't see  
19 a paragraph five in the thing  
20 that I'm looking at.

21 MR. GRIMES: The  
22 other -- the proposed -- the  
23 plea agreement.

24 THE COURT: Oh. Oh.  
25 Oh. Not the statute.

1 MR. GRIMES: No, sir.

2 THE COURT: All right.

3 MR. GRIMES: I

4 apologize.

5 THE COURT: Okay.

6 Okay. All right. Go ahead.

7 MR. GRIMES: Hold on,  
8 your Honor.

9 THE COURT: You handed  
10 me that statute and then you  
11 were reading from something  
12 else and confused me.

13 MR. GRIMES: I  
14 apologize. I'll try to do  
15 better.

16 THE COURT: All right.

17 MR. GRIMES: Well,  
18 going back, under the statute  
19 it provides that basically as  
20 long as it's substantial  
21 assistance to the State, the  
22 State upon making a motion,  
23 provides for a lower sentence.  
24 It's nothing in the statute  
25 that says it can't go below

1 the statutory minimum so we  
2 believe when you look at the  
3 rules of leniency and consider  
4 any ambiguity against the  
5 State, that that statute  
6 allows the Court to go below a  
7 mandatory minimum when the,  
8 when the State makes a motion  
9 provides the defendant has,  
10 provides substantial  
11 assistance. In 2007 that  
12 statute did not exist. Then I  
13 would propose to the Court  
14 that paragraph five of our  
15 plea agreement is basically  
16 the equivalent of a motion by  
17 the State that it would be,  
18 would be a motion under such a  
19 statute had it existed because  
20 he did put his life at risk  
21 and you'll hear more about  
22 that when he testifies against  
23 Eric Ancrum. He's one of the  
24 key witnesses in the State's  
25 case. He was the one in the

1 house when the police came in.  
2 He testified about all that.

3 The State called  
4 another co-defendant or,  
5 excuse me, another person who  
6 was under federal indictment,  
7 Leonard Galvin. His federal  
8 number is 12040171. His  
9 projected release date from  
10 the Bureau of Prisons as of  
11 this morning was July eighth,  
12 2011. Now because I've been  
13 in trial I've had an  
14 opportunity to --

15 THE COURT: I'm not  
16 sure I understood all that,  
17 that. You better back up and  
18 tell me that again.

19 MR. GRIMES: That was  
20 another witness for the State.  
21 He was under federal  
22 indictment for drugs. And his  
23 projected release date is in  
24 July eighth of this year.

25 THE COURT: Another --

1           who are you talking about?

2           MR. GRIMES: He was  
3 another cooperating witness  
4 for the State against Eric  
5 Ancrum.

6           THE COURT: But he  
7 wasn't prosecuted by the  
8 State?

9           MR. GRIMES: No. He  
10 was prosecuted by the federal  
11 authorities.

12          THE COURT: Okay.

13          MR. VOIGT: For, for an  
14 unrelated matter, Judge.

15          THE COURT: Unrelated  
16 matter.

17          MR. GRIMES: Yes, sir.

18          THE COURT: Okay. All  
19 right.

20          MR. GRIMES: And  
21 because I've been in trial  
22 this week I haven't had a  
23 chance to go over to the  
24 federal court and pull all the  
25 plea agreements or any

1           substantial assistance he may  
2           receive, but I would imagine  
3           in his plea agreement there's  
4           a standard practice, there's a  
5           standard practice in federal  
6           court is, is if you provide  
7           substantial assistance you get  
8           a downward departure. I would  
9           imagine he got some benefit  
10          for testifying against Mr.  
11          Ancrum and his release date is  
12          July eight, 2011. Just bring  
13          that to the Court's  
14          information, someone else who  
15          is -- better than that, he had  
16          a worse record than Mr.  
17          Ancrum. He was more involved  
18          in drugs than Mr. Ancrum.  
19          He's going to be getting out  
20          this summer. I mean from his  
21          original charge.

22                        **THE COURT:** All right.  
23           Make sure. Stop right here  
24           and say now, anybody involved  
25           in this? I'm going to give

1           you the opportunity if you  
2           want to, to postpone the  
3           sentencing again if you feel  
4           like that you want, you said  
5           you haven't had a chance  
6           because you've been in trial  
7           and so forth, so if there's  
8           something you want to do about  
9           going over to the feds and  
10          looking over records over  
11          there and so forth in  
12          connection with that,  
13          incorporate in your argument,  
14          in your presentation, I'm  
15          going to give you a chance to  
16          do that.

17                        **MR. GRIMES:** Okay.  
18           Thank you, your Honor. And  
19           that's why we believe  
20           paragraph five --

21                        **THE COURT:** You want to  
22           stop right now?

23                        **MR. GRIMES:** We can  
24           take the wait and see  
25           approach. If we get good news

1           today then it may not be  
2           necessary.

3                         **THE COURT:** I'm sorry?

4                         **MR. GRIMES:** If we get  
5           good news today it may not be  
6           necessary.

7                         **THE COURT:** Well, I'm  
8           not going, I'm not going to do  
9           the sentencing as long as  
10          there's something hanging out  
11          there that you think you might  
12          want to do.

13                        **MR. GRIMES:** May I have  
14          one moment, your Honor?

15                        **THE COURT:** Sure.

16                        (Whereupon, Mr.  
17          Grimes and his client have a  
18          private, off-the-record  
19          conversation.)

20                        **MR. GRIMES:** Your  
21          Honor, I spoke with Mr.  
22          Ancrum. I don't think, it's a  
23          different case, different  
24          co-defendant, different  
25          authorities prosecuting him.

1 I think the State would have a  
2 good argument that whatever  
3 happened in this instance  
4 doesn't come over here too  
5 much, but I don't think,  
6 that's one reason I hadn't  
7 pulled it up. That's one  
8 reason, that's one reason I  
9 hadn't pulled it up. That was  
10 one reason I had not pulled it  
11 up sooner and the trial was  
12 also another reason.  
13 Otherwise I think the  
14 information that I had about  
15 his sentencing date and  
16 release date is enough to show  
17 I think he was, he was, he  
18 received some benefit.

19 THE COURT: All right.  
20 You want to go ahead and you  
21 tell me now that you and your  
22 client want to go ahead  
23 without your going over and  
24 looking and seeing if there's  
25 anything over there at the

1 federal courthouse you would  
2 want to bring to my attention?

3 MR. GRIMES: I think  
4 I'm prepared to go forward.

5 THE COURT: Beg your  
6 pardon?

7 MR. GRIMES: I think  
8 I'm prepared to go forward.  
9 I'm not sure, Mr. Ancrum might  
10 be a little bit uncomfortable.

11 THE COURT: All right.  
12 You have to tell me -- it's  
13 your decision, Mr. Ancrum. If  
14 we want to stop -- if you want  
15 to stop now, stop and let your  
16 lawyer go over this afternoon  
17 and come back tomorrow morning  
18 if that's what you want to do.  
19 Or perhaps it might -- I don't  
20 know how much time it takes.  
21 Might be able to come back  
22 this afternoon.

23 (Whereupon, Mr.  
24 Grimes and his client have a  
25 private, off-the-record

1 conversation.)

2 MR. GRIMES: Can we do  
3 it tomorrow morning, your  
4 Honor?

5 THE COURT: I'm sorry?

6 MR. GRIMES: Can we  
7 come back tomorrow morning?

8 THE COURT: Well, I  
9 would like to know how much  
10 time you think you're going to  
11 need to look at the records  
12 over there.

13 MR. GRIMES: Assuming  
14 that they're readily, readily  
15 available I might be able to  
16 look at them this afternoon.

17 THE COURT: Can you be  
18 available tomorrow morning?

19 MR. VOIGT: Other than  
20 the bonds I don't think I have  
21 anything else tomorrow  
22 morning.

23 THE COURT: Say 9:30  
24 tomorrow morning.

25 MR. GRIMES: Thank you.

1 your Honor.

2 THE COURT: All right.

3 And he, the defendant, Mr.

4 Ancrum, has been out, not in  
5 custody?

6 MR. GRIMES: Yes, sir.

7 THE COURT: All right.

8 So be back tomorrow morning at

9 9:30, Mr. Ancrum.

10 MR. GRIMES: Sorry,

11 your Honor.

12 THE COURT: That's all

13 right.

14 (Whereupon, the  
15 matter was adjourned until  
16 March 18, 2011.)

17

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CERTIFICATION

I, the undersigned HEATHER GAYLE BURNS, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the proceedings in the captioned case, relative to appeal, heard in the Court of General Sessions for Charleston County, South Carolina on the 17<sup>th</sup> day of March, 2011.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

DATED: \_\_\_\_\_

*May 30, 2011*

\_\_\_\_\_  
HEATHER GAYLE BURNS, R. D. R.  
Official Court Reporter

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

COURT OF GENERAL SESSIONS  
DOCKET NO.

