

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

ORIGINAL

Appeal from Aiken County

Honorable R. Lawton McIntosh, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KELVIN JONES,

APPELLANT

APPELLATE CASE NO 2016-001835

RECORD ON APPEAL

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**INDEX**

INDEX .....	i
DEFENDANT’S MOTION TO SUPPRESS.....	1
ORDER DENYING DEFENDANT’S MOTION TO SUPPRESS.....	10
MOTION FOR CHANGE OF VENUE TRANSCRIPT DATED AUGUST 11, 2014 .....	14
TRIAL TRANSCRIPT DATED FEBRUARY 17-19, 2015 .....	28
<u>JACKSON V. DENNO</u> HEARING.....	38
MARTIN E. SAWYER	
Direct examination by Mr. Ross .....	38
Cross-examination by Mr. Sellers.....	49
OPENING STATEMENT BY MR. ROSS .....	100
OPENING STATEMENT BY MR. SELLERS.....	105
TESTIMONY	
MARTIN E. SAWYER	
Direct examination by Mr. Ross .....	110
Cross-examination by Ms. Benevento .....	154
Redirect examination by Mr. Ross.....	165
Recross examination by Ms. Benevento .....	169
CARLOS COLINDRES	
Direct examination by Mr. Ross .....	171
Cross-examination by Mr. Sellers.....	185
CRAIG S. BURGESS	
Direct examination by Mr. Ross .....	187
Cross-examination by Mr. Sellers.....	197
Redirect examination by Mr. Ross.....	199
DAVID FLANDERS	
Direct examination by Ms. Burchstead.....	200
Cross-examination by Ms. Benevento .....	209

JOHN C. MEDLIN	
Direct examination by Ms. Burchstead.....	215
Cross-examination by Ms. Benevento .....	245
Redirect examination by Ms. Burchstead .....	251
Recross examination by Ms. Benevento.....	253
MELISSA ODENTHAL	
Direct examination by Mr. Ross .....	257
AMBER COLLINS	
Direct examination by Ms. Burchstead.....	268
M. CLAY ADAMS	
Direct examination by Mr. Ross .....	281
Cross-examination by Mr. Sellers.....	288
Redirect examination by Mr. Ross.....	290
Recross examination by Mr. Sellers .....	291
JAMES STROM THURMOND	
Direct examination by Ms. Burchstead.....	295
Cross-examination by Mr. Sellers.....	302
MARTIN E. SAWYER	
Direct examination by Mr. Ross .....	312
Cross-examination by Ms. Benevento .....	335
Redirect examination by Mr. Ross.....	339
Recross examination by Ms. Benevento.....	341
MOTION FOR DIRECTED VERDICT.....	344
CLOSING ARGUMENT BY MS. BURCHSTEAD.....	405
CLOSING ARGUMENT BY MR. SELLERS.....	414
VERDICT .....	458
MOTION FOR NEW TRIAL.....	467
ADDENDUM TRANSCRIPT DATED FEBRUARY 19, 2015.....	470
MOTION FOR MISTRIAL TRANSCRIPT DATED APRIL 16, 2015 .....	474
TESTIMONY	
MARTIN SAWYER	
Examination by the Court.....	482

Cross examination by Mr. Sellers.....	484
ORDER SIGNED BY JUDGE MCINTOSH JUNE 11, 2015 .....	494
ORDER DISMISSING APPEAL WITHOUT PREJUDICE FILED NOVEMBER 25, 2015.....	497
MOTION FOR A NEW TRIAL SIGNED APRIL 4, 2016.....	498
<b>VOLUME II</b> .....	500
TRANSCRIPT DATED JULY 6, 2016.....	500
POST-TRIAL MOTIONS	
TESTIMONY	
CHRIS BARFIELD	
Direct examination by Mr. Sellers.....	503
Cross-examination by Mr. Burchstead .....	510
Redirect examination by Mr. Sellers .....	513
Recross examination by Mr. Burchstead .....	516
ORDER OF MOTIONS FOR MISTRIAL AND MOTION FOR NEW TRIAL FILED JULY 27, 2016 .....	550
REISSUED ORDER FOR MOTIONS FOR MISTRIAL AND MOTION FOR NEW TRIAL FILED AUGUST 29, 2016.....	553
LETTERS FROM COURT REPORTER.....	560
STIPULATION.....	562
SEARCH WARRANT.....	587
INDICTMENTS AND SENTENCING SHEETS .....	602
CERTIFICATE OF COUNSEL .....	613

**INDEX**

	Direct	Cross	Redirect	Recross
Post-trial Motions				3
Chris Barfield				
Sellers	4		14	
Burchfield		11		17
Certificate of Reporter				50

**EXHIBITS**

No	DESCRIPTION	ID	EV
	<i>No exhibits were presented during the hearing</i>		



*Chris Barfield - Direct Examination by Mr. Sellers*

4

1 Barfield did an investigation, I know a thorough  
2 investigation. And we'll take up that matter first, and  
3 then we'll take up the other matter in a second.

4 So, Mr. Sellers, I assume that what you're going to  
5 do is question Mr. Barfield about his investigation?

6 MR. SELLERS: Yes, sir, Your Honor. He can  
7 either just tell the Court about his investigation, or we  
8 can directly question him.

9 THE COURT: Let's bring him up here on the  
10 stand and swear him in, and that way we have it done  
11 properly.

12 (WHEREUPON, the witness was duly sworn.)

13 THE COURT: Okay, sir.

14 MR. SELLERS: Thank you, Your Honor.

15 **CHRIS BARFIELD,**

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION

18 BY MR. SELLERS:

19 Q. Agent Barfield, thank you for making that trip up  
20 from the Lowcountry today.

21 A. Yes, sir.

22 Q. Now, are you familiar with the order that was signed  
23 by Judge McIntosh on June 11 of 2015, which kicked off  
24 this investigation into these drugs?

25 A. Yes, sir.

1 Q. And I received a report from your office, if I'm not  
2 mistaken, on June 13, 2016.

3 A. Yes, sir.

4 Q. So this investigation, is it fair to say, took  
5 literally three hundred and sixty-three days to complete?

6 A. No. There was -- I finished it. No, it didn't take  
7 a year to finish, but I know there was -- I had  
8 everything finished. I guess there was some -- there was  
9 an issue with us coming. We were supposed to be here  
10 before, and then we got the email saying that he had a  
11 long week, so it kind of got pushed back a little bit.

12 Q. This is when we got the report?

13 A. Oh, yes, sir. Yes, sir.

14 Q. I'm just saying -- I'm not talking about the  
15 scheduling of it.

16 A. Oh, yes, sir.

17 Q. I'm just saying that's when the investigation was  
18 completed?

19 A. Yes, sir, it was.

20 Q. So it's fair to say it took a year to complete it?

21 A. Yes, sir.

22 Q. All right. And in that year, can you tell us what  
23 you did as a part of this investigation?

24 A. My job was to interview all of the jurors.

25 Q. Was there anything else that you did as a part of

*Chris Barfield - Direct Examination by Mr. Sellers*

6

1 that investigation?

2 A. No, sir.

3 Q. Okay. And so you interviewed all of the jurors.

4 And I have your statements from every juror. Did you get  
5 in touch with every single juror?

6 A. Every single juror with the exception of the  
7 alternates. I did not speak to the alternates.

8 Q. Okay. Well, that's fair. And you asked the  
9 question: Did you ever handle the cocaine evidence bag?  
10 Some answers were yes, and some were no?

11 A. That is correct, yes, sir.

12 Q. And then you asked: When you -- you write kind of a  
13 like a doctor, Agent.

14 A. I'm sorry. If you want me to decipher, I'll be  
15 happy to.

16 Q. No, no, no worries. Did you ever open the cocaine  
17 out of this bag? Each juror responded no?

18 A. That is correct.

19 Q. Did you see who opened the evidence bag? Each juror  
20 responded no?

21 A. Yes, sir.

22 Q. Now, the only person who you interviewed who had a  
23 different response was Sharon Vizer, who was the clerk at  
24 the courthouse; correct?

25 A. That is correct.

1 Q. And Sharon Vizer, isn't it true that she stated: As  
2 we gathered the BEST kit drug bag, we noticed that it had  
3 been opened. I do not remember it being open like that  
4 when the evidence was taken to the jury for deliberation.  
5 Isn't that correct?

6 A. Yes, sir. When I first initially got the case, she  
7 was the first person that I kind of spoke with and  
8 touched -- talked to. I just kind of wanted a baseline  
9 to see what happened and where I was and where I needed  
10 to go. And so it was -- she told -- it was informed to  
11 her that when they brought it back in, they noticed a  
12 rip, and that's when her -- that's when she went to Judge  
13 McIntosh. And that's kind of how this whole thing  
14 started off.

15 Q. So just to be clear, you have the clerk stating that  
16 when they took the drugs in the room it was sealed; when  
17 they retrieved the drugs, it was open. But yet you don't  
18 have any jurors saying that they either opened the bag or  
19 saw it be opened?

20 A. Every juror that I interviewed and spoke to said  
21 that they did not open the bag nor did they see who  
22 opened the bag.

23 Q. So from the time it went back there until the time  
24 it was retrieved, we don't know -- we still don't know,  
25 even after your investigation, who opened the bag or how

1 it got opened; we just have a mysteriously opened bag of  
2 cocaine?

3 A. Whether it was ripped accidentally or whether  
4 someone maliciously did it, that's unknown. But I can  
5 tell you that my findings were that none of the jurors  
6 did it.

7 Q. That none of the jurors say that they did it?

8 A. That is correct.

9 Q. And how long have you been at SLED?

10 A. A little over three years.

11 Q. And how many times have you interviewed someone who  
12 said that they have purposely gone in drugs?

13 A. Purposely done what, sir?

14 Q. Drugs, period. Has anyone ever just in interviewing  
15 them said, yes, I actually did cocaine? Is that normal  
16 practice for people you interview?

17 A. (No response)

18 Q. Would you expect these individuals to admit to a  
19 crime?

20 A. Well, I mean, I can't testify on what they will or  
21 will not, you know, say to me. I mean, some people are  
22 very honest. Some people try to deceive and such.

23 Q. Fair enough. Fair enough. Did you -- at any point,  
24 did you fingerprint the actual drug bag?

25 A. No, sir.

1 Q. Did you take any prints from any of the jurors?

2 A. No, sir, I did not.

3 Q. Did you weigh the drugs?

4 A. No, sir.

5 Q. So you didn't compare the weight of the drugs prior  
6 to versus the weight of the drugs when you got them?

7 A. No, sir.

8 Q. So this whole investigation just simply consisted of  
9 you asking jurors to admit to you that they committed a  
10 crime?

11 A. No. I asked them the questions that I asked them,  
12 and that's what they told me, so ...

13 Q. One small other question.

14 A. Yes, sir.

15 Q. The slit in the bag, is it fair to say that the slit  
16 in the bag was -- it's kind of hard to tell from the  
17 pictures. I'm sorry. But you used, I think, a six-inch  
18 ruler here, if I'm not mistaken. But is it fair to say  
19 that this slit was four to five inches wide?

20 A. I'd have to take a look at it. I did not ---

21 Q. Did you not do this?

22 A. No, sir, that was not me.

23 Q. Okay. Do you know how big the slit was?

24 A. No, sir. Three or four inches, I believe,  
25 approximately.

*Chris Barfield - Direct Examination by Mr. Sellers*

10

- 1 Q. Well, it looks four to five here.
- 2 A. Well, okay.
- 3 Q. I mean, someone could get something down there or  
4 move the drugs to the top of the bag or touch the drugs  
5 somehow in that slit and make a -- would you say yes?
- 6 A. Yeah, anything's possible.
- 7 MS. BURCHSTEAD: Your Honor, I object to this  
8 question. He's already testified he hasn't -- he didn't  
9 do that part of the investigation. He didn't actually  
10 handle the evidence.
- 11 THE COURT: I sustain that.
- 12 MR. SELLERS: That's fair.
- 13 Your Honor, I don't have any further questions for  
14 Agent Barfield. The only other question I had was about  
15 the slit in the bag per se. Give me one second, please,  
16 if I may.
- 17 THE COURT: Yes, sir. Yes, sir.
- 18 Q. Do you know who did this part of the analysis, the  
19 actual seal, looking at it?
- 20 A. No, sir, I do not.
- 21 Q. Did you communicate with anybody else about your  
22 investigation?
- 23 A. I did. I asked the lab if they weighed it, and as  
24 of two weeks ago, it was not. From SLED.
- 25 Q. I got you. I got you.

1 MR. SELLERS: No further questions, Your Honor.  
2 We have some issues that were raised, but I'm assuming  
3 that Ms. Burchstead wants to ---

4 THE COURT: I'm sure she does.

5 Ms. Burchstead?

6 MS. BURCHSTEAD: Thank you, Your Honor. May it  
7 please the Court.

8 THE COURT: Yes, ma'am.

9 MS. BURCHSTEAD: I'll just ask a few questions.

10 CROSS-EXAMINATION

11 BY MS. BURCHSTEAD:

12 Q. Agent Barfield, were you asked to weigh drugs in  
13 this case?

14 A. No, ma'am.

15 Q. Okay. What exactly were you asked to do and by  
16 whom?

17 A. Judge McIntosh, last year I received a call from  
18 him, and he had expressed his -- he kind of told me that  
19 he was presiding over a case and that some of the jurors  
20 potentially had tampered with some evidence.

21 Q. Without getting into what was said, were you  
22 specifically asked to do anything?

23 A. Yes.

24 Q. What were you asked to do?

25 A. Speak with the jurors and find out exactly what they

1 did and how they did it. If they did, take further  
2 action. If they did not ...

3 Q. When you say what they did, as it relates to what?

4 A. As it relates to the cocaine evidence bag back  
5 during deliberations.

6 Q. And who asked you to do this?

7 A. Judge McIntosh.

8 Q. Okay. So to be clear, Judge McIntosh asked you to  
9 speak to jurors concerning the cocaine?

10 A. Yes, ma'am.

11 Q. Okay. Did you ever actually handle the bag of  
12 cocaine?

13 A. No, ma'am, I did not.

14 Q. And Mr. Sellers asked you if you had, I guess,  
15 contacted anyone concerning the analysis at SLED. And  
16 did you do that?

17 A. I called a couple of weeks ago just to see if it had  
18 been weighed. I knew this was coming up. I wanted to  
19 get the results of that. And our lab people said they  
20 did not weigh it. And there was a couple of things, but  
21 I can't remember. They were saying some kind of  
22 terminology. And obviously, I'm not an expert in that  
23 field, so ...