STATE OF SOUTH CAROLINA,

TRANSCRIPT OF PROCEEDINGS

VS.

March 18, 2011  
Charleston, South Carolina

DAVID ANCRUM,

Defendant.

BEFORE:

THE HONORABLE THOMAS L. HUGHSTON, JR., Judge

APPEARANCES:

GREGORY VOIGT, ESQ.  
ASSISTANT SOLICITOR  
ATTORNEY FOR THE STATE

ANDREW GRIMES, ESQ.  
ASSISTANT PUBLIC DEFENDER  
ATTORNEY FOR THE DEFENDANT

HEATHER GAYLE BURNS, RDR  
OFFICIAL COURT REPORTER  
9<sup>TH</sup> JUDICIAL CIRCUIT

1 (Whereupon, five  
2 letters are received and  
3 marked as Defendant's Exhibit  
4 Nos. 1 through 5 for purposes  
5 of the record.)

6 THE COURT: I'm not,  
7 I'm not doing the sentencing  
8 yet. Let me do a little  
9 paperwork. Let me do a little  
10 paperwork first. What is  
11 today?

12 COURT CLERK: Eighteen.  
13 Three eighteen.

14 THE COURT: I'm not,  
15 I'm not doing the sentencing  
16 yet. I'm writing in -- what  
17 I'm doing is, Judge James  
18 signed where it says  
19 "presiding judge" at the  
20 bottom of the thing so above  
21 that I'm writing in on each  
22 one of these sentence sheets  
23 "sentenced on March eighteen,  
24 2011" and then I'm going to  
25 sign it to accurately reflect

1 the situation.

2 MR. GRIMES: Thank you,  
3 your Honor. I did want to  
4 hand up a couple of exhibits  
5 --

6 THE COURT: Hold on.  
7 Let me finish doing my  
8 paperwork.

9 MR. GRIMES: Yes, sir.

10 THE COURT: This is Mr.  
11 David Ancrum and we have his  
12 attorney present and, Mr.  
13 Grimes, have you had an  
14 opportunity now then to do  
15 what you wanted to do since  
16 yesterday?

17 MR. GRIMES: Yes, sir.

18 THE COURT: All right.  
19 Go right ahead with anything  
20 else you want to say.

21 MR. GRIMES: Thank you,  
22 your Honor. First I want to  
23 hand up to you three exhibits  
24 I pulled from the federal  
25 court yesterday.

1                   THE COURT: All right.  
2           What do you want me to know  
3           about this?

4                   MR. GRIMES: That  
5           was -- this is in relation to  
6           the, the other cooperating  
7           witness for the State in the  
8           case against Eric Ancrum.  
9           This witness was Leonard  
10          Gatlin. He's under federal  
11          indictment for drugs and  
12          possession of a firearm and I  
13          believe elements of a violent  
14          crime before Judge Kaplan at  
15          the time. And he has a plea  
16          agreement which in several  
17          respects was very similar to  
18          Mr. Ancrum's plea agreement.  
19          I think I drafted Mr. Ancrum's  
20          plea agreement based upon the  
21          old federal plea agreement  
22          which I had done when I was in  
23          private practice and  
24          specifically on page six of  
25          the plea agreement paragraph

1           twelve has sort of a proposed  
2           substantial assistance  
3           provision which I believe is  
4           fairly similar to the  
5           provision we had in our plea  
6           agreement on paragraph -- on  
7           page three, paragraph five.

8                         And pursuant to that  
9           plea agreement Mr. Gatlin  
10          initially was sentenced on  
11          October twenty-second, 2007 to  
12          a total sentence of a hundred  
13          and forty months; eighty  
14          months as to the drug charges  
15          and sixty months on the gun  
16          charge and the sixty months  
17          run consecutive. And in the  
18          amended judgment in the  
19          criminal case --

20                        **THE COURT:** Well, what  
21          is it? That's about eleven  
22          years?

23                        **MR. GRIMES:** Yes, sir.

24                        **THE COURT:** Okay.

25                        **MR. GRIMES:** And in the

1 amended judgment in the  
2 criminal case which was done  
3 pursuant to rule thirty-five  
4 of the federal rules of  
5 criminal procedure, which I  
6 believe is now sort of similar  
7 to the statute I handed up  
8 yesterday which was -- our  
9 statute is modeled after. We  
10 see the downward departure for  
11 assistance and his total  
12 sentence ended up being  
13 sixty-five months.

14 THE COURT: What?

15 MR. GRIMES: Looks like  
16 his total sentence ended up  
17 being sixty-five months; five  
18 months on the drug charges and  
19 sixty months on the gun  
20 charge. And on page two of  
21 that --

22 THE COURT: So about  
23 five years. A little over  
24 five years?

25 MR. GRIMES: Yes, sir.

1                   THE COURT:     About five  
2                   years and five months.

3                   MR. GRIMES:    Yes, sir.  
4                   And on page two of that  
5                   amended federal judgment it  
6                   says shall, he shall remain  
7                   separate from defendants Eric  
8                   Ancrum who is -- Mr. David  
9                   Ancrum testified against --  
10                  and Warren Brown who Mr.  
11                  Ancrum did not testify  
12                  against. He may have been in  
13                  federal court and that Mr.  
14                  Gatlin may have testified  
15                  against.

16                                 And I believe I've  
17                                 reviewed the federal records  
18                                 and also under the federal  
19                                 guidelines there was an  
20                                 amendment made to the crack  
21                                 guidelines, because crack is  
22                                 to be punished much harder  
23                                 than cocaine and he had gotten  
24                                 into that and so I didn't want  
25                                 the Court to get the

1 impression that I'm saying  
2 that this downward departure  
3 is all for testifying against  
4 Mr. Ancrum but I believe it  
5 certainly played a role in it  
6 and we'd be looking for  
7 something similar for Mr.  
8 David Ancrum in this case and  
9 it's basically the federal  
10 government is going to treat  
11 Leonard Gatlin one way, and we  
12 ask the state government to  
13 treat David Ancrum in a  
14 similar way.

15 THE COURT: All right.

16 MR. GRIMES: Thank you,  
17 your Honor.

18 THE COURT: Anything  
19 else?

20 MR. VOIGT: Your  
21 Honor --

22 MR. GRIMES: Yes, sir.  
23 I guess Mr. Voigt wants to  
24 respond to that.

25 THE COURT: All right.

1 Anything else from you, Mr.  
2 Grimes?

3 MR. GRIMES: Yes, sir.  
4 I do have a lot to say today.

5 THE COURT: All right.  
6 Go right ahead.

7 MR. GRIMES: I'm sure  
8 everyone just frowned at that.  
9 A little bit -- the facts of  
10 this we discussed this  
11 yesterday. Mr. Ancrum was  
12 arrested on February  
13 twenty-eight of 2006. He  
14 stayed in jail until December  
15 of twenty-six where he bonded  
16 out. Miss Martha Dicus  
17 initially represented him. I  
18 was hired around that time  
19 frame.

20 THE COURT: Do you  
21 know how much time he's  
22 entitled to get, jail credit  
23 and everything?

24 MR. GRIMES: I would  
25 say about ten months.

1                   THE COURT:     Well,  
2                   that's, that's -- otherwise  
3                   I'm going to -- if you don't  
4                   know exactly I'm just going to  
5                   mark on here that he's  
6                   entitled to credit and let  
7                   S.C.D.C. deal with it.

8                   MR. GRIMES:    He was  
9                   arrested February  
10                  twenty-eighth and I believe he  
11                  was released right before  
12                  Christmas.

13                  THE COURT:     So I  
14                  think, unless you know and  
15                  check it out and can be  
16                  confident in what you tell me  
17                  I'm just going to check on  
18                  here that he's entitled to  
19                  jail credit and let S.C.D.C.  
20                  calculate it.

21                  MR. GRIMES:    Thank you,  
22                  your Honor.    That's, that's  
23                  fine.