24 Q. So did anyone ask you to call the lab and check on  
25 whether the cocaine had been weighed or ---

1 A. No. I just did that, just -- just for my own  
2 knowledge.

3 Q. Okay. Do you recall who you talked to?

4 A. Not on the record, but I can find that out.

5 Q. Okay. But you called someone in the SLED lab?

6 A. Yes, ma'am, who initially dealt with the case.

7 Q. Okay. Thank you. Did you memorialize any of your  
8 findings from talking with the jurors?

9 A. You're talking about like writing out ---

10 Q. When you interviewed the jurors, did you write down  
11 what they told you?

12 A. Oh, I did. I took statements from each one, yes,  
13 ma'am.

14 Q. And is that the extent of your discussions with  
15 those jurors? Did that memorialize your conversations  
16 with them?

17 A. Yes, ma'am. Exactly. I asked them -- I asked most  
18 of them the same questions. I think I asked a couple of  
19 other questions to some people later on that I thought  
20 of, but that was it.

21 Q. That comprises your -- essentially your report in  
22 this situation ---

23 A. Yes, ma'am.

24 Q. -- what you were asked to do? And that was provided  
25 to the Court; is that correct?

1 A. It was. Adam Witzit (phonic) put it all on a CD and  
2 gave it ...

3 Q. Gave it to counsel?

4 A. Yes, ma'am.

5 MS. BURCHSTEAD: I beg the Court's indulgence.  
6 Nothing further, Judge.

7 THE COURT: Okay. Any redirect?

8 REDIRECT EXAMINATION

9 BY MR. SELLERS:

10 Q. Why did you find it important yourself to go out of  
11 your way to ask if the bag had been weighed?

12 A. Just more of a curiosity thing.

13 Q. But wouldn't that be important, you think?

14 A. (No response.)

15 Q. To understand if the bag was tampered with, wouldn't  
16 it be important to actually weigh the bag?

17 A. I think it would have been more important to speak  
18 with the jurors to see if they actually did it or not. I  
19 think that -- that was my priority.

20 Q. I understand that. I mean, I'm just talking about  
21 the complete investigation. I think one of the major  
22 issues that we're having here is based on the testimony  
23 that you gave the Court and based on your interviews with  
24 the jurors and the clerk, you have a bag of drugs that  
25 were opened. You have jurors who -- I mean, somebody is

1 not telling the truth about something. And the way that  
2 I know that someone's not telling the truth about  
3 something ---

4 MS. BURCHSTEAD: Object. Is there a question?

5 MR. SELLERS: It's getting there. If I can ...

6 MS. BURCHSTEAD: I apologize.

7 THE COURT: That's all right.

8 MR. SELLERS: How about let me rephrase it?

9 Q. Isn't it true that your clerk testified that the  
10 drugs were opened, correct?

11 THE COURT: Hang on. Let me make sure that I  
12 clarify something for the record. The issue that was  
13 before -- and I don't mean to interrupt you.

14 MR. SELLERS: No, you're fine, Your Honor.

15 THE COURT: The drugs were separately bagged in  
16 a BEST kit. And for the record, the BEST kit is what was  
17 opened. And the issue was whether or not the drugs had  
18 been tampered with so there's potential use by the jurors  
19 during deliberations. Just so we're clear on the record  
20 about that.

21 MR. SELLERS: Correct.

22 Q. And one final question.

23 A. Sure.

24 Q. Isn't it possible for one of those jurors to  
25 actually touch the cocaine based on your investigation?

1 A. There was the BEST kit. With -- inside the BEST kit  
2 there was the drugs itself. I asked questions: Did you  
3 ever handle the cocaine bag? And one person said:  
4 Probably picked up the bag for inspection but never  
5 opened it. So it's -- I mean, the evidence is back there  
6 for the jurors to kind of look at and pick up anyway.  
7 But just confirming I found nothing that anyone went  
8 inside and picked it up and used it or stole it or  
9 anything of that nature.

10 Q. And the only way you can make that -- the only way  
11 you can assert that ---

12 A. Is based on what they told me.

13 Q. --- is just based on what they told you?

14 A. Yes, sir, that is correct.

15 Q. And you do agree that it's highly unlikely that a  
16 juror would simply -- or anyone would simply say, yes, I  
17 went in the cocaine?

18 A. Well, you know, like I said, some people are honest;  
19 some people are dishonest, so I'm not going to argue with  
20 you on that one.

21 Q. I got you.

22 MR. SELLERS: No further questions. Thank you  
23 for making the trip up.

24 THE WITNESS: Okay, sir.

25 THE COURT: Anything further, Ms. Burchstead?



1 Q. All right.

2 MS. BURCHSTEAD: Nothing further.

3 THE COURT: All right. Is there any reason  
4 that Agent Barfield can't be excused?

5 MR. SELLERS: No, Your Honor.

6 THE COURT: Ms. Burchstead?

7 MS. BURCHSTEAD: No, Your Honor.

8 THE COURT: Thank you, sir.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: Thank you for coming.

11 Ms. Burchstead, any other witnesses in this matter  
12 that you're aware of?

13 MS. BURCHSTEAD: Not that I'm aware of unless  
14 Mr. Sellers has any.

15 THE COURT: Do you know whether or not anybody  
16 actually inspected the drugs themselves at all?

17 MS. BURCHSTEAD: Judge, I thought they did, but  
18 when we were reading the reports that had been provided  
19 to everybody -- I assume they have been given the same  
20 thing -- there's pictures, there's rulers. It looks like  
21 there's been an inspection, but I cannot find an actual  
22 report of anything that was physically done with the BEST  
23 kit to evaluate the physical tampering or the drugs.

24 THE COURT: Okay. All right. And let me just  
25 say in fairness to Agent Barfield, his request through me

1 was to interview the jurors about the conduct during  
2 deliberations. And so that's all he was tasked to do.

3 MS. BURCHSTEAD: Correct.

4 THE COURT: And so that was my conversation  
5 with him.

6 MS. BURCHSTEAD: Do you understand --?

7 MR. SELLERS: Yes, I think Agent Barfield did  
8 the job he was tasked to do.

9 THE COURT: Okay.

10 MR. SELLERS: We just -- I think my position  
11 would be that there would be more that would be required  
12 to figure out this.

13 MS. BURCHSTEAD: Your Honor, I have to say I  
14 think we're all on the same page. I believe we left  
15 Aiken thinking the drugs were going to be weighed.

16 THE COURT: Well, that's what we discussed.

17 MS. BURCHSTEAD: And it looks like it still  
18 needs to happen.

19 MR. SELLERS: Or at least fingerprint. At  
20 least have something.

21 THE COURT: I don't necessarily disagree with  
22 that. We'll work on that.

23 All right. Let's look at the next aspect. Now, you  
24 had some officer misconduct issues, is that correct?

25 MR. SELLERS: So, Your Honor, let me clear my

1 stuff out of here real quick. If you'll just give me one  
2 second.

3 Your Honor, we come before the Court with a motion  
4 for a new trial based on what we believe to be a clear  
5 Brady violation. And let me -- before I begin, I don't  
6 want Mr. Ross and Ms. Burchstead to think that we're  
7 accusing them of doing something nefarious. In fact, we  
8 believe that it may have been inadvertent. That still  
9 doesn't matter, Your Honor.

10 As you know, in Brady, there are three factors. The  
11 evidence at issue must be favorable to the defendant in  
12 its impeachment value -- which this is -- it must have  
13 been suppressed by the State, either willfully or  
14 inadvertently. We don't -- we want to be clear on the  
15 record that we believe it was inadvertent. And it must  
16 be material. Your Honor ---

17 THE COURT: Material -- let me ask you.  
18 Material, meaning that it likely would affect the outcome  
19 of the trial?

20 MR. SELLERS: Yes, Your Honor.

21 THE COURT: Okay.

22 MR. SELLERS: And we will come back to that as  
23 well.

24 THE COURT: Okay, sir.

25 MR. SELLERS: But on April 1st, just by

1 happenstance, by reading the Washington Post, I came  
2 across an article that was making national news in the  
3 state of South Carolina. The title of the article was,  
4 *Video Shows White Cops Performing Roadside Cavity Search*  
5 *of Black Man*. And I have a copy of the article for  
6 everybody that wants reading material.

7 THE COURT: Thank you.

8 MR. SELLERS: Upon further review of the  
9 article, Your Honor, I noticed the name Chris Medlin of  
10 the Aiken Department of Public Safety. It immediately  
11 occurred to me that this is the same officer who was  
12 involved in my case with Kelvin Jones. And so we went  
13 back, and we looked at the date in which this cavity  
14 search, this roadside cavity search, was done.

15 This cavity search, this incident, occurred, Your  
16 Honor, on October 2nd of 2014. There was actually a  
17 complaint filed with the Aiken Department of Public  
18 Safety on October 3rd of 2014, the exact next day after  
19 this incident occurred.

20 Your Honor, the reason why this was so troublesome  
21 is because we actually, on January 13th, filed a Freedom  
22 of Information Request with Aiken Public Safety asking  
23 for the complete redacted personnel files of Investigator  
24 Medlin, and we came before Your Honor with a forthwith  
25 motion asking for these records because they had not been

1 provided. I believe we had some conversation. And, yes,  
2 we put it on record. And if I'm not mistaken, you were  
3 -- you told them to provide us with the personnel files,  
4 but redact whatever personal information was in there.

5 We were told, just in casual conversation, that  
6 there's nothing in there. I think it just might be a car  
7 accident that Investigator Medlin was a part of. Your  
8 Honor, that's not the case. Your Honor, this complaint  
9 was in his personnel file.

10 Since this incident has made national news, he's had  
11 to go through remedial training. He's been demoted.  
12 He's not on the streets anymore. I mean, he performed a  
13 roadside cavity search, and we can bring an expert to  
14 testify -- we didn't think it was that necessary and  
15 didn't want to put Kelvin and his family to that expense  
16 -- to show you that a roadside cavity search is not --  
17 it's an egregious breach of procedure, that you have to  
18 have a warrant and you have to have some medical  
19 personnel to do this if you're going to -- and this is  
20 the type of information -- because Kelvin Jones was  
21 convicted in a case that was built upon constructive  
22 possession on the testimony of three witnesses:  
23 Solicitor Thurmond, Detective Sawyer and Investigator  
24 Medlin. Investigator Medlin had this in his file.

25 This impeachment value looms extremely large over

1 this case because this case began with Detective Medlin.  
2 Detective Medlin actually did the trash pull in front of  
3 the residence that Mr. Jones was at, which was what led  
4 to the search warrant, which was what led to this case.  
5 And he was one of the first officers to go in.

6 But if I could have shown the jury, Your Honor, what  
7 type of officer or -- not even what type officer because  
8 I don't want to go to his character per se, but that he  
9 did have this in his file, that this is a large issue --  
10 then I think that we could have impugned the credibility  
11 of Mr. Medlin on the stand. And that, Your Honor, may  
12 have changed the outcome with just even one juror.

13 I mean, that's how -- this is not a small incident.  
14 If it was a small incident, we wouldn't have been reading  
15 about it around the world. And, also, if it was a small  
16 incident, Aiken Public Safety wouldn't have taken the  
17 steps that they have taken.

18 So I don't think it was purposefully done. In fact,  
19 I'm sure it wasn't purposefully done; however, it was  
20 done. And because we didn't have that piece of evidence  
21 ---

22 THE COURT: Well, hang on. Let me ask you  
23 this. You said it wasn't purposely done. You're saying  
24 that concerning the AG's office.

25 MR. SELLERS: Concerning the AG's office,

1 correct.

2 THE COURT: Okay. But I think that what I'm  
3 hearing from you, you're saying that Aiken intentionally  
4 suppressed this information?

5 MR. SELLERS: Yes, Your Honor. They had it.  
6 We asked for it. They knew about it. And I don't know  
7 if roadside cavity searches are routine; however, this  
8 should be glaring that if someone asked for it, you would  
9 provide it. I would have loved the opportunity to cross-  
10 examine Officer Medlin with this.

11 THE COURT: Well, let me ask you this. You  
12 said the incident had occurred at the time of this trial  
13 in Dorchester County?

14 MR. SELLERS: It did happen -- our trial was  
15 in February. This incident happened in the October prior  
16 to it.

17 THE COURT: Had any disciplinary actions been  
18 undertaken at that time?

19 MR. SELLERS: In fact, that's part of the  
20 irony. I'm not certain, but I do believe the complaint  
21 was ---

22 THE COURT: Because if there wasn't anything  
23 there to give, then there's nothing to give, right?

24 MR. SELLERS: Say that -- I don't understand  
25 your question.

1 THE COURT: In other words, you asked for the  
2 employment records on various investigating officers?

3 MR. SELLERS: Correct.

4 THE COURT: Even if this event had occurred in  
5 October but there'd been no administrative procedures  
6 relating to that incident that had started until after  
7 this trial had taken place or after the request, they had  
8 no records to give out, did they?

9 MR. SELLERS: Well, they did, Your Honor. We  
10 provided the Court with the ---

11 THE COURT: I don't have that.

12 MR. SELLERS: Oh, I'm sorry, Your Honor. We  
13 filed it with the ---

14 THE COURT: I'm sorry. I don't have it.

15 MR. SELLERS: I mean, this ---

16 THE COURT: Do you need me just to copy that so  
17 you can use it?

18 MR. SELLERS: No. You can have it.

19 THE COURT: Okay.

20 MR. SELLERS: I mean, that's actually -- now, I  
21 mean, I would have loved to see the rest of the report.  
22 If I would have seen that, Your Honor, which is in the  
23 file, which is a complaint filed -- I mean, people have  
24 complaints in their files all the time. If I would have  
25 been able to see that, then I can ask the next question,

1 which is, what happened? I mean, I didn't even -- we  
2 didn't have that opportunity. And that, Your Honor -- I  
3 mean, that's credible. That's something that a jury  
4 would hear.

5 THE COURT: So let me ask you this. Looking at  
6 the three elements of Brady, the exculpatory nature,  
7 whether it was suppressed intentionally or inadvertently,  
8 and then whether it's material, I mean, it looks to me  
9 like from a basis of impeachment, it'd be exculpatory.  
10 It looks like it was, inadvertently or not, suppressed.  
11 But the materiality of that, it seems to me to be the  
12 real issue in this case, as to how that relates to -- if  
13 I recall the facts in this case, this gentleman allegedly  
14 had a backpack on coming in and out of the house.  
15 Somebody saw him walking in there, and they found a  
16 fairly significant amount of cocaine that really wasn't  
17 even on his person, but it was in his constructive  
18 possession allegedly.

19 MR. SELLERS: And that's my point, Your Honor.  
20 One of the things about this trial that was so unique is  
21 that no one was able to put the actual white bag of  
22 cocaine with Kelvin Jones.

23 THE COURT: And there's no physical evidence to  
24 tie him in other than the backpack and his ---

25 MR. SELLERS: And this goes directly to Spicer,

1 which is ---

2 THE COURT: What's the name of that?

3 MR. SELLERS: Spicer -- it's Fourth Circuit --  
4 which goes to materiality, Your Honor.

5 THE COURT: S-P-I-C-E-R?

6 MR. SELLERS: Yes, Your Honor.

7 THE COURT: Okay. What's that cite for me, Bo?

8 MR. SELLERS: 194 F3rd 559.

9 THE COURT: 559?

10 MR. SELLERS: Yes, sir.

11 THE COURT: Okay. All right. I'm sorry. I  
12 interrupted you.

13 MR. SELLERS: No. And I'm just saying that, I  
14 mean, based on the fact that they had -- they had three  
15 witnesses. Three witnesses. They had the solicitor of  
16 Aiken County -- which is pretty difficult to impugn his  
17 character by any stretch.

18 THE COURT: Absolutely.

19 MR. SELLERS: Detective Sawyer and Investigator  
20 Medlin. And Investigator Medlin wasn't some ancillary  
21 part of this trial.

22 THE COURT: I don't recall Investigator Medlin.  
23 What was the nature of his ---

24 MR. SELLERS: They didn't bring him today.

25 Investigator Medlin did not miss a day from this trial.

1 This motion is concerning Investigator Medlin, but he's  
2 not present today, Your Honor.

3 MS. BURCHSTEAD: I can address that if you'd  
4 like.

5 THE COURT: Ma'am?

6 MS. BURCHSTEAD: I can address that if you'd  
7 like at the ---

8 THE COURT: Well, we'll give you the  
9 opportunity.

10 MS. BURCHSTEAD: Thank you.

11 MR. SELLERS: And my -- I forgot what I was  
12 saying.

13 THE COURT: I'm sorry.

14 MS. BURCHSTEAD: I'm sorry.

15 THE COURT: If we keep interrupting you, you  
16 can't ---

17 MR. SELLERS: No, you're good. You're good. I  
18 can't remember where I was going.

19 THE COURT: All right. Well, we were  
20 discussing materiality, and you had ---

21 MR. SELLERS: Thank you. And there were three  
22 witnesses, Your Honor. And we would have had this  
23 opportunity to attack the credibility of -- he wasn't  
24 ancillary. He did the trash pull. He was there on the  
25 scene. He discussed my client's appearance. He

1 discussed what my client was saying. He discussed my  
2 client's verbiage. I mean, he discussed everything that  
3 went on that evening. He wasn't something -- somebody  
4 that was just there. He wasn't a bystander. And I mean,  
5 I -- Your Honor, the only remedy for a Brady violation is  
6 a new trial. And I think that -- would it affect the  
7 outcome? Yes.

8 THE COURT: Okay, sir.

9 MR. SELLERS: Thank you.

10 THE COURT: Thank you.

11 All right. Ms. Burchstead?

12 MS. BURCHSTEAD: Thank you. And I'm sorry,  
13 Judge. I just wanted to touch on why Officer Medlin's  
14 not here and if it pleases the Court, address the Court  
15 on the merits.

16 To be clear, there is a civil action currently going  
17 on concerning this activity. And I talked with Mr.  
18 Medlin's attorney. And this is not the State's motion.  
19 We don't have him subpoenaed. I wasn't going to bring  
20 him. And, you know, he's got counsel on that issue right  
21 now. So unless we want to turn it into some other trial,  
22 we didn't have any intention of bringing him. We do,  
23 however, have Officer ---

24 THE COURT: Let me ask you this. What was the  
25 substance of his testimony at trial? Do you recall

1 generally?

2 MS. BURCHSTEAD: It's been a little while,  
3 Judge. This is what I recall. Mr. Sellers is correct.  
4 Mr. Medlin was related to the obtaining of the search  
5 warrant. What I would offer to the Court is not only do  
6 we have Mr. Medlin for that, but we also had the City  
7 worker who actually did the trash pull and was present to  
8 see the contents of the trash pull, which included  
9 marijuana. And, of course, we had a pre-trial hearing as  
10 to the suppression, and, of course, the evidence came in.  
11 So we had Mr. Medlin, Officer Medlin, connected to that,  
12 but we also had the City worker as it relates to that.

13 We don't believe we have any sort of Frank  
14 situation, failing to give all the information to the  
15 magistrate. You know, we had more than one witness as to  
16 the search warrant, Judge.

17 During the actual presentation to the jury, his  
18 testimony related mostly to executing the search warrant.  
19 I do recall Captain Sawyer and the solicitor and his  
20 assistant were in the vehicle conducting surveillance and  
21 waiting for -- you know, watching to see the house,  
22 waiting for the defendant to come. There's testimony  
23 from each of them. And as I recall, Captain Sawyer was  
24 very familiar with the defendants.

25 We had all that testimony concerning recognizing KJ

1 -- he's known as KJ, the man with the sling bag. And  
2 then as soon as they recognized him, called Medlin who  
3 was with the SWAT team. I want to say approximately five  
4 minutes -- I don't know what the timing was.

5 MR. SELLERS: Five or six minutes  
6 approximately.

7 MS. BURCHSTEAD: Yeah, around five minutes,  
8 Medlin and the SWAT team hit the house. And he was not  
9 in the house without SWAT, so I do not believe ...

10 THE COURT: Who were the other folks in the  
11 house? I don't recall.

12 MS. BURCHSTEAD: In terms of other people that  
13 ---

14 THE COURT: In the house at the time.

15 MS. BURCHSTEAD: --- were there prior to the  
16 execution of the search warrant? Yes. Those cases were  
17 handled by the solicitor's office.

18 THE COURT: Okay.

19 MS. BURCHSTEAD: And they were there as it  
20 relates to separate drugs.

21 THE COURT: Separate drugs?

22 MS. BURCHSTEAD: Yes.

23 THE COURT: Okay.

24 MS. BURCHSTEAD: Yes. That's my recollection  
25 from my conversations with the solicitor's office.

1 THE COURT: Did you ever check -- and I know  
2 that you're not directly with Aiken Department of Public  
3 Safety -- and get them to explain why they didn't turn  
4 this over? Because it's dated October 3rd, 2014. It  
5 clearly should ---

6 MS. BURCHSTEAD: Here's my understanding of  
7 that.

8 THE COURT: -- have been disclosed.

9 MS. BURCHSTEAD: Right. Sure. Sure. Here's  
10 my understanding. I do recall there being a FOIA  
11 request. And I believe their counsel may have talked to  
12 other counsel. And a lot of departments are still trying  
13 to figure out how to handle FOIA as it relates to  
14 personnel matters. I've actually seen that in cases  
15 across the state. It's ---

16 THE COURT: There are cases -- there are cases  
17 that are very clear that say they've got to give it up.

18 MS. BURCHSTEAD: Right.

19 THE COURT: You know, you can redact it, but  
20 you've got to give it up.

21 MS. BURCHSTEAD: Right. Right. And I believe  
22 that is how it's typically handled is through redaction.  
23 But all I'm saying to the Court is I've seen this all  
24 over the state, and it continues to be an issue that is  
25 discussed and how to properly handle it. And there may

1 need to be some training across the state on how to  
2 handle it. Obviously, we don't represent them, and my  
3 action was to just ask if there any disciplinary actions  
4 and what came to court from a Giglio-type standpoint,  
5 Judge.

6           When we came to Court -- I don't recall exactly, but  
7 I believe Mr. Sellers is correct -- we addressed it with  
8 Your Honor, and Your Honor directed us to find out. We  
9 never physically had a personnel file, but we spoke with  
10 someone on the phone. I was trying to refresh my memory.  
11 I can't find my notes on who that was. But Captain  
12 Sawyer's here, and he was telling me -- and he's here if  
13 you want to ask him. But we believe it was a girl named  
14 Page. And she's a lawyer, but I can't remember her exact  
15 role. But we were told on the phone by someone with the  
16 authority to have viewed the file and know the file and  
17 have reviewed it -- we were told there was no  
18 disciplinary actions. And that's correct. There was no  
19 disciplinary actions, Judge. And the discipline action  
20 did happen in April following the trial. The trial was  
21 February; the disciplinary action was April, so ---

22           THE COURT: What were -- and I don't remember.  
23 Okay?

24           MS. BURCHSTEAD: We're all trying to remember,  
25 yes, sir.

1           THE COURT: I know. But did I order that they  
2 provide their employment file or any disciplinary actions  
3 in the file? I do not recall.

4           Mr. Sellers?

5           MR. SELLERS: Your Honor, this stemmed from a  
6 forthwith motion that we discussed. And your instruction  
7 was to provide the file and redact it.

8           THE COURT: Okay. So it wasn't limited to  
9 disciplinary actions?

10          MR. SELLERS: No.

11          THE COURT: Because what you're saying, Ms.  
12 Burchstead, is at this juncture, even though there was a  
13 complaint, no disciplinary action had taken place, is  
14 that correct?

15          MS. BURCHSTEAD: That's my recollection, but I  
16 do not recall Your Honor directing the full file. My  
17 recollection was just talk with somebody at -- I do not  
18 remember Your Honor's exact instruction, but what I do  
19 remember is coming back and reporting to the Court that  
20 there was ---

21          THE COURT: Well, let me ask you this. You  
22 wouldn't disagree that under the three elements of Brady,  
23 as outlined by Mr. Sellers, this information would have  
24 been exculpatory to the extent it can show bias or it was  
25 impeachment value to this particular witness?

1 MS. BURCHSTEAD: I actually do disagree with  
2 that, Judge.

3 THE COURT: Okay. Why do you?

4 MS. BURCHSTEAD: And I don't believe we're  
5 doing a straightforward Brady analysis at this point. I  
6 believe what we're looking at is a new trial based on  
7 after-discovered evidence. And there's five factors for  
8 that, which one is would it probably change the results  
9 if a new trial were had. I don't believe it would.  
10 Certainly, the evidence is discovered since the trial.  
11 We agree with that.

12 THE COURT: Give me those factors. And you  
13 think it's after-discovered evidence?

14 MS. BURCHSTEAD: I think it's after-discovered  
15 evidence, yes, sir. A new trial based on after-  
16 discovered evidence. There's multiple cases on that.  
17 I'd be happy to advise you the case names.

18 THE COURT: Sure.

19 MS. BURCHSTEAD: But the five factors, as the  
20 State sees it -- and it connects to Brady in the sense  
21 that materiality is one of the main issues.

22 THE COURT: Materiality means that likely a  
23 change in the outcome of the trial?

24 MS. BURCHSTEAD: Yes, sir. And so the five  
25 factors as it breaks down to the new trial based on

1 after-discovered evidence, it would probably change the  
2 result if a new trial were had, has been discovered since  
3 trial -- we do agree with that -- could not have been  
4 discovered before trial with the exercise of due  
5 diligence -- and that may be where they're suggesting ---

6 THE COURT: They did due diligence. They did  
7 due diligence.

8 MS. BURCHSTEAD: Absolutely. Correct. No one  
9 disagrees with that. And then forth and fifth, is it is  
10 material to the issue of guilt or innocence, and five is  
11 it's not merely cumulative or impeaching. So our  
12 argument is it is merely impeachment evidence. And on  
13 that note, we would suggest it wouldn't even come in  
14 under a 608 and a relevance analysis.

15 THE COURT: Hang on. Let her go.

16 MS. BURCHSTEAD: You could perhaps -- perhaps  
17 if Your Honor found it appropriate -- ask about it. We  
18 certainly do not believe it would be an extrinsic  
19 evidence type of situation because, as I admitted  
20 earlier, it is currently under civil litigation. It is  
21 an allegation by someone who -- agents had conducted a  
22 ---

23 THE COURT: Prior bad acts that have not been  
24 convicted of have to be proven by clear and convincing  
25 evidence, right?

1 MS. BURCHSTEAD: Absolutely, Judge. And it's  
2 the State's position that this particular instance would  
3 not meet that standard because, as I said, it's  
4 undergoing civil litigation. And without divulging all  
5 of that information I've learned, I think enough to say  
6 to the Court is this. The individual who has made this  
7 complaint was already being investigated by Aiken for  
8 selling drugs. They had conducted a controlled buy on  
9 him a short, brief time beforehand.

10 Additionally, this roadside situation, I know they  
11 take issue with it being called a cavity search. They  
12 deny that. The discipline that was handed out in April,  
13 again, after the trial, was to go to remedial training  
14 for making an arrest. And it was violating the Aiken  
15 strip search policy for manipulating of clothing. You do  
16 have that that we can provide to the Court. And my  
17 understanding is that is a very protective policy. It's  
18 stricter than other agencies. And it was because he had  
19 -- Medlin had moved the clothing back, I guess, between  
20 buttocks area.

21 And again -- or let me make clear, this stop, my  
22 understanding is, was based on a reliable confidential  
23 informant, the same informant that the previous buy had  
24 involved. And, therefore, we don't believe it would have  
25 met clear and convincing because it does go to racism

1 that you have lots of foundations for this stop.

2 I could go on a little bit further. But as it's  
3 civil litigation, I'd rather not unless I really have to.  
4 But I just don't think it would commit. I mean, it's an  
5 allegation by someone who's got a beef with the police  
6 department, is the State's position.

7 And, you know, in terms of cumulative, impeaching as  
8 regarding -- as we've already noted, the solicitor got on  
9 the stand and said: I saw that man go to that house with  
10 that bag. And, you know, he left the house within a few  
11 minutes, and there was cocaine in the bag. So we believe  
12 it's overwhelming evidence and absolutely would not have  
13 changed the course of the trial.

14 And I'm not sure I've answered everything that's  
15 been put out there, so I'm happy to answer any questions  
16 Your Honor has. But that's the State's position.

17 THE COURT: Well, let me ask Mr. Sellers  
18 something. I think that likely Ms. Burchstead is correct  
19 that this should be evaluated as after-discovered because  
20 it's ---

21 MR. SELLERS: We whole heartily disagree with  
22 that. The evidence wasn't -- it wasn't discovered. It  
23 was just failed to be disclosed. I mean, this is not --  
24 this is not -- we didn't go outside and find a new  
25 witness. This isn't any new evidence.

1           THE COURT: This is what was asked for in the  
2 order and you didn't get it?

3           MR. SELLERS: This was what was asked for, so I  
4 think her analysis is totally wrong and incorrect in this  
5 matter. This is not after-discovered. There was no --  
6 this was just failed to be disclosed. This is a clear  
7 violation of Brady. This is what Brady is for. So --  
8 and further, we were talking about -- because I saw where  
9 you were going with your line of questioning about clear  
10 and convincing.

11           Your Honor, Ms. Burchstead just admitted on the  
12 record that Detective Medlin violated the policies and  
13 procedures of Aiken. That's the point. We would be able  
14 to go in and prove that this officer, who was one of the  
15 lead investigators in his case, violated policies and  
16 procedures that she just admitted to him doing on record.  
17 And he corroborated Detective Sawyer.