24                  THE COURT:     All right.

25                  MR. GRIMES:    And in

1           about October of 2007 we  
2           entered a guilty plea. And in  
3           the guilty plea he was given  
4           six months to cooperate. As  
5           Mr. Voigt said yesterday there  
6           was some problems with that  
7           and ultimately Mr. Ancrum did  
8           not provide much more  
9           information and you will hear  
10          why about that later on. The  
11          six months time frame would  
12          have been March 2008. And  
13          since March 2008 until maybe a  
14          couple months ago nothing was  
15          done on this case. And I  
16          don't know, I'm not trying to  
17          blame anybody, but certainly  
18          the government has the duty, I  
19          think in the Law Review  
20          article Judge Boldrin  
21          (phonetic) says to enforce  
22          judgments. If he's supposed  
23          to be brought back for  
24          sentencing in six months  
25          unless he is at least

1 cooperating and doing  
2 something better and there is  
3 something obvious going on  
4 there, and then he should have  
5 been brought back in six  
6 months. But for whatever  
7 reason he wasn't and the  
8 government breaches its duty.  
9 I think it's at least  
10 negligence and under, under  
11 the testimony a little bit  
12 later he had the government  
13 being negligent like that it  
14 shouldn't be awarding any  
15 benefits by allowing basically  
16 him to get the full sentence  
17 in this case.

18 And eventually we  
19 came out to court on March of  
20 2011 and Mr. Ancrum has come  
21 into court and he -- there was  
22 really no bondsman on it  
23 because he was in the court,  
24 he pled guilty. For three and  
25 a half years he's been able to

1 do whatever he wants. He  
2 could have went to Alaska. He  
3 could have left the state.  
4 Done whatever. But he's been  
5 in the community. He's come  
6 to court. He knows he's going  
7 to go to jail today and he  
8 still walked into court and I  
9 think that speaks very --

10 THE COURT: Very hard.  
11 Okay.

12 MR. GRIMES: Let me  
13 give you a little background  
14 on Mr. Ancrum. He's  
15 thirty-two years old. Life  
16 long resident of Charleston.

17 THE COURT: Thirty-two  
18 now.

19 MR. GRIMES: Yes, sir.

20 THE COURT: All right.

21 MR. GRIMES: And he'd  
22 been about twenty-six.

23 THE COURT: Twenty-nine  
24 is what was listed here but  
25 thirty-two years old. Born

1 April twelve, 1978. Is that  
2 correct?

3 THE DEFENDANT: Yes,  
4 sir.

5 THE COURT: All right.  
6 Go right ahead.

7 MR. GRIMES: Went to  
8 Saint John's High School.  
9 Left there in the twelfth  
10 grade and now he's received a  
11 G. E. D. The reason he's  
12 still got a problem with Eric  
13 Ancrum is because one of his  
14 cousins knew one of Eric's  
15 cousins. And like I said and  
16 Mr. Voigt said there's no  
17 relationship between them.  
18 And his girlfriend's  
19 apartment, his friend's  
20 apartment burned down I think  
21 probably 2005 and Mr. Ancrum,  
22 David Ancrum for whatever  
23 reason gave him some money,  
24 helped him out with that  
25 situation and he really

1 appreciated that and he saw  
2 Mr. Ancrum's life style, some  
3 stuff he was doing, and it was  
4 after that he started hanging  
5 around Mr. Ancrum and at most  
6 he was basically I think an  
7 errand boy, so he could  
8 probably bring money for Mr.  
9 Ancrum, he used to run errands  
10 for Mr. Ancrum. But when the  
11 search warrant was executed he  
12 was in the house and I believe  
13 on the sofa playing video  
14 games while there was just a  
15 lot of cocaine in the house.

16 While he was in jail  
17 he did the DAODAS program, he  
18 completed that. And since  
19 he's been out he hasn't used  
20 anything. He hasn't been  
21 arrested. He doesn't get  
22 involved in the system, your  
23 Honor. He's been working with  
24 Eagle Windows and Doors doing  
25 carpentry work.

1                           He works over there  
2                           at Kiawah, Seabrook, Wild  
3                           Dunes. Builds docks. He  
4                           lives down in Florence. His  
5                           personal life, his father has  
6                           cancer. His mother is here  
7                           today. She's sick. He's  
8                           helped her out. His fiancée,  
9                           they have a three year old  
10                           child, Miss Williams. She's  
11                           in court in the blue today.  
12                           He has three older children.  
13                           Thirteen year old son. Ten  
14                           year old daughter. Six year  
15                           old son. Very active in their  
16                           lives and his mother watches  
17                           them and she'll speak for how  
18                           active he is with them. He  
19                           tries to stay active with them  
20                           with sports, playing  
21                           basketball, especially the  
22                           thirteen year old. Also makes  
23                           sure they do their homework  
24                           and they behave in school.  
25                           Stay away from the wrong

1 people. Don't make the  
2 mistakes he did.

3 Also in the court  
4 today we have Arthur Conte,  
5 his cousin. Also a pastor at  
6 Roseville A. M. E. Zion Church  
7 in Columbia. He's been a  
8 member all his life and at the  
9 end I'm going to ask him to  
10 speak to the Court.

11 THE COURT: Be glad to  
12 hear from you. Go right  
13 ahead. Tell me your name.

14 MR. KORNITKEY: Arthur  
15 Kornitkey.

16 THE COURT: How do you  
17 spell your last name?

18 MR. KORNITKEY: K-o-r-n  
19 -i-t-k-e-y.

20 THE COURT: All right.  
21 Go right ahead.

22 MR. KORNITKEY: I just  
23 wanted to say that David is  
24 truly a great young man. He's  
25 rebounded well. He's ascended

1 back into the community. He  
2 is truly repentant and  
3 remorseful for the things that  
4 he had done earlier. I  
5 understand it was at a much  
6 younger time in his life but  
7 now he has really matured.  
8 He's done well in the work  
9 force. He's done well as a  
10 family man. He's continuing  
11 to get better. He's kept away  
12 from people who are not doing  
13 so well. And also old friends  
14 that are still in a similar  
15 spot. So I feel as though,  
16 not to be preachy, but the  
17 prodigal son has come home and  
18 he is truly repentant for  
19 everything that has happened  
20 and I, I just really would  
21 like to see that, that he does  
22 well with this. Thank you.

23 THE COURT: I  
24 appreciate that and I can't  
25 help thinking about you

1 mentioned the prodigal son but  
2 also that him that has once to  
3 every man a nation. I think  
4 about that, that a lot and  
5 there is a time to come, once  
6 there's a person and hopefully  
7 this is the time that has come  
8 for him and this is a real  
9 change in his life. All  
10 right.

11 MR. GRIMES: His  
12 mother --

13 THE COURT: I share  
14 that hope with you. All  
15 right. Mr. Grimes, anything  
16 else?

17 MR. GRIMES: Yes, sir.  
18 His mother is here and I think  
19 she also would like to address  
20 the Court.

21 THE COURT: Be glad to  
22 hear from you. Tell me your  
23 name.

24 MS. BERG: I'm Lee  
25 Berg. I'm David's mother and

1 of course you know mothers  
2 think different than everybody  
3 else. You know, I love him  
4 and he's a good person. Right  
5 now my health is failing me  
6 somewhat and --

7 THE COURT: Well, I'm  
8 sorry.

9 MS. BERG: He does  
10 things for me and he's there  
11 for me and I'm worried about  
12 him due to the fact that this  
13 young man Eric had threatened  
14 him and I know you have to do  
15 your job but it just worries  
16 me so much that he's in  
17 contact with him somehow and I  
18 really don't want to get the  
19 name of the person that he  
20 just killed, you know, in  
21 prison.

22 THE COURT: All right.  
23 Thank you very much. All  
24 right. Anything else?

25 MR. GRIMES: Yes, sir.

1 His fiancée, Tonya Flynn.

2 THE COURT: Be glad to  
3 hear from you. Tell me your  
4 name.

5 MS. FLYNN: Tonya  
6 Flynn.

7 THE COURT: All right.  
8 Be glad to hear from you.  
9 Anything you want to say.

10 MS. FLYNN: He's a good  
11 man. He's there for me. He  
12 cares for his -- we have a  
13 three year old. He is a  
14 family man and I'm also afraid  
15 for him being that he had to  
16 testify for the State I really  
17 don't -- I don't want -- I  
18 know you would -- like she  
19 say, you have to do your job.  
20 I don't want, I don't want to  
21 have to see him go there but I  
22 know you have to do what you  
23 have to do, but I don't want  
24 him to get in any trouble up  
25 there.

1                   **THE COURT:** I don't  
2                   either and of course he can  
3                   tell the people in S.C.D.C.  
4                   you know any fears that he may  
5                   have, any contact that he  
6                   shouldn't have with other  
7                   prisoners and they do take  
8                   that into account and they do  
9                   everything they can to keep  
10                  people separate, segregated,  
11                  whatever word you want to use.  
12                  So you should be aware of  
13                  that, Mr. Ancrum, that you can  
14                  make known to the authorities  
15                  anybody that you think is in  
16                  the penitentiary system that  
17                  you should not have contact  
18                  with and they will do  
19                  everything they can to comply  
20                  with that. All right.  
21                  Anything else?