18           THE COURT: I don't necessarily think she's  
19 admitted to anything. I think she's saying -- they're  
20 saying a cavity search. We're saying that the movement  
21 of the clothes, which is a violation, et cetera, et  
22 cetera, so -- I don't want anything coming back against  
23 them in another case. But for purposes of this hearing  
24 ...

25           MR. SELLERS: For purposes of this ---

1 THE COURT: Right.

2 MR. SELLERS: --- he violated the policies and  
3 procedures of Aiken Public Safety.

4 THE COURT: I've got you.

5 MR. SELLERS: And he corroborated Detective  
6 Sawyer. I mean, if we're able to build that distrust of  
7 law enforcement in this case, I would be able to do my  
8 job that much better. I mean, we're not talking about  
9 somebody who got sentenced to three years here by any  
10 stretch.

11 THE COURT: What was the -- it was a mandatory  
12 twenty-five?

13 MR. SELLERS: Mandatory twenty-five. Well,  
14 twenty-five to ---

15 THE COURT: Thirty?

16 MR. SELLERS: --- thirty.

17 THE COURT: Uh-huh (affirmative).

18 MR. SELLERS: Twenty-five to thirty and a year  
19 for ecstasy.

20 THE COURT: Right.

21 MR. SELLERS: We did that prior ---

22 THE COURT: Those were concurrent, weren't  
23 they?

24 MR. SELLERS: Yes. We did that prior to it.

25 THE COURT: Okay.

1           MR. SELLERS: And, so Your Honor, I think that  
2 -- you know, is it material? I think, yes. I mean, did  
3 he violate policies and procedures? Yes. Is that  
4 impeachment? Yes. Is this after-discovered evidence?  
5 This is not after-discovered evidence, but this is  
6 definitely a clear violation of Brady. It was  
7 suppressed. It's impeachment value, and it's material,  
8 Your Honor, and the only remedy we have for that is a new  
9 trial.

10           THE COURT: Okay.

11           MS. BURCHSTEAD: If I may just respond briefly?

12           THE COURT: Yes, ma'am. Please, do. This is  
13 important.

14           MS. BURCHSTEAD: Absolutely. If we're talking  
15 about it in terms of a Brady analysis, I still do not  
16 believe it was impeachment evidence to the extent that at  
17 the time we conducted the trial, all it was an  
18 allegation, period. All it was. There was not anything  
19 in the paper about it. It was an allegation by someone  
20 who's under investigation by the Department of Public  
21 Safety. So at the time of trial, all you have is -- what  
22 are you going to ask Agent Medlin? You know, do you  
23 commonly strip-search people on the side of the road?  
24 He's going to say no. I mean, it's ridiculous to think  
25 that it's ---

1 THE COURT: What is ridiculous is that they  
2 have an order to disclose information and they  
3 unilaterally decided they weren't going to do it. And at  
4 no fault of the AG's office.

5 MS. BURCHSTEAD: Right.

6 THE COURT: And I just -- that concerns me  
7 greatly.

8 MS. BURCHSTEAD: No one disagrees with that,  
9 but what I'm trying to get at with no disrespect to  
10 anyone here, is a lot of this is based on an article in a  
11 paper that someone's upset with the Department of Public  
12 Safety. We don't know that there's any basis to it is  
13 what I'm trying to get at.

14 THE COURT: I've got you.

15 MS. BURCHSTEAD: And that's where I'm going  
16 with that.

17 THE COURT: Okay.

18 MS. BURCHSTEAD: I understand the seriousness  
19 and the requested information. No one disagrees with any  
20 of that.

21 THE COURT: All right. Anything further?

22 MR. SELLERS: No, Your Honor. I just wanted  
23 Your Honor to be clear and understand that the reason it  
24 would be used is the reason to show that he violated the  
25 policies and procedures. We're not saying he committed a

1 crime or anything of the sort, but he did violate the  
2 policies and procedures. We think that even in  
3 retrospect, if you look at the totality of the  
4 circumstances, this kind of break that we're at this  
5 point, he did. It's clear. It's material. It's clearly  
6 impeachment value, and we -- you know, we maintain that  
7 there was a Brady violation, and the only remedy you  
8 have, Your Honor, is a new trial.

9 THE COURT: Okay. Anything further, Ms.  
10 Burchstead?

11 MS. BURCHSTEAD: Just in summary. At the time  
12 of trial, there was no policy violation.

13 THE COURT: Well, let me just say this. I  
14 think ---

15 MS. BURCHSTEAD: There was ---

16 THE COURT: I'm sorry. Did I cut you off? I'm  
17 sorry.

18 MS. BURCHSTEAD: No, no. I thought Mr. Sellers  
19 had a question. No. At the time of trial, there had not  
20 been a policy violation. I just want that clear.

21 THE COURT: There was an allegation of a policy  
22 violation?

23 MS. BURCHSTEAD: Absolutely.

24 THE COURT: I tend to agree with Mr. Sellers  
25 that this is a Brady violation analysis, not after-

1 discovered evidence. Otherwise, anybody who's requested  
2 can hide it and sit on it, and if you're fortunate enough  
3 to look at it, you can change the analysis around. But I  
4 don't think that's right. At the same time, though, I do  
5 have some concerns about the materiality of it and the  
6 admissibility of it, and that's what I'm going to look  
7 at.

8 I'm going to look at your cases. Do y'all have any  
9 other matters -- any other case law that you want me to  
10 look at?

11 MR. SELLERS: Your Honor, if we do, what we'll  
12 do is roundevous and we'll make sure that your law clerk  
13 and the AG's office would be on any cases that we sent to  
14 Your Honor.

15 THE COURT: Yeah, just copy Elizabeth  
16 Nicholson.

17 MS. BURCHSTEAD: I would just ask that -- we  
18 did not brief it. If you'd like us to brief it, we can  
19 do that, Judge.

20 MR. SELLERS: We didn't brief it either.

21 THE COURT: Why don't y'all -- you know, I hate  
22 putting more work on y'all because I know y'all got more  
23 than you can say grace over, but I would like some briefs  
24 on the issues. And if you think it's after-discovered,  
25 you can brief it. I kind of think that's not correct.

1 MS. BURCHSTEAD: I can brief them both, Your  
2 Honor.

3 THE COURT: But I'm concerned about the  
4 exculpatory nature ---

5 MS. BURCHSTEAD: Understood.

6 THE COURT: -- the materiality and the  
7 admissibility. Those three things are things I am  
8 looking at in this case. All right?

9 MS. BURCHSTEAD: Understood. When would you  
10 like them?

11 THE COURT: Whenever y'all tell me you can get  
12 them done.

13 MR. SELLERS: Well, we need a timeframe on this  
14 because this case has been going on ---

15 THE COURT: I know. I know this gentleman is  
16 sitting there stewing. Thirty days.

17 MR. SELLERS: Thirty days.

18 THE COURT: Thirty days. Get them in thirty  
19 days, and please ---

20 MS. BURCHSTEAD: We'll brief them both.

21 THE COURT: If y'all need additional time, just  
22 let me know, but the thirty days should give you ample  
23 time.

24 MS. BURCHSTEAD: That's very good.

25 THE COURT: And I don't need a formal brief.

1 You can just email it to me. Okay?

2 MR. SELLERS: Okay.

3 THE COURT: All right, guys. Thank you.

4 MR. SELLERS: Thank you.

5 MS. BURCHSTEAD: Thank you. We appreciate it.

6 THE COURT: Mr. Jones, good to see you.

7 Guys, y'all take care.

8 (WHEREUPON, the hearing ended at approximately 10:49  
9 a.m. and then reconvened at approximately 10:54  
10 a.m.)

11 THE COURT: Something else needs to be placed  
12 on the record?

13 MR. SELLERS: Yes, Your Honor. The first  
14 motion that we brought before you with the drugs, we  
15 didn't know how you wanted to resolve that matter.

16 THE COURT: Thank you. You're right. I  
17 thought when we heard this initially that the issue, the  
18 sole issue, to me was whether the jurors were back there  
19 actually -- I don't mean to sound trite -- but using  
20 cocaine and deliberating. Because of the fact that the  
21 bag was open in and of itself means nothing. It just  
22 causes you concern, right? So I thought that we were  
23 going to have it looked at to see if any of the bags had  
24 been opened, whatever analysis that needs to be. And I  
25 think that still needs to be done.

1 MS. BURCHSTEAD: I think we all agree.

2 THE COURT: Agent Barfield, let me ask you.  
3 You did what I asked you to do because that was something  
4 that actually I think we had a conference call.

5 AGENT BARFIELD: Correct.

6 THE COURT: Then we found out you were assigned  
7 to it. That's what we were looking at. What do -- or  
8 who do we need to talk to to just get them to look at the  
9 baggies, individual bags, of cocaine just to see if  
10 there's any tampering. I would almost bet my good  
11 Labrador retriever that there haven't been. But I would  
12 still think because we have twenty-five years  
13 incarceration we need to have it, you know, confirmed.

14 AGENT BARFIELD: I can get with the lab  
15 supervisor.

16 THE COURT: Do you mind doing that?

17 AGENT BARFIELD: Certainly.

18 THE COURT: Would you call me back personally  
19 and let me know?

20 AGENT BARFIELD: Yes, sir.

21 THE COURT: Okay. And that way I can report  
22 back to the lawyers.

23 Yes, sir?

24 MR. SELLERS: May we ask that it be weighed as  
25 well?

1 THE COURT: Do you mind doing that?

2 No, I don't see that as being a problem. They can  
3 weigh it without any problem.

4 AGENT BARFIELD: If the Court orders it, yes,  
5 sir.

6 THE COURT: Well, let me ask you this. I just  
7 don't know this.

8 AGENT BARFIELD: I'm not an expert by any means  
9 with any kind of lab, but I know that it's sitting there  
10 for a while.

11 THE COURT: Well, if there's a reason why it  
12 could have diminished in weight, they can

13 AGENT BARFIELD: They can look at it.

14 THE COURT: If the bags haven't been opened and  
15 it doesn't weigh the same, just the chemist or whoever it  
16 is can give an explanation of why that is. Just like  
17 other things.

18 THE COURT: Okay. Anything else? This needs  
19 to be done pretty kind of quickly, if we can, because  
20 this has been dragging.

21 MR. SELLERS: A deadline is what we would ask  
22 for.

23 THE COURT: Call me -- check and see how long  
24 they say it's going to take. I don't want to arbitrarily  
25 set a deadline because they have more to say grace over

1 than they can do, and so I'm not going to just interrupt  
2 what they're doing. Do you mind just giving me an idea  
3 and then we can discuss it?

4 AGENT BARFIELD: Absolutely. I'll find out on  
5 the way home.

6 THE COURT: All right. Guys, thank you so  
7 much.

8 Anything further?

9 MS. BURCHSTEAD: That's got it. Thank you.

10 THE COURT: All right.

11 (WHEREUPON, the hearing concluded at 10:54 a.m.)

12 \*\*\* END OF REQUESTED TRANSCRIPT OF RECORD \*\*\*

1

## CERTIFICATE OF REPORTER

2 I, the undersigned Renee H. Tollison, Official Court  
3 Reporter for the Second Judicial Circuit of the State of  
4 South Carolina, do hereby certify that the foregoing is a  
5 true, accurate, and complete transcript of record of all  
6 the proceedings had and evidence introduced in the  
7 trial/hearing of the captioned case, relative to appeal,  
8 in the Circuit Court for Aiken County, South Carolina, on  
9 the 6th day of July 2016.

10 This transcript may contain quoted material. Such  
11 material is reproduced as read by the speaker.

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

14

February 3, 2017

15

16

S/ *Renee H. Tollison*

17

Circuit Court Reporter



the Deputy Clerk of Court for Dorchester County notified the undersigned that a "best kit" admitted into evidence, containing multiple separate bags of cocaine had been partially opened. As a result, the Court notified counsel of record. Defendant's motion for Mistrial and/or New Trial was subsequently timely filed.

An initial hearing was held for defendant's motions. The court determined that the best course of action was to request SLED to perform an investigation consisting of interviewing the jurors and determining whether the separate bags of cocaine had actually been opened (or tampered with). If so, what was the net of the cocaine compared to that established at trial?

Special Agent Chris Barfield of SLED interviewed all jurors and was present at subsequently scheduled hearing to report on the same and to answer questions. Special Agent Barfield testified that all jurors denied that anyone opened or tampered with the individually packaged bags of cocaine. Although Special Agent Barfield reported that all jurors similarly denied partially opening the "best kit" this does not appear to be the case. However, a subsequent evaluation of the "best kit" and contents conducted on July 14, 2016 by Lieutenant Angil Landrum from SLED revealed no evidence that the separate bags of cocaine had been accessed or tampered with. Lieutenant Landrum noted that the quantity of cocaine inside the "best kit" was too large to fit through the small tear in the "best kit" and that there was no loose cocaine powder in the packaging.

Accordingly, defendant's motion for a Mistrial and/or New Trial based on jury misconduct is DENIED.

II.) **Motion for New Trial  
(Brady Violation)**

Prior to trial defendant's counsel requested redacted copies of any and all

officer's personnel files, including Detective John C. Medlin. Subsequent to defendant's trial, defendant's counsel discovered that on or around October 3, 2014 a complaint was filed against Detective Medlin. This gist of the complaint was that Detective Meldin unconstitutionally performed a roadside cavity search of an african - american male unrelated to the present case. The complaint was pending at the time this case went to trial the week of February 17, 2015.

The state should have turned this matter over as impeachment under Brady. Gibson v. State , 334 SC 515, 514, 5 SED 320 (1999). Notwithstanding, the allegations in the complaint were not remotely similar to the facts of this case, except that both the defendant and alleged victim were african - american. In the present case, Detective Medlin, other law enforcement, the Aiken County Solicitor and Deputy Solicitor witnessed defendant carrying a backpack into a residence. The residence was subsequently raided and the backpack containing the subject cocaine was found (not on defendant's person).

It is doubtful whether the complaint would have been admissible during defendant's trial. The complaint remained pending; there are no similarities between the allegation in the complaint and the facts of this case and the prejudice would appear to substantially outweigh the probative value. Further, the existence of the complaint, if admitted, was not such as to change the likely outcome of defendant's trial. Accordingly, defendant's motion for a New Trial is DENIED.

IT IS SO ORDERED This 22 Day of July, 2016

Anderson, South Carolina.