22                  **MR. GRIMES:** Yes, sir.  
23                  His, his older sister was here  
24                  yesterday Beverly Mitchell.  
25                  She was very emotional and she

1           literally broke down in our  
2           work room probably about three  
3           times. She described David as  
4           an -- and she didn't come to  
5           court today. I imagine it's  
6           because of her emotions. She  
7           lives in West Ashley. She's a  
8           good and dependable person.  
9           Doesn't do any drugs. This  
10          was a complete shock to her  
11          that he was involved in this.  
12          It's all because of those  
13          people he was hanging around  
14          with. She's a medical  
15          assistant at N. H. C. in  
16          Charleston. Her husband works  
17          with U. P. S. Says David, if  
18          you ever need anything like  
19          help with the floors,  
20          anything, he comes over there  
21          and helps, helps her out. He  
22          had a friend here yesterday,  
23          Chelsea Flynn, his fiancée's  
24          sister. She didn't make it  
25          here today. She says that he

1 stays at her house a lot and  
2 asks her, says do you have any  
3 concerns about watching your  
4 children or anything due to  
5 the serious allegations. She  
6 had no concerns at all. He  
7 watches movies, plays games,  
8 and he's basically like best  
9 friends with his children.  
10 And he's also -- talks to them  
11 and tries to steer them in the  
12 right direction.

13 The next point  
14 basically, one point that like  
15 kind of sums this case up, you  
16 heard of justice delayed is  
17 justice denied. And that is  
18 exactly what could happen  
19 here. Because of the delay in  
20 this case the State, the case  
21 that it handled functionally,  
22 David would be probably,  
23 probably I guess, given his  
24 lack of, of involvement and  
25 record and minor record,

1            hopefully he would have got a  
2            seven-year sentence three  
3            years ago. He would have been  
4            halfway through that. But for  
5            what reason instead of being  
6            halfway through this sentence  
7            he's been out, being  
8            productive, being a good  
9            father, good son, good  
10          fiancée, good community man.  
11          And all of a sudden he gets  
12          notice, the State just pulls  
13          him out of his life and walks  
14          him to jail. I mean quite  
15          honestly there's no purpose to  
16          send him to jail. He has --  
17          he's completely rehabilitated  
18          himself. He's not -- some of  
19          the people you heard today who  
20          get out of jail, go get  
21          arrested again, violate their  
22          bond and go back to jail. And  
23          you've heard all these people  
24          with long records coming in.  
25          You don't hear that about

1 David. I mean if he was a big  
2 drug dealer, someone involved  
3 in the drug game, he would  
4 have been rearrested by now.  
5 He would have been able to  
6 cooperate a lot more with the  
7 State, tell them a lot more  
8 information. But he wasn't  
9 involved in the drug game  
10 except for hanging around the  
11 area and because of that he's  
12 only a very limited witness  
13 for the State, but he was a  
14 good witness for the State. I  
15 think Mr. Voigt will tell you  
16 that.

17 And the Law Review  
18 article I handed up to you  
19 yesterday on page one I think  
20 it sort of sums it up. Says  
21 when an individual is  
22 convicted of a crime and  
23 serves a term of imprisonment,  
24 it is generally assumed that  
25 the convicted person is taken

1           into in custody after the  
2           sentencing is ordered by the  
3           Court. And in this case he  
4           wasn't sentenced to a term of  
5           imprisonment. They said well,  
6           let's wait six months and then  
7           we'll come back for  
8           sentencing. So you would  
9           assume after six months, you  
10          come back for sentencing. For  
11          whatever reason it didn't  
12          happen in this case. And the  
13          issue that we have today is,  
14          is whether David should get  
15          credit for the three years  
16          that he's been out and when he  
17          should have been in jail.

18                           And page two of the  
19          article, it sums it up and I  
20          quote, federal rule as  
21          recently expressed by Judge  
22          Richard Posner is that the  
23          government is not permitted to  
24          delay the expiration of the  
25          sentence either by postponing

1 the commencement of the  
2 sentence or by releasing the  
3 prisoner for a time and then  
4 re-imprisonment. And they  
5 discuss that the principle  
6 recognized by Judge Leonard  
7 Hahn, Justice Hahn and Justice  
8 Kennedy who's now on the  
9 Supreme Court by the  
10 Department of Justice, all the  
11 states recognize it, all the  
12 federal circuits have  
13 recognized it, and it's a well  
14 established rule and it's  
15 called the doctrine for credit  
16 for time at liberty.

17 And I want to make an  
18 argument well, maybe it seems  
19 unfair for the system, for him  
20 to be at large basically  
21 released and then he gets kind  
22 of benefit. Well, he's not  
23 really getting the benefit if  
24 the State is giving a reward  
25 for their negligence and

1 they're supposed to take him  
2 to court after six months.

3 THE COURT: That would  
4 have been about April of '08.

5 MR. GRIMES: I had to  
6 think. Yes, sir.

7 THE COURT: April of  
8 '08 and then so it's been a  
9 delay of three years in  
10 sentencing.

11 MR. GRIMES: Yes, sir.  
12 And that's all we're asking  
13 for is for a sentence of seven  
14 years to have credit for those  
15 three years.

16 THE COURT: All right.  
17 I appreciate that. I don't  
18 think I can give him credit  
19 for those three years but I  
20 will note, of course, that the  
21 recommendation at the time  
22 that he entered into the  
23 agreement was for a sentence  
24 of ten to twenty years. All  
25 right. Anything else?

1                   MR. GRIMES: Yes, sir.

2                   Well, we want to make sure  
3                   our -- we want to make sure  
4                   the record is preserved  
5                   because there probably will be  
6                   an appeal on this issue.

7                   THE COURT: All right.

8                   That be fine and I'll state it  
9                   and all that I don't think  
10                  under the law that I can give  
11                  him credit for that three  
12                  years from when, when he  
13                  should have been sentenced  
14                  so-to-speak in April of '08 as  
15                  I figure it based on the  
16                  agreement and all. That's  
17                  about three years. This is  
18                  March eighteenth, 2011, and so  
19                  I don't think I can give him,  
20                  under the law I don't think I  
21                  can give him credit for those  
22                  three years. So anything  
23                  more -- any more plain -- I  
24                  can't say it any more plain  
25                  than that.

1 MR. GRIMES: No, sir.

2 THE COURT: So you go  
3 right ahead.

4 MR. GRIMES: I just  
5 again, I speak for the record,  
6 not to argue with the Court.

7 THE COURT: All right.

8 MR. GRIMES: But our  
9 position is that the law is  
10 well settled and he is  
11 established and he is entitled  
12 to that credit.

13 THE COURT: I disagree  
14 with you.

15 MR. GRIMES: I  
16 understand and hopefully  
17 another Court will agree with  
18 us.

19 THE COURT: All right.

20 MR. GRIMES: I just for  
21 the record I would cite  
22 article forty-five Catholic  
23 and University of Law Review.

24 THE COURT: Well, I  
25 did read that. You furnished

1           that to me and like I said,  
2           this is an area that I've  
3           never run into before in my  
4           forty something years at the  
5           bar and the bench, I've never  
6           run into this situation. So  
7           I've learned a little bit  
8           about it in the last few days  
9           and I commend you for finding  
10          that and bringing it to my  
11          attention.

12                        **MR. GRIMES:** One thing  
13           that you may be worried about  
14           and I think it was addressed  
15           on page three of that article  
16           about halfway through is the  
17           Courts are entitled to expect  
18           the prosecution will execute  
19           its orders in a timely fashion  
20           by imprisoning convicts and  
21           keeping them from finding this  
22           sensitive (phonetic) since it  
23           expired. Moreover, it could  
24           only degrade public law  
25           confidence in the criminal

1 justice system to commit  
2 prosecutors, marshals, or  
3 correctional office  
4 authorities to disregard  
5 responsibilities with impunity  
6 in denying credit to convicts  
7 by providing (phonetic) by  
8 errors leaving individuals  
9 convicted of crimes at the  
10 mercy of the administerial  
11 government officers who  
12 effectively compel them to  
13 serve their sentences in  
14 installments. So, and I  
15 believe -- you also  
16 entitled -- I guess I ask you  
17 to make a ruling on our  
18 argument that that statute  
19 17-25-65 applies to allow him  
20 to get a downward departure or  
21 sentence reduction for his  
22 testimony against Eric Ancrum.

23 THE COURT: All right.  
24 I do not -- I find that  
25 section 17-25-65 is not

1 available to him under these  
2 circumstances.

3 MR. GRIMES: Thank you,  
4 your Honor. The other two  
5 things that I handed up to the  
6 Court decided may go to the  
7 range of the sentencing within  
8 the statutory requirement.  
9 One is Cunna (phonetic) versus  
10 the United States. That was a  
11 case involving the officers  
12 who beat up Rodney King and  
13 there if they were sent the  
14 prison obviously they would be  
15 at the mercy of a lot of  
16 prisoners and probably  
17 would -- and his mother and  
18 his fiancée noted for that  
19 case could be beat up or  
20 assaulted by other prisoners  
21 and I'm going to have David  
22 testify a little bit or  
23 provide a record, especially  
24 for the record the fact that  
25 that's a possibility but

1 anyone could basically  
2 cooperate with the State and  
3 be seen as a snitch in prison,  
4 take that risk and get beat  
5 up, assaulted, killed, and  
6 obviously the State has the  
7 duty to protect them and they  
8 tried their best, but  
9 especially nowadays with the  
10 budget problems, they're not  
11 going to have enough guards.  
12 I think David is even more at  
13 risk for that. And Eric  
14 Ancrum is serving a life  
15 sentence. He has nothing to  
16 lose by either assaulting Mr.  
17 Ancrum if he was somehow in  
18 the same facility or having a  
19 friend of his or someone he  
20 made connections with assault  
21 him.

22 THE COURT: Well, I  
23 appreciate that and all but I  
24 don't think there's anything I  
25 can do anything about that.

1                   MR. GRIMES: As I said,  
2                   that would go --

3                   THE COURT: And I might  
4                   say just so for the -- just so  
5                   that you and your client knows  
6                   here and all, I was an  
7                   attorney and my client, and I  
8                   represented him at trial. He  
9                   was convicted and went to  
10                  prison. I represented him at  
11                  his first parole hearing where  
12                  he was turned down. And he  
13                  was killed by an inmate before  
14                  he came up for parole the  
15                  second time. And that's  
16                  always weighed heavily on my  
17                  conscience, but there's  
18                  nothing that I can do about  
19                  that under these  
20                  circumstances.

21                  MR. GRIMES: I  
22                  understand that part, your  
23                  Honor. And I'm saying for the  
24                  statutory appeal argument, you  
25                  know, there's a substantial

1 range between seven years and  
2 --

3 THE COURT: Let me,  
4 let me interrupt you and say  
5 that I'm prepared to sentence  
6 your client to seven years  
7 concurrent on all the charges  
8 for which he's pled guilty.

9 MR. GRIMES: Okay.  
10 Thank you, your Honor. And  
11 just to be -- make sure -- I  
12 want to make sure the record  
13 is covered because we probably  
14 will be appealing this.

15 THE COURT: But I  
16 don't think -- as I said, Mr.  
17 Ancrum, and I'm talking to Mr.  
18 Ancrum right now. I don't  
19 think I can do anything other  
20 than that, Mr. Ancrum. I  
21 think under the law I'm  
22 required to sentence you to a  
23 term of imprisonment of seven  
24 years. That's the minimum  
25 that I can sentence you to and

1           you're entitled to whatever  
2           jail time credit you have,  
3           whatever time you spent in the  
4           jail before you came in,  
5           you're entitled to that, but I  
6           cannot give you credit for any  
7           of the time from the time that  
8           you entered the pleas of  
9           guilty up to now. You  
10          understand what I'm saying?

11                         **THE DEFENDANT:** I  
12          understand what you're saying,  
13          sir.

14                         **THE COURT:** All right.

15  
16                         **MR. GRIMES:** Your  
17          Honor, I've handed up a case  
18          to you cited Johnson versus  
19          Reginald Lloyd. It's an order  
20          by Judge Seals where he took  
21          someone who was placed on the  
22          sex offender registry, took  
23          him off the list under  
24          equitable principles. And  
25          it's been a long time since I

1 was in law school and I  
2 probably never argued equity  
3 in a criminal court before but  
4 equity abhors a wrong without  
5 remedy and the government here  
6 has, quite frankly, committed  
7 a wrong and there needs to be  
8 some type of remedy for it.  
9 And, your Honor, if you give  
10 him a seven-year sentence  
11 that's no remedy. That's why  
12 I think the doctrine under the  
13 Law Review article, credit for  
14 time erroneously held, you  
15 know, released is the remedy.

16 **THE COURT:** Well, of  
17 course, I might say that that  
18 article dealt with a situation  
19 where the person had been  
20 sentenced and was in custody  
21 or should have been taken into  
22 custody and was released and  
23 we're not dealing with those  
24 situations at all in this  
25 case.

1                   **MR. GRIMES:** True and  
2                   but we were dealing with a  
3                   situation where he should have  
4                   been brought back to court for  
5                   sentencing and for whatever  
6                   reason he was not brought back  
7                   to court and he's kind of  
8                   moved on and essentially the  
9                   State should be estopped even  
10                  from bringing this action.  
11                  It's been three years. They  
12                  dismissed the two  
13                  co-defendants's charges, your  
14                  Honor. If Eric Ancrum was  
15                  this big drug dealer, really  
16                  bad guy, they should have --  
17                  they would have brought him  
18                  back long ago. I mean it's  
19                  not often I come in here and  
20                  make the type of arguments for  
21                  someone but, you know, David  
22                  is, you know, a really good  
23                  guy.

24                               **THE COURT:** All right.  
25                               I accept that as true.

1                   MR. GRIMES: And it  
2                   just breaks my heart that he,  
3                   you know, gets to go to jail  
4                   for seven years where we have  
5                   a remedy here and it's  
6                   recognized in courts  
7                   throughout the nation.

8                   THE COURT: I disagree  
9                   with you there.

10                  MR. GRIMES: I  
11                  understand that. But our  
12                  position is, I think the Law  
13                  Review research is widely  
14                  recognized that we could give  
15                  him a remedy where he -- in a  
16                  case like this maybe he could  
17                  do three years. We would have  
18                  no problem with that, your  
19                  Honor.

20                  I would also ask the  
21                  Court under equitable  
22                  principles to give him credit  
23                  for time served and I think  
24                  for the record and for all  
25                  purposes we need a ruling on

1 that, your Honor.

2 THE COURT: On what?

3 MR. GRIMES: Under  
4 equity.

5 THE COURT: All right.  
6 I deny your request to depart  
7 below the seven years that I'm  
8 prepared to give on each one  
9 of the charges for which he  
10 pled guilty on any basis, on  
11 the basis of anything that's  
12 been presented to me today.

13 MR. GRIMES: Okay.  
14 Well, let me quickly for the  
15 Court's time and everyone  
16 else's time list the other  
17 reasons I had. One, I've  
18 already kind of mentioned sort  
19 of a waiver estoppel argument.  
20 The State has waited just  
21 simply too long to bring this  
22 case back to court. They  
23 should be estopped from  
24 bringing this. They botched  
25 jurisdiction on the case by

1           their inaction. I assume  
2           that's denied. And second,  
3           another argument would be  
4           under the due process clause  
5           of the fourteenth amendment.  
6           That the delay here is  
7           violative of his due process  
8           rights. He's been out in the  
9           community, re-established his  
10          life, doing everything a  
11          normal person should be doing  
12          and the State has no reason  
13          for -- to explain its delay  
14          and they brought him back  
15          here.

16                           And I believe those  
17          would be all our, all our  
18          grounds, your Honor.

19                           **THE COURT:** Well, I  
20          commend you, Mr. Grimes, for  
21          doing all the work that you've  
22          done in presenting everything  
23          that you've presented on  
24          behalf of your client, Mr.  
25          Ancrum, and, Mr. Ancrum, I

1 don't -- I feel for you. My  
2 sympathies are, are with you  
3 under, under these  
4 circumstances but I think I'm  
5 required by the law to, under  
6 all of the circumstances,  
7 impose a sentence on each of  
8 these convictions of seven  
9 years concurrent. Give you  
10 credit for any jail time  
11 toward that. So that's my  
12 sentence. Good luck to you.

13 MR. VOIGT: Thank you,  
14 your Honor.

15 MR. GRIMES: Thank you,  
16 your Honor.

17 (Whereupon, the  
18 matter was concluded.)

19  
20  
21  
22  
23  
24  
25

CERTIFICATION

I, the undersigned HEATHER GAYLE BURNS, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the proceedings in the captioned case, relative to appeal, heard in the Court of General Sessions for Charleston County, South Carolina on the 18<sup>th</sup> day of March, 2011.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

DATED: \_\_\_\_\_

*May 15, 2011*

\_\_\_\_\_  
HEATHER GAYLE BURNS, R. D. R.  
Official Court Reporter

MJB 2006-03-01254

WITNESSES

KEITH HAIR AND/OR

WATT CASEY

DRAKE, CCSO

2006-004223-B

ARREST WARRANT NUMBER

K068969

FEBRUARY 28, 2006

ACTION OF GRAND JURY

**TRUE BILL**

Representative of Grand Jury

JUN 12 2006

VERDICT

Representative of Petit Jury

Date:

DOCKET NO. 2006-GS-10-4179

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JUNE TERM 2006

THE STATE

VS.