  
 R. LAWTON McINTOSH  
 PRESIDING CIRCUIT COURT JUDGE

STATE OF SOUTH CAROLINA )  
 COUNTY OF AIKEN )  
 )  
 )  
 State of South Carolina )  
 Plaintiff, )  
 )  
 )  
 vs. )  
 )  
 )  
 Kelvin Jones )  
 Defendant, )  
 )  
 )

IN THE COURT OF GENERAL SESSIONS  
 2nd. Judicial Circuit

Case No: 2012-GS-02-132  
 2012-GS-02-133  
 2012-GS-02-134

**RE-ISSUED ORDER**  
**MOTIONS FOR MISTRIAL**  
**AND/ OR NEW TRIAL**  
**(JURY MISCONDUCT)**  
**AND**  
**MOTION FOR NEW TRIAL**  
**(BRADY VIOLATION- OFFICER'S**  
**PERSONNEL RECORD)**  
**AND**  
**MOTION FOR RECONSIDERATION**

This matter is before the court on Defendant's (1) Motion for Mistrial and/or Motion for New Trial and (2) Motion for New Trial and upon Defendant's Motion for Reconsideration of its Order denying the above motions. Defendant was arrested in Aiken County on April 21, 2011 and charged with Trafficking Cocaine >400 g, PWID Cocaine within 1/2 mile of a school or park and possession of MDMA. Venue was transferred to Dorchester County. Meagon Burchstead, Esquire appeared on behalf of the Attorney General's Office. Bakari Sellers, Esquire and Alexandra M. Benevento, Esquire appeared on behalf of the Defendant. The Defendant was also present.

The trial was held during the week of April 17, 2015 on the charges of Trafficking Cocaine >400 g and PWID Cocaine within 1/2 mile of school or park. Prior to trial Defendant plead guilty to possession of MDMA.

2012-GS-02-00132

FILED 29 August 2016  
*[Signature]*  
 C.C.P. & G.S. *[Signature]*  
*[Signature]*  
 Deputy Clerk

**I.) Motion for Mistrial and/or New Trial**

Subsequent to the jury's guilty verdict and prior to the end of the term of court, the Deputy Clerk of Court for Dorchester County notified the undersigned that a "best kit" admitted into evidence, containing multiple separate bags of cocaine had been partially opened apparently by the jury during deliberations. As a result, the Court notified counsel of record. Defendant's Motion for Mistrial and/or New Trial was subsequently timely filed.

An initial hearing was held for Defendant's motions. The Court determined that the best course of action was to request SLED to perform an investigation consisting of interviewing the jurors and determining whether the separate bags of cocaine had actually been opened (or tampered with).

Special Agent Chris Barfield of SLED interviewed all jurors and was present at subsequently scheduled hearing to report on the same and to answer questions. Special Agent Barfield testified that all jurors denied that anyone opened or tampered with the individually packaged bags of cocaine. Although Special Agent Barfield reported that all jurors similarly denied partially opening the "best kit" this does not appear to be the case. However, a subsequent evaluation of the "best kit" and contents conducted on July 14, 2016 by Lieutenant Angil Landrum from SLED revealed no evidence that the separate bags of cocaine had been accessed or tampered with. Lieutenant Landrum noted that the quantity of cocaine inside the "best kit" was too large to fit through the small tear in the "best kit" and that there was no loose cocaine powder in the packaging.

Accordingly, Defendant's motion for a Mistrial and/or New Trial based on jury misconduct is DENIED.

**II.) Motion for New Trial  
(Brady Violation)**

Prior to trial Defendant's counsel requested redacted copies of any and all Aiken County Sheriff Department's officer's personnel files, including Detective John C. Medlin. Subsequent to Defendant's trial, Defendant's counsel discovered that on or around October 3, 2014 a complaint was filed against Detective Medlin. This gist of the complaint was that Detective Meldin unconstitutionally performed a roadside cavity search of an African-American male unrelated to the present case. The complaint was pending at the time this case went to trial the week of February 17, 2015. The state did not provide this information to the defense.

The state clearly should have turned this matter over under Brady. Gibson v. State , 334 SC 515, 514, 5 SE2d 320 (1999). As Defendant correctly points out, to establish a Brady violation:

- (1) The evidence at issue must be favorable to the Defendant; whether directly exculpatory or of impeachment value;
- (2) it must have been suppressed by the state, willfully or inadvertently<sup>1</sup>; and
- (3) it must be material.

**(1) Evidence at Issue Favorable to Defendant**

**(A) Directly Exculpatory Evidence**

---

<sup>1</sup> The Court finds the information regarding the complaint against Detective Medlin was suppressed but does not decide whether the suppression was intentional or inadvertent as this is not necessary for the Court's decision.

2012-65-03 00133

The subject matter of the allegations against Detective Medlin have no direct exculpatory value for Defendant. "Exculpatory evidence" is evidence which creates a reasonable doubt about the Defendant's guilt. State v. Hulton, 358 SC 622, 595 SE2d 876 (Ct. App. 2004). Clearly, the allegations against Detective Medlin, if true, have no bearing on whether or not Defendant is guilty of the crime(s) for which he was indicted or convicted, nor to the facts and circumstances surrounding Defendant's detention and arrest.

**(B) Impeachment Value**

**(i) Rule 609, SCRE**

Inasmuch as the accusations against Detective Medlin have no direct exculpatory value in this case, the suppressed evidence must be of impeachment value to satisfy this prong of a Brady violation analysis.

Rule 608(b) SCRE "SPECIFIC INSTANCES OF CONDUCT" provides that "[s]pecific instances of the conduct of a witness for purposes of attacking or supporting the witness's credibility, other than conviction of a crime provided in Rule 609, may not be proved by extrinsic evidence." (Emphasis Added)

First, the Court notes that at the time of trial, Detective Medlin had not been charged with or convicted of a crime. Accordingly, analysis of the impeachment value of the complaint, under Rule 609, SCRE would appear not to be relevant. To the extent Rule 609, SCRE is relevant, the prejudicial effect outweighs any probative value the allegations in the complaint may have. The allegations against Detective Medlin, if true, point to an overzealous and unconstitutional detention and search of the complainant. If true, the conduct could result in civil and/or criminal actions against Detective Medlin. However, the allegations shed no light on

2012-05-03-00132

Detective Medlin's propensity for truthfulness, veracity or credibility. State v. Black, 400 SC 10, 732 SE2d 880 (2012). The allegations further are not relevant to Defendant's guilt or innocence. This evidence would only be pursued to arouse the antipathy of the jury against the State.

Additionally, there is no similarity between complainant's allegations and the detention and arrest of Defendant, other than race. There is no evidence that Defendant's detention and arrest were racially motivated. Accordingly, the Court finds that even if evidence of the complaint had been properly produced, Defendant would not have been able to use the evidence to impeach Detective Medlin under Rule 609, SCRE.

(ii) **Rule 404 SCRE**

Rule 404(a) SCRE provides the "evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

(3) Character Witness. Evidence of the character of a witness, as provided by 607, 608 and 609.

(b) Other Crimes, Wrongs or Acts. Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent.

"The process of analyzing [prior] bad act evidence begins with Rule 401, SCRE (defining "relevant evidence" as evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence)." State v. King, 416 SC 92, 784 SE2d 252 (Ct. App. 2016).

Under Rule 401, SCRE, the allegations asserted against Detective Medlin are not probable, more or less, of the Defendant's guilt of the crimes for which he was charged and convicted.

Accordingly, the analysis should stop at this point.

Notwithstanding, under Rule 404(b):

To be admissible, the bad act must logically relate to the crime with which the Defendant has been charged. If the Defendant was not convicted of the prior crime, evidence of the prior bad act must be clear and convincing. Even if the prior bad act evidence is clear and convincing and falls within an exception, it must be excluded if its probative value is substantially outweighed by the danger of unfair prejudice to the Defendant.

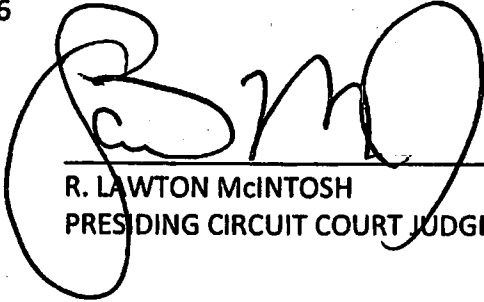
As stated, the complainant's allegations against Detective Medlin do not logically relate to the crimes for which Defendant was charged and convicted nor do they relate to the facts and circumstances surrounding Defendant's detention and arrest. Inasmuch as the "charge" (complaint) was pending at the time of trial, the Court questions whether the allegations could be established as true by clear and convincing evidence. Regardless, the prejudicial effect clearly outweighs any probative value this evidence may have under Rule 403, SCRE. As stated, this evidence would only be pursued to raise the ire of the jury and would constitute unfair prejudice. State v. Holder 382 SC 278, G76 SE2d 690 (2009). Further, the evidence is not such that would probably change the result if a new trial were granted. State v. Harris 391 SC 539, 706 SE2d 526 (Ct. App. 2011).

The Court notes it issued a prior Order denying Defendant's Motions for Mistrial and for a New Trial. The Order was mistakenly issued after granting counsel time to brief the issues in this case. As a result, Defendant's counsel properly filed a Motion to Reconsider and Vacate this Court's Order denying both of the Defendant's motions. Defendant's motion is GRANTED and this Court's prior Order is vacated.

The Court hereby denies Defendant's Motions for Mistrial and for a New Trial, and to the extent necessary, denies Defendant's Motion to Reconsider the denial of Defendant's motions.

IT IS SO ORDERED This 25<sup>th</sup> Day of August, 2016

Anderson, South Carolina.



---

R. LAWTON McINTOSH  
PRESIDING CIRCUIT COURT JUDGE

2012-65-62-00132



State of South Carolina  
The Circuit Court of the Eleventh Judicial Circuit

Brenda J. Sigwald  
Court Reporter for  
The Honorable  
R. Knox McMahon

P.O. Box 206  
Jackson, SC 29831  
bsigwald@sccourts.org

March 7, 2017

Chris Swenski  
SCCID  
P.O. Box 11589  
Columbia, SC 29211-1589

RE: State of South Carolina v Kelvin Jones

Dear Mr. Swenski,

I have received your letter dated February 28, 2017 wherein you request the Transcript of Record in the above-referenced matter.

I have checked my records for that entire week and have determined I did not take this case. I was assigned to Aiken on that day with Judge Early, but there is no such case in my records.

I apologize for any inconvenience this causes. If I can be of further assistance, please do not hesitate to call.

Sincerely,

*Brenda J. Sigwald*

Brenda J. Sigwald  
Court Reporter

bjs

cc: Desiree Allen

RECEIVED  
MAR 16 2017  
APPELLATE RELEASE



State of South Carolina  
 The Circuit Court of the Eleventh Judicial Circuit

Brenda J. Sigwald  
 Court Reporter for  
 The Honorable  
 R. Knox McMahon

P.O. Box 206  
 Jackson, SC 29831  
 bsigwald@sccourts.org

May 10, 2017

Katherine H. Hudgins  
 SCCID  
 P.O. Box 11589  
 Columbia, SC 29211-1589

RE: State of South Carolina v Kelvin Jones

Dear Ms. Hudgins,

I have received an email request from Paula Murdaugh, asking me to go through my records again. As I stated in my last letter, I have no record of anything being put on the record for Mr. Jones. If we stop one hearing to have something put on the record in another case, it is listed in my court notes. There is no such note.

I have spent more time than I really have listening again and found nothing additional. As stated in my last correspondence, I did find that the very first thing for the week was a Roster Meeting for Civil Court, followed by a Roster Meeting for General Sessions. These meetings were not on the record.

In the General Sessions Roster Meeting, State v Kelvin Jones was listed as Trial Number 5 and the attorneys were told to be ready Wednesday morning. There was nothing else for that week. We did not do a trial on Wednesday, there were just guilty pleas and various motions. There was not a hearing for Mr. Jones.

Sincerely,

*Brenda J. Sigwald*

Brenda J. Sigwald  
 Court Reporter  
 bjs

cc: Desiree Allen

RECEIVED  
 MAY 15 2017  
 APPELLATE DEFENSE

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

---

Appeal from Aiken County

Honorable R. Lawton McIntosh, Circuit Court Judge

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THE STATE,

RESPONDENT,

v.

KELVIN JONES,

APPELLANT.

APPELLATE CASE NO 2016-001835

**Proposed Stipulation**

The parties agree that the August 11, 2014, transcript of a motion to suppress heard by the Honorable Edgar Dickson is unavailable. As an alternative to a reconstruction hearing, the parties propose the following stipulation:

1. On April 19, 2011, Detective John C. Medlin of the Aiken Department of Public Safety requested from a magistrate a search warrant for a residence located at [REDACTED] Morgan Street NW, in Aiken, South Carolina.

2. The affidavit in support of the search warrant provides:

Det. Sawyer received complaints of short-term traffic at [REDACTED] Morgan St NW that is consistent with the sale of narcotics. On April 18, 2011 Det. Medlin coordinated with Bill Martin, Solid Waste Supervisor with the Aiken Department of Public Works, to collect trash from [REDACTED] Morgan St NW. Mr. Martin did so on Monday, April 18, 2011, which is the normal trash collection day for that residence. Mr. Martin found the can and contents at the curb beside the driveway in a manner consistent with the trash being ready for collection. Mr. Martin brought the can and the contents to Det. Medlin at the ADPS headquarters. Det. Medlin and Det. Sawyer searched the contents of the can and found the following items: 1 – the burnt remains of a cigar that contained a green leafy material believed to be marijuana; 2- numerous twisted and torn baggies (indicating the packaging of marijuana for resale); 3 – empty cigar tube wrappers; 4 – cigars that had been torn open to remove the tobacco (a common tactic for smoking marijuana covertly); 5 – mail addressed to [REDACTED] Morgan St. NW Aiken SC. Based on my experience and training, the items listed indicate the use and repackaging of narcotics for resale. Detective Royster, a certified marijuana analyst, tested the plant material found in the trash and confirmed it to be marijuana. This officer verily believes that probable cause exists as to the presence of narcotics at this residence. See Attachment B for photographs of the items found. (Exhibit #3 attached).

3. The affidavit was not supplemented with sworn verbal testimony.

4. On August 11, 2014, Appellant submitted a written motion and memorandum in support of motion to suppress. (Exhibit #1 attached).

5. The search warrant and affidavit in support of the search warrant were attached to the motion and memorandum. (Exhibit #2 attached).

6. Appellant argued that the affidavit did not establish probable cause to search the residence because it failed to demonstrate the reliability of Detective Sawyer's sources, failed to demonstrate how the referenced short term traffic was consistent with narcotics sales and failed to provide a time frame regarding the short term traffic so that the magistrate could determine if the complaints were current or stale.

7. Appellant additionally argued that the single trash pull did not establish probable cause to believe that criminal activity was occurring at the residence or that contraband would be found at the residence.
8. Finally, Appellant argued that the good faith exception to the warrant requirement did not apply.
9. In a written order signed on October 20, 2014, Judge Dickson denied the motion to suppress writing, "In this case, probable cause existed for the magistrate to issue the warrant. Although the reliability of the tipsters was never established, the officers corroborated the tip by finding twisted, torn baggies and the remnants of marijuana cigars in the trash. See State v. Rutledge 644 S.E.2d 789 (Ct.App. 2007)(Finding probable cause for a search warrant where a trash pull corroborated a tip)." (Exhibit #3 attached).

# **Exhibit #1**

STATE OF SOUTH CAROLINA )  
 COUNTY OF AIKEN )  
 )  
 State of South Carolina )  
 )  
 v. )  
 )  
 Kelvin Jones, )  
 )  
 Defendant )

---

IN THE COURT OF GENERAL SESSIONS  
 FOR THE SECOND JUDICIAL CIRCUIT

**DEFENDANT'S MOTION AND  
 MEMORANDUM IN SUPPORT OF  
 MOTION TO SUPPRESS**

**MOTION AND MEMORANDUM IN SUPPORT OF MOTION TO SUPPRESS**

Defendant, by and through his undersigned counsel of record, file this Motion to Suppress evidence seized in violation of the Fourth and Fourteenth Amendments. In this Motion, Defendant challenged the state's search warrant for [REDACTED] Morgan St NW, as the affidavit supporting the search warrant did not establish probable cause to believe that anyone at the premises was currently engaged in criminal activity or that any contraband would be found at said residence.

**Statement of the Facts**

On April 19, 2011, Detective John C. Medlin of the Aiken Department of Public Safety approached Judge McKinney, a recorder or magistrate in Aiken County, for a warrant authorizing a search of the at [REDACTED] Morgan Street NW, in Aiken, South Carolina. The residence was described as a split level home with red brick veneer, gray siding, black shutters, and a gray shingle roof. In a sworn affidavit, Detective Medlin reported to Judge McKinney the following:

Det. Sawyer received complaints of short-term traffic at [REDACTED] Morgan St NW that is consistent with the sale of narcotics. On April 18, 2011 Det. Medlin coordinated with Bill Martin, Solid Waste Supervisor with the Aiken Department of Public Works, to collect trash from [REDACTED] Morgan St NW. Mr. Martin did no on Monday, April 18, 2011, which is the normal trash collection day for that residence. Mr. Martin found the can and contents at the curb beside the driveway in a manner consistent with the trash being ready for collection. Mr. Martin brought the can and the contents

to Det. Medlin at the ADPS headquarters. Det. Medlin and Det. Sawyer searched the contents of the can and found the following items: 1-the burnt remains of a cigar that contained a green leafy material believed to be marijuana; 2-numerous twisted and torn baggies (indicating the packaging of marijuana for resale); 3-empty cigar tube wrappers; 4-cigars that had been torn open to remove the tobacco (a common tactic for smoking marijuana covertly); 5-mail addressed to [REDACTED] Morgan St NW Aiken, SC. Based on my experience and training, the items listed indicate the use and repackaging of narcotics for resale. Detective Royster, a certified marijuana analyst, tested the plant material found in the trash and confirmed it to be marijuana. This officer verily believes that probable cause exists as to the presence of narcotics at this residence. See Attachment B for photographs of the items found.

(Affidavit and Warrant attached as Exh. A.) Based solely on the information contained in this Affidavit, Judge McKinney authorized a broad search warrant to allow for the search of [REDACTED] Morgan Street NW, Aiken SC for the following items:

All illegal narcotics, to include but not limited to marijuana, cocaine, crack cocaine, methamphetamines, heroin, and ecstasy. All paraphernalia that may be used in the manufacturing, storage, use, or distributions of illegal narcotics. All monies in close proximity to illegal narcotics. Any documentation showing activity of drug use or distribution.

(Affidavit and Warrant attached as Ex. A.)

#### Discussion and Citation of Authority

Defendant's Motion to Suppress is based on the Fourth Amendment, which provides, in part:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause. . .

U.S. Const. amend. IV. The Fourth Amendment protects the reasonable expectation of privacy by prohibiting unreasonable searches and seizures. Rawlings v. Kentucky, 448 U.S. 98, 104,

100 S. Ct. 2556, 2561, 65 L. Ed. 2d 663 (1980). The search and seizure “golden rule” for any law enforcement officer is to obtain a search warrant before conducting any searches or seizures because a search or seizure conducted pursuant to a search warrant is deemed to be reasonable whereas a warrantless search or seizure is considered to be unreasonable under the Fourth Amendment unless a judicially recognized exception applies. Mincey v. Arizona, 437 U.S. 385, 390, 98 S. Ct. 2408, 2411, 57 L. Ed. 2d 290 (1978); Katz v. United States, 389 U.S. 347, 357, 88 S. Ct. 507, 514, 19 L. Ed. 2d 576 (1967).

**I. Defendant Has Standing to Challenge the Search Warrant.**

Following the decisions of the United States Supreme Court, the South Carolina Supreme Court has definitively held that an overnight guest has a reasonable expectation of privacy, the legal prerequisite to confer standing on an individual. State v. Missouri, 361 S.C. 107, 603 S.E.2d 594 (2004) (citing Minnesota v. Olson, 495 U.S. 91, 110 S.Ct. 1684, 109 L.Ed.2d 85 (1990)). Here, Detective Medlin (identified as Investigator Medline at the preliminary hearing) testified that Detective Sawyer had information that Defendant “either lived there [redacted] Morgan St NW] or spent lots of time there.” (Transcript at 11.) This testimony is sufficient to establish a reasonable expectation of privacy, triggering Defendant’s right to challenge the search warrant as unreasonable under the Fourth and Fourteenth Amendment.

**II. Detective Medlin’s Affidavit Is Deficient Because It Fails to Demonstrate the Reliability of Detective Sawyer’s Sources.**

All search warrants must (1) be based on facts that establish probable cause; (2) particularly describe the place to be searched; (3) particularly described the things to be seized; and

(4) be issued by a neutral and detached officer. The issuing magistrate must make a practical, common sense decision whether, given all circumstances set forth in the affidavit before him, there is a fair probability that contraband or evidence of a crime will be found in the place. Illinois v. Gates, 462 U.S. 213, 238, 103 S. Ct. 2317, 2332, 76 L. Ed. 2d 527 (1983). Generally speaking, officers present the facts providing probable cause in an affidavit.

When an officer uses an affidavit citing an unnamed source or confidential informant, the officer must provide the magistrate the circumstances behind why the officer concludes that the confidential informant or unnamed source is worthy of belief. The Supreme Court explained that a magistrate's "practical, common sense decision whether probable cause exists" must include information based upon the "veracity" and the "basis of the knowledge" of persons supplying hearsay information. Gates, 462 U.S. at 238, 103 S. Ct. at 2332. In every case where a police officer relies on a confidential informant, he should allege the following: (1) the facts from which the informant concluded that the thing to be searched for is probably on the person or premises to be searched and the facts from which the officer concluded that (i) the informant is credible; or (ii) the information furnished by the informant is reliable. Gates, 462 U.S. at 231, 103 S. Ct. at 2328 (emphasis added). To demonstrate that an informant is reliable, an officer may present evidence that the informant has given reliable information in the past; that the informant is a private citizen known by the officer and the informant has a reputation for truthfulness; that the informer himself participated in criminal activity; or that the information is corroborated by another informant or by police surveillance.

In this case, Detective Medlin failed to identify any facts which show the basis for relying on the confidential statements made to Detective Sawyer sufficient to show a reasonable basis for relying on such statements. Detective Medlin offered no evidence from which the magistrate

could conclude that the anonymous complaints were reliable. Additionally, there is no indication as to whether the complainants stated that the short term traffic was consistent with the sale of narcotics or whether that simply was the conclusion of Detective Medlin. Thus, these alleged statements should be excised from the warrant affidavit in this Court's independent review to determine if probable cause existed.

Moreover, there was no time-frame regarding this short-term traffic for the magistrate to make a determination as to whether those complaints were current or stale. In order for an affidavit to support probable cause, "it must state facts so closely related to the time of the issuance of the warrant as to justify a finding of probable cause at that time." State v. Winborne, 273 S.C. 62, 64, 254 S.E.2d 297, 298 (1979) (internal quotation marks omitted). "An affidavit which fails altogether to state the time of the occurrence of the facts alleged is insufficient." Id. The lack of any time frame for the alleged complaints of short term traffic, or the number and frequency of the short term traffic, renders this statement inadequate to be considered in the determination of probable cause.

**III. The Search Warrant Fails to Establish Probable Cause to Believe that Criminal Activity Was Occurring at ■ Morgan St NW or that Contraband Was Located There at the Time the Search Warrant Was Signed.**

A reviewing court's inquiry is whether the magistrate had a substantial basis to conclude that probable cause existed to issue a search warrant. United States v. Blackwood, 913 F.2d 139, 142 (4th Cir. 1990). To determine whether probable cause exists, a magistrate must make a practical determination, based upon the facts presented before him or her, whether "there is a fair probability that contraband or evidence of a crime will be found in a particular place." Illinois v. Gates, 462 U.S. 213, 238, 103 S. Ct. 2317, 2332, 76 L. Ed. 2d 527 (1983); Robinson v. State, 407

S.C. 169, 190, n. 11, 754 S.E.2d 862, 873 (2014). The facts must “warrant a man of reasonable caution” to believe that evidence of a crime will be found for a magistrate to issue a search warrant. Texas v. Brown, 460 U.S. 730, 742, 103 S. Ct. 1535, 1543, 75 L. Ed. 2d 502 (1983); State v. Geer, 391 S.C. 179, 197, 705 S.E.2d 441, 450 (Ct. App. 2010).

The crucial element is not whether the target of a search warrant committed a crime, but whether it is reasonable under the facts presented to the magistrate that the items to be seized will be found in the place to be searched. Zurcher v. Stanford Daily, 436 U.S. 547, 556 & n. 6, 98 S. Ct. 1970, 1976-77 & n. 6, 56 L. Ed. 2d 525 (1978). In United States v. Anderson, 851 F.2d 727, 729 (4th Cir. 1988), *cert. denied*, the Court of Appeals adopted the rule that “the nexus between the place to be searched and the items to be seized may be established by the nature of the item and the normal inferences of where one would likely keep such evidence.” Anderson, 851 F.2d at 729. In United States v. Lalor, this Court held that an affidavit that failed to describe any circumstances from which a magistrate could infer that evidence of drug crimes would be stored at defendant’s residence failed for want of probable cause. United States v. Lalor, 996 F.2d 1578, 1582-83 (4th Cir. 1993), *cert denied*, 502 U.S. 833, 112 S. Ct. 111, 116 L. Ed. 2d 80 (1991).

Here, the only evidence that gave rise to the search warrant was discovered in a single trash pull from the trash collector on April 18, 2011, which revealed, as set forth in Detective Medlin’s affidavit, the following:

...1-the burnt remains of a cigar that contained a green leafy material believed to be marijuana; 2-numerous twisted and torn baggies (indicating the packaging of marijuana for resale); 3-empty cigar tube wrappers; 4-cigars that had been torn open to remove the tobacco (a common tactic for smoking marijuana covertly); 5-mail addressed to [REDACTED] Morgan St NW Aiken, SC.

(Affidavit and Warrant attached as Exh. A.) With respect to the “numerous twisted and torn

baggies, Detective Medlin fails to identify how many baggies were torn open that were likely used as a supply to smoke marijuana. Moreover, Detective Medlin fails to explain how a single incident of marijuana use on or before April 18, 2011 would indicate that there would be any additional contraband located at the residence at any time thereafter. In Raulerson v. State, 714 So.2d 536, 537 (Fl. App. 1998), the Florida Court of Appeals held that evidence from a single trash pull that found evidence that tested positive for cannabis, without other sufficient material facts, could not result in a fair probability to conclude that cannabis would be found in the home. Likewise, the evidence here is insufficient to conclude that there was a fair probability that marijuana, or any other substance outlined in the affidavit or warrant, would be found upon a search.<sup>1</sup> In Raulerson, the Florida Court of Appeals distinguished cases that involved multiple trash pulls and cases with additional reliable information regarding patterns of continuous drug activity, none of which exists here.

Likewise, the South Carolina Court of Appeals previously concluded that information regarding the names of the people involved in a crime and the specific location of the activity, could be sufficient to support reliability of an informant that could be used in conjunction with a trash pull to satisfy probable cause. State v. Rutledge, 373 S.C. 312, 317, 644 S.E.2d 789, 791 (Ct. App. 2007). Additionally, the Court of Appeals further allowed a search warrant to stand where the evidence consisted of an anonymous tip confirmed by evidence that the defendant lived at the address, defendant's prior marijuana convictions, and marijuana found in a trash pull. State v. Lecroy, 2011 WL 11735691, \*1 (Ct. App. 2011). Again, Detective Medlin provided no supplemental information other than a one-time trash pull that exhibited evidence of marijuana use

---

<sup>1</sup> In his affidavit, Detective Medlin fails to explain how finding a mere trace of marijuana with other evidence consistent with marijuana use gave him or anyone sufficient facts to conclude that he might find cocaine, crack cocaine, methamphetamines, heroin, and ecstasy. In this regard, the warrant is overbroad.

on or before April 18, 2011. Such evidence is insufficient to support probable cause to search the residence, and all evidence recovered should be suppressed.

#### IV. The Good Faith Exception to the Warrant Requirement Does Not Apply.

The purpose of the exclusionary rule is to deter unreasonable searches and seizures by police and not to punish judges and magistrates. United States v. Leon, 468 U.S. 897, 917, 104 S. Ct. 3405, 3417, 82 L. Ed. 2d 677 (1984). In executing the warrant, an officer is permitted to reasonably rely on a judicial determination that the warrant is supported by probable cause. Leon, 468 U.S. at 923, 104 S. Ct. at 3421. This is the good-faith exception to the exclusionary rule which provides that evidence illegally seized due to an invalid search warrant will only be suppressed if “the officers were dishonest or reckless in preparing their affidavit or could not have harbored an objectively reasonable belief in the existence of probable cause.” Leon, 468 U.S. at 926, 104 S. Ct. at 3422. In State v. Johnson, 302 S.C. 243, 249, 395 S.E.2d 167, 170 (1990), the South Carolina Supreme Court interpreted Leon as precluding application of the good-faith exception when an affidavit fails to provide a magistrate with a substantial basis for finding probable cause. In State v. Weston, 329 S.C. 287, 292, 494 S.E.2d 801, 803-04, (1997), the South Carolina Supreme Court explained that “[s]uppression is appropriate in only a few situations, including when an affidavit is ‘so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable.’” Weston, 329 S.C. at 292, 494 S.E.2d 803-04 (quoting Leon, 468 U.S. at 923, 104 S.Ct. at 3421).