DAVID RANDOLPH ANCRUM

Indictment for

TRAFFICKING COCAINE

RULE 5

FILED

2006 JUN 22 AM 10:42

JULIE A. MONTGOMERY  
CLERK OF COURT

BY J.G.



COUNTY OF Charleston  
 STATE VS.  
DAVID ANCRUM  
 AKA: \_\_\_\_\_  
 Race: B Sex: M Age: 25 32  
 DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
 Address: \_\_\_\_\_  
wadmalaw Island, SC 29487  
 DL#: 007398640 SID#: \_\_\_\_\_

*3062 JAMES*

INDICTMENT/CASE#: 2006GS104179  
 A/W#: K068969  
 Date of Offense: 2/28/2006  
 S.C. Code §: 44-53-0370(e)(2)(e)  
 CDR Code #: 0281

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Trafficking in cocaine, 28--100 g. 1st offense 1-25

in violation of § 44-53-0370(e)(2)(b)1 of the S.C. Code of Laws, bearing CDR Code # 2359  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS(CSC  §17-25-45 w/minor 1st or Lewd Act)

The charge is:  As Indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. \_\_\_\_\_ (Defendant initial)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: Nathan Williams David Andrew Barnes  
 Williams, Nathan Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 7 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 § 24-13-40 to be calculated and applied by the State Department of Corrections.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

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 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
 \$ \_\_\_\_\_ paid to Public Defender Fund

Recipient: \_\_\_\_\_  
 \*Fine: \$ \_\_\_\_\_

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 6.75
TOTAL	\$	\$ 231.75

Other: SENTENCED ON MARCH 18, 2011  
P.L. HUGHES JR.  
2008 - JUDGE  
 Appointed PD or appointed other counsel, §35.13 TP  
 Requires \$500 be paid to Clerk during probation.

Whitney Hopkins  
 Clerk of Court/ Deputy Clerk  
 Court Reporter: Gayle Duns

As to plea, not sentencing  
 PRESIDING JUDGE off court  
 Judge Code: 2111413  
 Sentence Date: 10/8/07

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
 CLERK, C.P., S.S. & F.C.  
Deputy Clerk  
 DEPUTY CLERK

MJB 2006-03-01254

WITNESSES

EITH HAIR AND/OR

IATT CASEY

RAKE, CCSO

006-004223-B

ARREST WARRANT NUMBER

K068970

FEBRUARY 28, 2006

ACTION OF GRAND JURY

TRUE BILL

Person of Grand Jury

JUN 12 2006

VERDICT

Person of Petit Jury

Date:

DOCKET NO. 2006-GS-10-

4180

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JUNE TERM 2006

THE STATE

vs.

DAVID RANDOLPH ANCRUM

Indictment for

POSSESSION WITH INTENT TO  
DISTRIBUTE COCAINE WITHIN  
PROXIMITY OF SCHOOL

RULE 5

FILED

2006 JUN 22 AM 10:42

JULIA M. CONNOR  
CLERK OF COURT

BY

J.P.

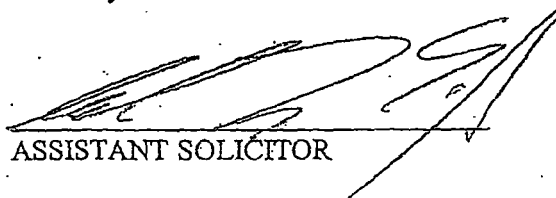
STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

INDICTMENT FOR  
POSSESSION WITH INTENT TO DISTRIBUTE  
COCAINE WITHIN PROXIMITY OF SCHOOL

At a Court of General Sessions, convened on June 12, 2006 the Grand Jurors of Charleston County present upon their oath:

That DAVID RANDOLPH ANCRUM did in Charleston County on or about February 28, 2006, knowingly manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue, to wit: Cocaine, within a one-half mile proximity of Addleston Hebrew Academy located at 1639 Raoul Wallenberg Boulevard, Charleston, South Carolina. This is in violation of Section §44-53-445 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 case made and provided.

  
ASSISTANT SOLICITOR

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7  
1  
1  
5

110

COUNTY OF Charleston
STATE VS. DAVID ANCRUM
AKA:
Race: B Sex: M Age: 29.32
DOB: SS#:
Address: Wadmalaw Island, SC 29487
DL#: 007398640 SID#:

INDICTMENT/CASE#: 2006GS104180
A/W#: K068970
Date of Offense: 2/28/2006
S.C. Code § : 44-53-0445(B)(1)
CDR Code #: 0107

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: PWID/Dist Drugs in Proximity of School

in violation of § 44-53-0445(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0107
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Williams, Nathan Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 7 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 § 24-13-40 to be calculated and applied by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
set by SCDPPPS

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 pmts. of \$ beginning
paid to Public Defender Fund

Table with columns for item description, amount, and total. Includes items like Assessments, Conv Surcharges, DUI Surcharges, Public Def/Prob, Law Enforce. Funding, Drug Court Surcharges, Breath Test Fee, Vehicle Assessment, and County fee.

Other:
SENTENCED ON MARCH 18, 2011.
Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

Whitney H. Hoskins Clerk of Court/Deputy Clerk
Court Reporter: Gayle Burns
PRESIDING JUDGE Judge Code: 2111413 Sentence Date: 10/8/07
ATTEST: A TRUE COPY JULIE J. ARMSTRONG (SEAL) CLERK, C.P., G.S. & F.C.
BY: DEPUTY CLERK

MJB 2006-03-01254

WITNESSES

KEITH HAIR AND/OR

MATT CASEY

DRAKE, CCSO

2006-004223-B

ARREST WARRANT NUMBER

K068971

FEBRUARY 28, 2006

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

JUN 12 2006

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2006-GS-10-418

RULE 5

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JUNE TERM 2006

THE STATE

vs.

DAVID RANDOLH ANCRUM

Indictment for

TRAFFICKING COCAINE  
BASE(CRACK)

FILED

2006 JUN 22 AM 10:41

JULIE A. STARRONG  
CLERK OF COURT

BY J.G.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

INDICTMENT FOR  
TRAFFICKING COCAINE BASE(CRACK)

At a Court of General Sessions, convened on June 12, 2006 the Grand Jurors of Charleston County present upon their oath:

That DAVID RANDOLH ANCRUM did in Charleston County on or about February 28, 2006, knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State; or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State; or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of a controlled substance or a controlled substance analogue, to wit: Cocaine Base(Crack), in excess of 200 grams. This is in violation of §44-53-375 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 case made and provided.

  
ASSISTANT SOLICITOR

RULE 5

AKA:

Race: B Sex: M Age: 29 32

DOB: SS#

Address: Wadmalaw Island, SC 29487

DL#: 007398640 SID#:

Detained previous

10/8/07

JUDGE JAMES

INDICTMENT/CASE#: 2006GS104181

A/W#: K068971

Date of Offense: 2/28/2006

S.C. Code § : 44-53-0375(C)(5)

CDR Code #: 0370

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Trafficking in Cocaine Base/Meth. 28 to 100 grams. 1st offense 7-25

in violation of § 44-53-0375(C)(2)(a) of the S.C. Code of Laws, bearing CDR Code # 0392

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.

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

ATTEST

Williams, Nathan

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 7 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 § 24-13-40 to be calculated and applied by the State Department of Corrections. The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered Total: \$ plus 20% fee: \$ Payment Terms: set by SCDPPPS

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 pmts. of \$ beginning \$ paid to Public Defender Fund

Table with 3 columns: Description, Amount, Total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 35.13 (Public Def/Prob) \$500, § 73.3, IB TP (Law Enforce. Funding) \$25, § 33.7, IB TP (Drug Court Surcharge) \$100, § 50-21-114(BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$ 6.75, TOTAL \$ 231.25

Other: SENTENCED ON MARCH 18 2007 T.L. Robinson 2008 JUDGE Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

Whitney Mackinn Clerk of Court/ Deputy Clerk

As to plea, not sentenced PRESIDING JUDGE Judge Code: 2111413 Sentence Date: 10/8/07

Court Reporter: Gagne Burns

ATTEST: A TRUE COPY JULIE J. ARMSTRONG (SEAL) CLERK, C.P., G.S. & F.C. DEPUTY CLERK

MJB 2006-03-01254

WITNESSES

KEITH HAIR AND/OR

MATT CASEY

DRAKE, CCSO

2006-004223-B

ARREST WARRANT NUMBER

K068972

FEBRUARY 28, 2006

ACTION OF GRAND JURY  
**TRUE BILL**

*J. R. [Signature]*  
Foreperson of Grand Jury JUN 12 2006

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2006-GS-10-4182x **RULE 5**

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JUNE TERM 2006

THE STATE

vs.

DAVID RANDOLPH ANCRUM

Indictment for  
**POSSESSION WITH INTENT TO  
DISTRIBUTE COCAINE BASE (CRACK)  
WITHIN PROXIMITY OF SCHOOL**

**FILED**

2006 JUN 22 AM 10:42

JULIE ARMSTRONG  
CLERK OF COURT

BY *J.P.*

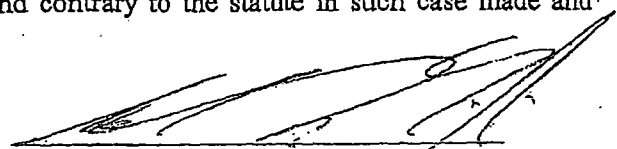
STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

INDICTMENT FOR  
POSSESSION WITH INTENT TO DISTRIBUTE  
COCAINE BASE(CRACK) WITHIN PROXIMITY OF  
SCHOOL

At a Court of General Sessions, convened on June 12, 2006 the Grand Jurors of Charleston County present upon their oath:

That DAVID RANDOLPH ANCRUM did in Charleston County on or about February 28, 2006, knowingly manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue, to wit: Cocaine Base(Crack), within a one-half mile proximity of Addleston Hebrew Academy located at 1639 Raoul Wallenberg Boulevard, Charleston, South Carolina. This is in violation of Section §44-53-445 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 case made and provided.

  
ASSISTANT SOLICITOR

RULE 5

116

STATE OF SOUTH CAROLINA

*Determined Sentence*  
*10/8/07*

IN THE COURT OF GENERAL SESSIONS

*Judge James*

COUNTY OF Charleston  
STATE VS. DAVID ANCRUM  
AKA: \_\_\_\_\_  
Race: B Sex: M Age: 29 32  
DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
Address: Wadmalaw Island, SC 29487  
DL#: 007398640 SID#: \_\_\_\_\_

INDICTMENT/CASE#: 2006GS104182  
A/W#: K068972  
Date of Offense: \_\_\_\_\_  
S.C. Code § : 44-53-0445(B)(2)  
CDR Code #: 0108

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: PWID/Dist. Cocaine Base in Proximity of School

in violation of § 44-53-0445(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0108  
 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 initial)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: *Nathan Williams* *David Ancrum* *Andrew Bromies*  
Williams, Nathan Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 7 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 § 24-13-40 to be calculated and applied by the State Department of Corrections.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

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 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

Recipient: _____	*Fine: _____
§ 14-1-206 (Assessments 107.5 %)	\$ _____
§ 14-1-211(A)(1) (Conv Surcharge)	\$100 \$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§ 56-5-2995 (DUI Assessment)	\$12 \$ _____
§ 35.13 (Public Def/Prob)	\$500 \$ _____
§ 73.3, 1B TP (Law Enforce. Funding)	\$25 \$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100 \$ 100.00
§ 50-21-114(BUI Breath Test Fee)	\$50 \$ _____
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$ _____
3% to County (if paid in installments)	\$ 6.75
TOTAL	\$ 231.75

Other: SENTENCED ON  
MARCH 8 2011  
T.L. Hughes  
2008 - JUDGE.  
 Appointed PD or appointed other counsel, §35.13 TP  
Requires \$500 be paid to Clerk during probation.

*Whitney Hawkins*  
Clerk of Court/ Deputy Clerk  
Court Reporter: *Gracie Burns*

*As to plea, not sentencing*  
PRESIDING JUDGE *T.L. Hughes*  
Judge Code: 21 1 1 4 1 3  
Sentence Date: 10/8/07

ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL)  
CLERK, C.P., G.S. & F.G.  
*Julie J. Armstrong*  
DEPUTY CLERK

MJB 2006-03-01254

WITNESSES

KEITH HAIR AND/OR

MATT CASEY

DRAKE, CCSO

006-004223-B

ARREST WARRANT NUMBER

K068973

FEBRUARY 28, 2006

ACTION OF GRAND JURY

TRUE BILL

person of Grand Jury

JUN 12 2006

VERDICT

person of Petit Jury

Date:

DOCKET NO. 2006-GS-10-

4183

RIIF

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JUNE TERM 2006

THE STATE

vs.

DAVID RANDOLPH ANCRUM

Indictment for

MANUFACTURING COCAINE  
BASE(CRACK)

FILED

2006 JUN 22 AM 10:42

JULIA M. STRONG  
CLERK OF COURT

BY J.G.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

INDICTMENT FOR  
MANUFACTURING COCAINE BASE(CRACK)

At a Court of General Sessions, convened on June 12, 2006 the Grand Jurors of Charleston County present upon their oath:

That DAVID RANDOLPH ANCRUM did in Charleston County on or about February 28, 2006, knowingly manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue, to wit: Cocaine Base(Crack), in violation of §44-53-375 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 case made and provided.

  
ASSISTANT SOLICITOR

RUIFK

STATE OF SOUTH CAROLINA

*Deterred Jettison*  
*10/8/07*

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston  
STATE \_\_\_\_\_ )  
VS. )  
DAVID ANCRUM )  
AKA: \_\_\_\_\_ )  
Race: B Sex: M Age: 28/32 )  
DOB: \_\_\_\_\_ SS# \_\_\_\_\_ )  
Address: \_\_\_\_\_ )  
Wadmalaw Island, SC 29487 )  
DL#: 007398640 SID#: \_\_\_\_\_ )

- JUDGE JAMES  
INDICTMENT/CASE#: 2006GS104183  
A/W#: K068973  
Date of Offense: 2/28/2006  
S.C. Code § : 44-53-0375 (B) (1)  
CDR Code #: 3014

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: PWID/Dist/Mfg Cocaine Base or Meth. 1st Offense 15

in violation of § 44-53-0375 (B) (1) of the S.C. Code of Laws, bearing CDR Code # 3014  
 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 initial)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST  
*Nathan Williams* Williams, Nathan  
*David Ancrum* Defendant  
*Andrew Barnes* Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 7 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 § 24-13-40 to be calculated and applied by the State Department of Corrections.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION:  Heard,  Waived,  Ordered.  
Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

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 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_  
\$ \_\_\_\_\_ paid to Public Defender Fund

Recipient: \_\_\_\_\_  
\*Fine: \$ \_\_\_\_\_  
§ 14-1-206 (Assessments 107.5 %) \$ \_\_\_\_\_  
§ 14-1-211(A)(1) (Conv Surcharge) \$100 \$ 100.00  
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ \_\_\_\_\_  
§ 56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
§ 35.13 (Public Def/Prob) \$500 \$ \_\_\_\_\_  
§ 73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00  
§ 33.7, 1B TP (Drug Court Surcharge) \$100 \$ 100.00  
§ 50-21-114(BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
3% to County (if paid in installments) \$ 6.75  
TOTAL \$ 231.75

Other: SENTENCED ON  
MARCH 18 2011  
J.L. [Signature]  
2008 - JUDGE  
 Appointed PD or appointed other counsel, §35-13-7P  
Requires \$500 be paid to Clerk during probation.

*Whitney Hoskins*  
Clerk of Court/ Deputy Clerk

*As to plea, not sentenced*  
PRESIDING JUDGE *B/J*  
Judge Code: 2111413  
Sentence Date: 10/8/07

Court Reporter: *Gayne Burns*

ATTEST: A TRUE COPY  
*Julie J. Armstrong* (SEAL)  
CLERK, C.P., G.S. & F.C.  
*[Signature]*  
DEPUTY CLERK

MJB 2006-03-01254

WITNESSES

KEITH HAIR AND/OR

MATT CASEY

DRAKE, CCSO

2006-004223-B

ARREST WARRANT NUMBER

K068974

FEBRUARY 28, 2006

MAJORITY OF GRAND JURY

TRUE BILL

*[Signature]*  
Foreperson of Grand Jury JUN 12 2006

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2006-GS-10-4184

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JUNE TERM 2006

THE STATE

vs.

DAVID RANDOLPH ANCRUM

Indictment for

MANUFACTURING COCAINE  
BASE(CRACK) WITHIN PROXIMITY OF  
SCHOOL

RULE 5

120

FILED

2006 JUN 22 AM 10:42

JULIA J. FRONTS  
CLERK OF COURT

BY J.G.