As demonstrated *supra*, Detective Medlin was reckless in preparing his affidavit because he provided no evidence of why Detective Sawyer’s sources were reliable and because the only evidence he presented was from a one-time trash pull that indicated, at best, use of

marijuana which had taken place prior to trash collection. Detective Medlin offered no evidence to establish any likelihood that contraband would be present at the time he request the search warrant. In fact, this is basic legal knowledge needed by police officers in applying for a search warrant. Further, instead of vigorously scrutinizing the Detective Medlin's affidavit, Judge McKinney operated merely as a rubberstamp to law enforcement. This Court need only look at the actual search warrant to see that Judge McKinney authorized a search for not only marijuana for personal use, she also authorized a search for cocaine, crack cocaine, methamphetamines, heroin, and ecstasy. If Judge McKinney scrutinized the affidavit and warrant, she would have seen the affidavit and warrant as flawed and lacking in probable cause. Thus, the good faith exception in Leon does not apply to this case.

#### Conclusion

For the above reasons, the evidence seized and the statements made as a result of the defective warrant application and warrant should be suppressed. Defendant prays for an Order suppressing all evidence as fruit of the poisonous tree stemming from this unlawful search warrant.

**RESPECTFULLY SUBMITTED**, this 11<sup>th</sup> day of August, 2014.

Columbia, South Carolina



J. Preston Strom, Jr.  
Mario A. Pacella  
Bakari T. Sellers  
Alexandra M. Benevento  
STROM LAW FIRM, LLC  
2110 Beltline Boulevard  
Columbia, South Carolina 29204  
(803) 252-4800

ATTORNEYS FOR DEFENDANT

# **Exhibit #2**

STATE OF SOUTH CAROLINA

County of Aiken

\_\_\_\_\_

\_\_\_\_\_

SEARCH WARRANT

\_\_\_\_\_

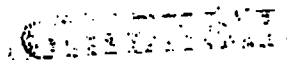
Date April 18, 2011  
Officer Det. John C. Medlin

ORIGINAL

Exhibit #2

STATE OF SOUTH CAROLINA }  
COUNTY OF Aiken

AFFIDAVIT



Personally appeared before me, Detective John C. Medlin  
one

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

DESCRIPTION OF PROPERTY SOUGHT

All illegal narcotics, to include but not limited to marijuana, cocaine, crack cocaine, methamphetamines, heroin, and ecstasy. All paraphernalia that may be used in the manufacturing, storage, use, or distribution of illegal narcotics. All monies in close proximity to illegal narcotics. Any documentation showing activity of drug use or distribution.

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

The location to be searched is a site-built, single-family dwelling with red brick veneer. The residence is a split-level home with a garage on the first floor on the southern end of the residence. It has gray siding, black shutters, and a gray shingle roof. The residence is located at [redacted] Morgan St NW Aiken, SC and has the numbers [redacted] affixed to the wall to the right of the front door. The scope of the search is also to include all sheds, outbuildings, and vehicles located on the property. See Attachment A for photographs of the residence.

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

Det. Sawyer received complaints of short-term traffic at [redacted] Morgan St NW that is consistent with the sale of narcotics. On April 18, 2011 Det. Medlin coordinated with Bill Martin, Solid Waste Supervisor with the Aiken Department of Public Works, to collect the trash from [redacted] Morgan St NW. Mr. Martin did so on Monday, April 18, 2011 which is the normal trash collection day for that residence. Mr. Martin found the can and contents at the curb beside the driveway in a manner consistent with the trash being ready for collection. Mr. Martin brought the can and contents to Det. Medlin at ADPS headquarters. Det. Medlin and Det. Sawyer searched the contents of the can and found the following items: 1- the burnt remains of a cigar that contained a green leafy material believed to be marijuana; 2- numerous twisted and torn baggies (indicating the packaging of marijuana for resale); 3- empty cigar tube wrappers; 4- cigars that had been torn open to remove the tobacco (a common tactic for smoking marijuana covertly); 5- mail addressed to [redacted] Morgan St NW Aiken, SC. Based on my experience and training, the items listed indicate the use and repackaging of narcotics for resale. Detective Royster, a certified marijuana analyst, tested the plant material found in the trash and confirmed it to be marijuana. This officer verily believes that probable cause exists as to the presence of narcotics at this residence. See Attachment B for photographs of the items found.

Sworn to and Subscribed before me

this 19th day of Apr, 20 11  
Signature of Judge

}  
Signature of Affiant

Affiant  
Address 2571 Laurens St NW Aiken, SC 29801  
Phone 803 642-7620

STATE OF SOUTH CAROLINA }  
COUNTY OF Aiken

Search Warrant

Form approved by  
S.C. Attorney General  
Section 17-13-160  
March 15, 1978

ORIGINAL

TO ANY BONDED LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF  
Aiken County

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

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

The location to be searched is a site-built, single-family dwelling with red brick veneer. The residence is a split-level home with a garage on the first floor on the southern end of the residence. It has gray siding, black shutters, and a gray shingle roof. The residence is located at [redacted] Morgan St NW Aiken, SC and has the numbers [redacted] affixed to the wall to the right of the front door. The scope of the search is also to include all sheds, outbuildings, and vehicles located on the property. See Attachment A for photographs of the residence.

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

DESCRIPTION OF PROPERTY

All illegal narcotics, to include but not limited to marijuana, cocaine, crack cocaine, methamphetamines, heroin, and ecstasy. All paraphernalia that may be used in the manufacturing, storage, use, or distribution of illegal narcotics. All monies in close proximity to illegal narcotics. Any documentation showing activity of drug use or distribution.

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

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

Judge C. McKinney

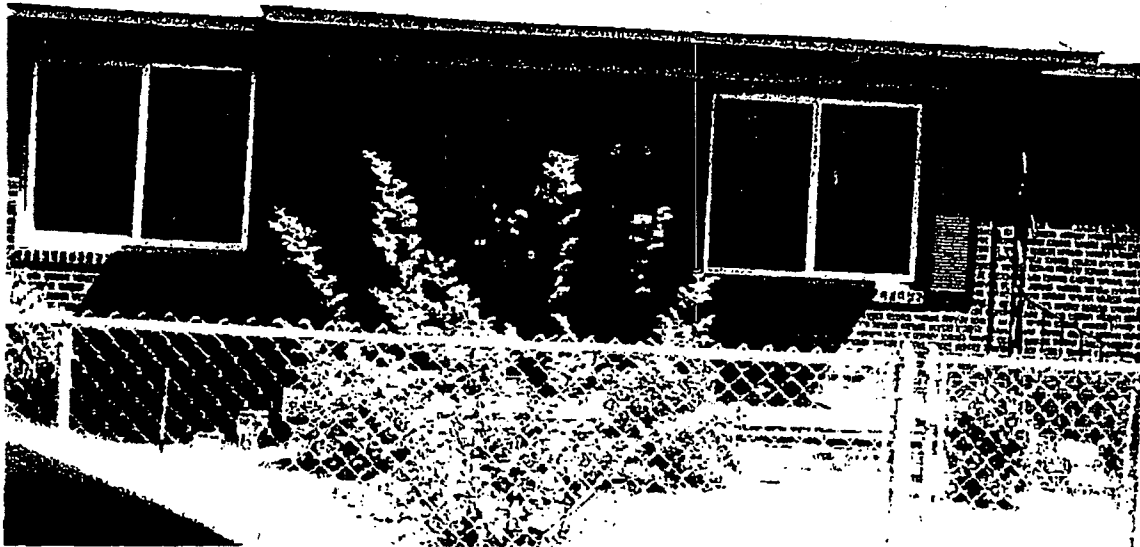
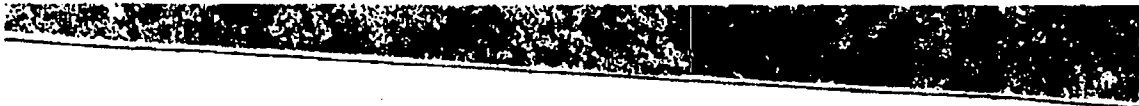
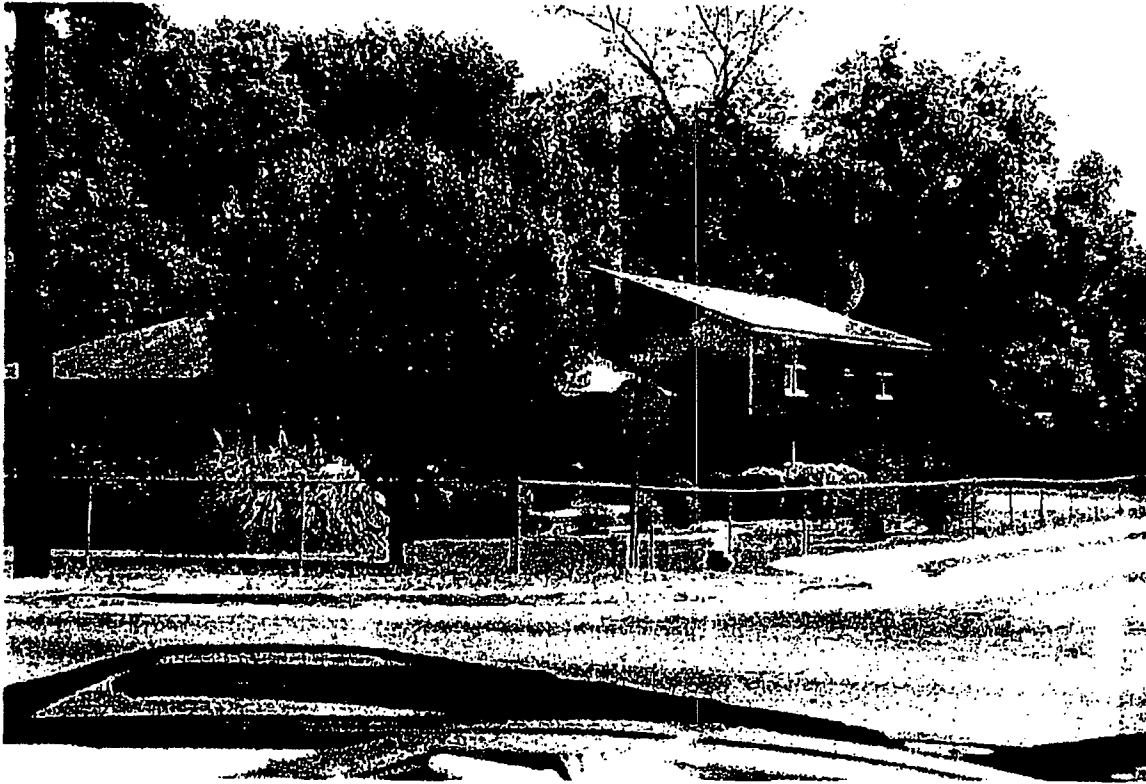
within ten days from the date of this warrant, such inventory to be signed by the officer executing this warrant, and a copy of such inventory shall be furnished to the person whose premises are searched if demand for such copy is made.

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

Aiken . S.C.  
April 19 . 20 11

Capt McKinney (I.S.)  
Signature of Judge

# Attachment A



# Attachment B



## City of Aiken

Post Office Box 1177  
Aiken, South Carolina 29802  
(803) 642-7600

### NOTIFICATION OF COURT DATE

March 18, 2011

Jamaris Coleman  
Morgan St  
Aiken, SC

29801

RE: 1093194

This letter is to advise you that a court date of Wednesday, April 27, 2011 at 9:30 AM is set for you to appear at 2511 Laurens St. Northwest, Aiken Municipal Court on the violation **WARRANT FOR ARREST** issued by Public Safety Officer Penny Schultz.

You must post the bond indicated on your tickets before this new date or appear in court. If you have already posted a cash bond at Aiken Public Safety and did not wish to appear in court, you may disregard this notice. If you fail to appear, and have not posted a cash bond, you may be treated in absence and a bench warrant may be issued for your arrest.



PO BOX 3475 Cust:UHS  
TOLEDO, OH 43607-0475

STATEMENT DATE: 02/15/11  
DUE DATE: 03/05/11

Please check box if address or insurance information has changed and indicate changes on reverse side.

FREDDIE BUTLER  
MORGAN ST NW  
AIKEN, SC 29801-3661

000109495242000000001750009999970000000



# Exhibit #3

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF AIKEN )  
 )  
 State of South Carolina, )  
 )  
 v. )  
 )  
 Kelvin Jones, )  
 )  
 Defendant. )

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IN THE COURT OF GENERAL SESSIONS  
 FOR THE SECOND JUDICIAL CIRCUIT

Indictment Nos.: 2014-GS-02-01182  
 2012-GS-02-00133  
 2012-GS-02-00134

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

The Defendant moved to suppress evidence seized pursuant to the execution of a search warrant at a home in Aiken on April 21, 2011. This Court held a pre-trial suppression hearing on August 11, 2014. At the hearing, the Defense argued that the magistrate lacked probable cause to issue the warrant. After considering the evidence and legal arguments presented to the Court, the Defendant's Motion to Suppress is denied for reasons stated below.

**FINDINGS OF FACT**

In April 2011 narcotics officers with the Aiken Department of Public Safety received tips of short term traffic at [redacted] Morgan St. Northwest. Acting on these tips, the officers conducted a "trash pull" at the house on April 18, 2011. The trash collector picked up the trash from the curb as usual at the normal time of collection and gave it to the officers to inspect. The officers found torn and twisted baggies, remains of a suspected marijuana cigar, and mail addressed to the home. Later that day, a marijuana analyst confirmed that the cigar did in fact contain marijuana.

After confirming the presence of marijuana, one of the officers, Detective John Medlin, requested a search warrant from a magistrate on April 19, 2011. The affidavit in support of the warrant reads:

*1/3*

Det. Sawyer received complaints of short-term traffic at [REDACTED] Morgan St. NW that is consistent with the sale of narcotics. On April 18, 2011 Det. Medlin coordinated with Bill Martin, Solid Waste Supervisor with the Aiken Department of Public Works, to collect the trash from [REDACTED] Morgan St NW. Mr. Martin did so on Monday, April 18, 2011 which is the normal trash collection day for that residence. Mr. Martin found the can and contents at the curb beside the driveway in a manner consistent with the trash being ready for collection. Mr. Martin brought the can and contents to Det. Medlin at ADPS headquarters. Det. Medlin and Det. Sawyer searched the contents of the can and found the following items: 1- the burnt remains of a cigar that contained a green leafy material believed to be marijuana; 2- numerous twisted and torn baggies (indicating the packaging of marijuana for resale); 3- empty cigar tube wrappers; 4- cigars that had been torn open to remove the tobacco (a common tactic for smoking marijuana covertly); 5- mail addressed to [REDACTED] Morgan St NW Aiken, SC. Based on my experience and training, the items listed indicate the use and repackaging of narcotics for resale. Detective Royster, a certified marijuana analyst, tested the plant material found in the trash and confirmed it to be marijuana. This officer verily believes that probable cause exists as to the presence of narcotics at this residence. See Attachment B for photographs of the items found.

Detective Medlin did not supplement the affidavit with sworn verbal testimony.

Finding probable cause existed, the magistrate authorized the search warrant. Law enforcement officers executed the search warrant two days later on April 21, 2011 and found a large amount of cocaine and several ecstasy pills.

#### RULINGS OF LAW

"The task of a magistrate when determining whether to issue a warrant is to make a practical, common sense decision as to whether, under the totality of the circumstances set forth in the affidavit, there is a fair probability that evidence of a crime will be found in a particular place." State v. Philpot, 454 S.E.2d 905 (Ct. App. 1995). In this case, probable cause existed for the magistrate to issue the warrant. Although the reliability of the tipsters was never established, the officers corroborated the tip by finding twisted, torn baggies and the remnants of marijuana cigars in the trash. See State v. Rutledge, 644 S.E.2d 789 (Ct. App. 2007)(Finding


2/5

probable cause for a search warrant where a trash pull corroborated a tip). Therefore, probable cause existed for the magistrate to issue the warrant.

**ORDER**

For the reasons stated above, the Defendant's Motion to Suppress is hereby respectfully **DENIED.**

**AND IT IS SO ORDERED.**

  
\_\_\_\_\_  
The Honorable Edgar W. Dickson  
Presiding Judge  
Court of General Sessions

Aiken, South Carolina,  
10/20, 2014.

~~3/20~~

# The South Carolina Court of Appeals

The State, Respondent,

v.

Kelvin Jones, Appellant.

Appellate Case No. 2016-001835

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## ORDER

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The parties' request to submit a stipulation to take the place of the missing transcript of the motion to suppress is granted. Appellant shall file his initial brief and designation of matter within thirty days of this order.

  
\_\_\_\_\_  
FOR THE COURT

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire

John Benjamin Aplin, Esquire

Kathrine Haggard Hudgins, Esquire

**FILED**

Nov. 7, 2017

**RECEIVED**

NOV 07 2017

APPELLATE DEFENSE

STATE OF SOUTH CAROLINA

County of Aiken

\_\_\_\_\_

\_\_\_\_\_

SEARCH WARRANT

\_\_\_\_\_

Date April 18, 2011

Officer Det. John C. Medlin

1545-02  
[Signature]

SEARCHED

STATE OF SOUTH CAROLINA }  
COUNTY OF Aiken

AFFIDAVIT

Personally appeared before me, Detective John C. Medlin  
one

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

DESCRIPTION OF PROPERTY SOUGHT

All illegal narcotics, to include but not limited to marijuana, cocaine, crack cocaine, methamphetamines, heroin, and ecstasy. All paraphernalia that may be used in the manufacturing, storage, use, or distribution of illegal narcotics. All monies in close proximity to illegal narcotics. Any documentation showing activity of drug use or distribution.

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

The location to be searched is a site-built, single-family dwelling with red brick veneer. The residence is a split-level home with a garage on the first floor on the southern end of the residence. It has gray siding, black shutters, and a gray shingle roof. The residence is located at [redacted] Morgan St NW Aiken, SC and has the numbers [redacted] affixed to the wall to the right of the front door. The scope of the search is also to include all sheds, outbuildings, and vehicles located on the property. See Attachment A for photographs of the residence.

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

Det. Sawyer received complaints of short-term traffic at [redacted] Morgan St NW that is consistent with the sale of narcotics. On April 18, 2011 Det. Medlin coordinated with Bill Martin, Solid Waste Supervisor with the Aiken Department of Public Works, to collect the trash from [redacted] Morgan St NW. Mr. Martin did so on Monday, April 18, 2011 which is the normal trash collection day for that residence. Mr. Martin found the can and contents at the curb beside the driveway in a manner consistent with the trash being ready for collection. Mr. Martin brought the can and contents to Det. Medlin at ADPS headquarters. Det. Medlin and Det. Sawyer searched the contents of the can and found the following items: 1- the burnt remains of a cigar that contained a green leafy material believed to be marijuana; 2- numerous twisted and torn baggies (indicating the packaging of marijuana for resale); 3- empty cigar tube wrappers; 4- cigars that had been torn open to remove the tobacco (a common tactic for smoking marijuana covertly); 5- mail addressed to [redacted] Morgan St NW Aiken, SC. Based on my experience and training, the items listed indicate the use and repackaging of narcotics for resale. Detective Royster, a certified marijuana analyst, tested the plant material found in the trash and confirmed it to be marijuana. This officer verily believes that probable cause exists as to the presence of narcotics at this residence. See Attachment B for photographs of the items found.

454

Sworn to and Subscribed before me

this 19th day of APR, 2011  
Carol M. King (L.S.)  
Signature of Judge

[Signature]  
Affiant

Address 251 Lawrence St NW Aiken, SC 29501

Phone 803 642-7620



STATE OF SOUTH CAROLINA }  
COUNTY OF Aiken

Search Warrant

Form approved by  
S.C. Attorney General  
Section 17-13-160  
March 15, 1978

ORIGINAL

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

Aiken County

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

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

The location to be searched is a site-built, single-family dwelling with red brick veneer. The residence is a split-level home with a garage on the first floor on the southern end of the residence. It has gray siding, black shutters, and a gray shingle roof. The residence is located at Morgan St NW Aiken, SC and has the numbers affixed to the wall to the right of the front door. The scope of the search is also to include all sheds, outbuildings, and vehicles located on the property. See Attachment A for photographs of the residence.

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

DESCRIPTION OF PROPERTY

All illegal narcotics, to include but not limited to marijuana, cocaine, crack cocaine, methamphetamines, heroin, and ecstasy. All paraphernalia that may be used in the manufacturing, storage, use, or distribution of illegal narcotics. All monies in close proximity to illegal narcotics. Any documentation showing activity of drug use or distribution.

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

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

Judge C. McKinney

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

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

Aiken, S.C.  
April 19, 2011

Capt. McKinney (L.S.)  
Signature of Judge

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ORIGINAL

Return

I received the attached Search Warrant April 21, 20 11, and have executed it as follows:  
On April 21, 20 11 at 945 o'clock P M, I searched  
(the person) described in the warrant and (the premises)

I left a copy of the warrant with Tiffany Butler

Name of the person searched or "at the place of search" with.  
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

- 1- Nike backpack with scales 4 bags white powder (under LR couch)
  - 2- SWL SU40VE pistol PDJ2427 w/14 rds ammo
  - 3- Jar w/green plant material & \$821.00
  - 4- black scales
  - 5- baggies
  - 6- \$50 currency (Ricky Lloyd's cargo pocket)
  - 7- bag of white powder (Ricky Lloyd's Right Front pocket)
  - 8- bag of white powder (toilet by Ricky Lloyd)
  - 9- \$40 currency (toilet by Ricky Lloyd)
  - 10- purple scales (toilet by Ricky Lloyd)
  - 11- \$5042 currency (Kelvin Jones waistband)
  - 12- bag of green plant material (Floor by Justin Butler in Office AP living room)
  - 13- bag with tablets (Kelvin Jones) Right Front pocket
- Continued at bottom of page ↓

This inventory was made in the presence of GARY BENFIELD  
AN Lee Jackson  
D

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

SWORN to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_  
(L.S.)  
Signature of Judge

M. E. S  
(Signature of Officer Executing Warrant)

- 14- Charter Arrow Bulldog Pug, 44 spl. 58758 & 5 cartridges
- 15- pickler jet with green plant material (under box springs 2nd Floor, Rt Rear BR)
- 16- bag & shoe box with mixer, measuring cup w/white residue (closet under stairs in basement area)
- 17- black scales w/white residue (toilet in office of LR)
- 18- 1/2 pt jar with green plant residue (under couch in LR)
- 19- ...

ORIGINAL

Return

I received the attached Search Warrant April 21, 20 11 and have executed it as follows:  
On April 21, 20 11 at 9:45 o'clock 7 M. I searched  
(the person) described in the warrant and (the premises)

I left a copy of the warrant with P. J. Fagan Butler

Name of the person searched or "at the place of search" with.  
Together with a receipt for the items seized.

The following is an inventory of property taken pursuant to the warrant:

- 1- white backpack with red lining & 4 bags white powder (under LR couch)
  - 2- 511w 511 MOVE pistol #012427 L/17 rds ammo (under LR couch)
  - 3- jar w/green plant material & 8831 coc (under LR couch)
  - 4- black rocks (under LR couch)
  - 5- baggies (under LR couch)
  - 6- 8.5oz marijuana (Ricky (large green packet))
  - 7- bag of white powder (Ricky (large green packet))
  - 8- bag of white powder (Ricky (large green packet))
  - 9- 8.5oz marijuana (Ricky (large green packet))
  - 10- purple powder (Ricky (large green packet))
  - 11- 8.5oz marijuana (Ricky (large green packet))
  - 12- bag of green plant material (Flour by Justin Butler in Apr. of LR)
  - 13- bag with 1.4oz (Ricky (large green packet))
- ~~14~~ continued at bottom of page of

This inventory was made in the presence of \_\_\_\_\_

AN  
D

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

SWORN to before me this 5th  
day of May, 20 11

Cape D. Miki (H.S.)  
Signature of Judge

M. E. S.  
(Signature of Officer Executing Warrant)

4- ...  
14- ...  
15- ...  
16- ...  
17- ...  
18- ...  
19- ...  
20- ...

ORIGINAL

**AIKEN DEPARTMENT OF PUBLIC SAFETY**

*P.O. Box 1177  
Aiken, South Carolina 29802*

**Statement**

On April 21, 2011 the narcotics division served a search warrant at [REDACTED] Morgan Street, in the City and County of Aiken. During the execution of the search warrant 4 individuals were arrested.

- (1) Ricky Lloyd was observed by SRT team members running into a bathroom. SRT secured Lloyd in the bathroom attempted to flush the toilet. In the toilet we found Lloyds South Carolina drivers license, cash, scales, and more than 10 grams of cocaine. Lloyd charged with trafficking in Cocaine, and PWID Cocaine within one half mile of a school.
- (2) Jamaris Coleman's bedroom was searched and more than 28 grams of Marijuana was located in the bedroom along with an ID that belonged to Coleman. Coleman charged with PWID Marijuana and PWID Marijuana within one half mile of a school
- (3) Tiffany Butler's bedroom was searched and a quantity of less than 10 Ecstasy pills were located in a nightstand drawer next to her bed. Butler told officers that was her bedroom and women's clothes were located in the bedroom. Butler charged with Possession of Ecstasy.
- (4) Kelvin Jones was observed by agents on surveillance detail to enter the residence before arrival of the SRT Team wearing all dark clothes and had a backpack on his back. The back pack had long ropes that made the back pack hang low on his back. A search of the residence produced that back pack hid under the couch. A search of the back pack produced a quantity of more than 1000 grams of cocaine. A search of Jones person produced a quantity of less than 10 Ecstasy pills and

approximately \$5000.00. Jones is charged with Trafficking in Cocaine, PWID Cocaine within one half mile of a school, and Possession of Ecstasy. Jones has at least two prior drug convictions.

 4-22-11  
2:15 A.M.

---

**M.E. Sawyer JR.**

STATE OF SOUTH CAROLINA

County of Aiken

\_\_\_\_\_

\_\_\_\_\_

SEARCH WARRANT

\_\_\_\_\_

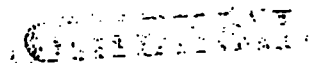
Date April 18, 2011

Officer Det. John C. Medlin

ORIGINAL

STATE OF SOUTH CAROLINA }  
COUNTY OF Aiken

AFFIDAVIT



Personally appeared before me, Detective John C. Medlin  
one

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

DESCRIPTION OF PROPERTY SOUGHT

All illegal narcotics, to include but not limited to marijuana, cocaine, crack cocaine, methamphetamines, heroin, and ecstasy. All paraphernalia that may be used in the manufacturing, storage, use, or distribution of illegal narcotics. All monies in close proximity to illegal narcotics. Any documentation showing activity of drug use or distribution.

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

The location to be searched is a site-built, single-family dwelling with red brick veneer. The residence is a split-level home with a garage on the first floor on the southern end of the residence. It has gray siding, black shutters, and a gray shingle roof. The residence is located at [redacted] Morgan St NW Aiken, SC and has the numbers [redacted] affixed to the wall to the right of the front door. The scope of the search is also to include all sheds, outbuildings, and vehicles located on the property. See Attachment A for photographs of the residence.

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

Det. Sawyer received complaints of short-term traffic at [redacted] Morgan St NW that is consistent with the sale of narcotics. On April 18, 2011 Det. Medlin coordinated with Bill Martin, Solid Waste Supervisor with the Aiken Department of Public Works, to collect the trash from [redacted] Morgan St NW. Mr. Martin did so on Monday, April 18, 2011 which is the normal trash collection day for that residence. Mr. Martin found the can and contents at the curb beside the driveway in a manner consistent with the trash being ready for collection. Mr. Martin brought the can and contents to Det. Medlin at ADPS headquarters. Det. Medlin and Det. Sawyer searched the contents of the can and found the following items: 1- the burnt remains of a cigar that contained a green leafy material believed to be marijuana; 2- numerous twisted and torn baggies (indicating the packaging of marijuana for resale); 3- empty cigar tube wrappers; 4- cigars that had been torn open to remove the tobacco (a common tactic for smoking marijuana covertly); 5- mail addressed to [redacted] Morgan St NW Aiken, SC. Based on my experience and training, the items listed indicate the use and repackaging of narcotics for resale. Detective Royster, a certified marijuana analyst, tested the plant material found in the trash and confirmed it to be marijuana. This officer verily believes that probable cause exists as to the presence of narcotics at this residence. See Attachment B for photographs of the items found.

Sworn to and Subscribed before me

this 19th day of Apr, 20 11  
*Capt. M. McKinney* (L.S.)  
Signature of Judge

}

*[Signature]*  
Affiant

Address 251 Lawrence St NW Aiken, SC 29801  
Phone 803 642-7620

STATE OF SOUTH CAROLINA }  
 COUNTY OF Aiken

## Search Warrant

Form approved by  
 S.C. Attorney General  
 Section 17-13-160  
 March 15, 1978

ORIGINAL

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

Aiken County

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

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

The location to be searched is a site-built, single-family dwelling with red brick veneer. The residence is a split-level home with a garage on the first floor on the southern end of the residence. It has gray siding, black shutters, and a gray shingle roof. The residence is located at [redacted] Morgan St NW Aiken, SC and has the numbers [redacted] affixed to the wall to the right of the front door. The scope of the search is also to include all sheds, outbuildings, and vehicles located