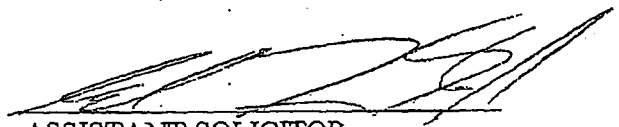
STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

INDICTMENT FOR  
MANUFACTURING COCAINE BASE(CRACK) WITHIN  
PROXIMITY OF SCHOOL

At a Court of General Sessions, convened on June 12, 2006 the Grand Jurors of Charleston County present upon their oath:

That DAVID RANDOLPH ANCRUM did in Charleston County on or about February 28, 2006, knowingly manufacture, distribute, dispense, deliver, purchase; or did aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase; or did possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue, to wit: Cocaine Base(Crack), within one-half mile proximity of Addleston Hebrew located at 1639 Raoul Wallenberg Boulevard, Charleston, South Carolina. This is in violation of §44-53-445 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 case made and provided.

  
ASSISTANT SOLICITOR

RILEY

122 STATE OF SOUTH CAROLINA *Deterred Sentence*  
 COUNTY OF Charleston 10/8/07  
 STATE VS. DAVID ANCRUM  
 AKA: \_\_\_\_\_  
 Race: B Sex: M Age: 29 32  
 DOB: \_\_\_\_\_ SS#: \_\_\_\_\_  
 Address: Wadmalaw Island, SC 29487  
 DL#: 007398640 SID#: \_\_\_\_\_

IN THE COURT OF GENERAL SESSIONS  
3006 Jones  
 INDICTMENT/CASE#: 2006GS104184  
 A/W#: K068974  
 Date of Offense: 2/28/2006  
 S.C. Code § : 44-53-0445(B)(1)  
 CDR Code #: 0107

**SENTENCE SHEET**

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: PWID/Dist Drugs in Proximity of School 1<sup>o</sup>

in violation of § 44-53-0445(B)(1) of the S.C. Code of Laws, bearing CDR Code # 0107.  
 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 initial)  
 The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST: Nathan Williams David Ancrum Andrew Baines  
 Williams, Nathan Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the  State Department of Corrections,  County Detention Center, for a determinate term of 7 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 § 24-13-40 to be calculated and applied by the State Department of Corrections.  
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

**SPECIAL CONDITIONS:**

RESTITUTION:  Heard,  Waived,  Ordered  
 Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_  
 Payment Terms: \_\_\_\_\_  
 set by SCDPPPS \_\_\_\_\_

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 pmts. of \$ \_\_\_\_\_ beginning \_\_\_\_\_

Recipient: _____	*Fine: _____	\$ _____
§ 14-1-206 (Assessments 107.5%)		\$ _____
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ _____
§ 56-5-2995 (DUI Assessment)	\$12	\$ _____
§. 35.13 (Public Def/Prob)	\$500	\$ _____
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$ _____
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)		\$ 6.75
<b>TOTAL</b>		<b>\$ 231.75</b>

\$ \_\_\_\_\_ paid to Public Defender Fund  
 Other: SENTENCED ON MARCH 18 2011  
T. L. [Signature]  
2008 - Judge  
 Appointed PD or appointed other counsel, §35.13 TP  
 Requires \$500 be paid to Clerk during probation.

Whitney Hester Clerk of Court/Deputy Clerk  
Gayne Burns Court Reporter  
 PRESIDING JUDGE [Signature]  
 Judge Code: 2111413  
 Sentence Date: 10/8/07  
 ATTEST: A TRUE COPY  
JULIE J. ARMSTRONG (SEAL) CLERK, C.P., G.S. & FC.  
[Signature] DEPUTY CLERK  
 SCCA/217 (9/2006)  
*As to plea, not sentencing*



ten to twenty years, concurrent, with sentencing to be deferred for six months from the date of this agreement, the Defendant, agrees to be fully truthful and forthright with the Attorneys for the State and law enforcement agents in their investigation of the importation and distribution of controlled substances, firearms offenses, murder, armed robbery and other unlawful activities, to include, but not limited to, truthful and complete debriefings of the Defendant's knowledge concerning these and other unlawful activities. Also, the Defendant understands that he must fully disclose and provide truthful information to the Attorneys for the State including any books, papers, or documents or any other items of evidentiary value to the investigation. The Defendant must also testify fully and truthfully at any trials or other proceedings if called upon to do so by the Attorneys for the State, subject to prosecution for perjury for not testifying truthfully. The failure of the Defendant to be fully truthful and forthright at any stage will, at the sole election of the Attorneys for the State, cause the obligations of the Attorneys for the State within this Agreement to become null and void. Further, it is expressly agreed that if the obligations of the Attorneys for the State within this Agreement become null and void due to the lack of truthfulness on the part of the Defendant, the Defendant understands that: (1) the Defendant will not be permitted to withdraw his plea of guilty to the offenses described above without consent of the Attorneys for the State; (2) the Attorneys for the State *may argue for a maximum sentence* for the offenses to which the Defendant has pleaded guilty; (3) any and all additional charges known to the Attorneys for the State may be filed in the appropriate jurisdiction; (4) at the sole election of the Attorneys for the State, the Defendant's guilty plea will be rescinded if *the Defendant has not been sentenced*, and the State may resume its prosecution of the Defendant on all charges; and (5) the Attorneys for the State may use any and



all information and testimony provided by the Defendant in the prosecution of the Defendant of all charges.

3. The Defendant, David Ancrum, agrees to submit to such polygraph examinations as may be requested by the Attorneys for the State and agrees that any such examinations shall be performed by a polygraph examiner selected by the Attorneys for the State. Defendant, David Ancrum, further agrees that his failure to pass any such polygraph examination to the State's satisfaction will result, at State's sole discretion, in the obligations of the Attorneys for the State within the Agreement becoming null and void.

4. The Attorneys for the State agree that any self-incriminating information provided by the Defendant, David Ancrum, as a result of the cooperation required by the terms of this Agreement, although available to the Court, will not be used against the Defendant, David Ancrum. The provisions of this paragraph shall not be applied to restrict any such information:

- (A) known to the Attorneys for the State prior to the date of this Agreement;
- (B) concerning the existence of prior convictions and sentences in determining;
- (C) in a prosecution for perjury or giving a false statement; or
- (D) in the event there is a breach of the cooperation provisions of this Plea

Agreement.

5. Provided the Defendant, David Ancrum, cooperates pursuant to the provisions of this Plea Agreement, and that cooperation is deemed by Attorneys for the State as providing substantial assistance in the investigation or prosecution of another person who has committed an offense, the Attorneys for the State agree to advise the sentencing Court of the extent and value of the Defendant's cooperation if called upon to do so by the Defendant, David Ancrum.

*CPA*

The Defendant, David Ancrum, further understands that should the Court sentence the Defendant to the maximum penalty prescribed by law, the Defendant will have no right to withdraw his plea.

6. The Defendant, David Ancrum, understands that the matter of sentencing is within the sole discretion of the Court, and that the sentence applicable to Defendant's case will be imposed in conformity with the laws of the State of South Carolina. The Defendant also understands that Defendant's sentence has not yet been determined by the Court, and that any estimate of a probable sentence (within the negotiated or recommended concurrent sentencing range) that the Defendant may have received from Defendant's attorney, or anyone else is only a prediction, not a promise, and is not binding on the Attorneys for the State or the Court. The Defendant further understands that the Attorneys for the State retain the right to inform the Court of any relevant facts, to address the Court with respect to the nature of the offense, to respond to questions raised by the Court, to respond to any statements made to the Court by or on behalf of the Defendant, and to summarize all evidence which would have been presented at trial to establish a factual basis for the plea.

7. The Defendant, David Ancrum, understands that the obligations of the Attorneys for the State within the Plea Agreement are expressly contingent upon the Defendant's abiding by federal and state laws, complying with the terms and conditions of any bond executed in this case and complying with the provisions of this Plea Agreement..

8. The parties hereby agree that this Plea Agreement contains the entire agreement of the parties; that this Agreement supersedes all prior promises, representations and statements of the parties; that this Agreement may be modified only in writing signed by all parties; and that

any and all other promises, representations and statements, whether made prior to, contemporaneous with or after this Agreement, are null and void.

October 8, 2007  
DATE

David Ancrum  
David Ancrum  
Defendant

10/8/07  
DATE

Andrew D. Grimes  
Andrew D. Grimes  
Attorney for the Defendant

10/8/07  
DATE

BY: Nathan Williams  
Nathan Williams  
Assistant Solicitor

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## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 11, 2012.



Breen Richard Stevens  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT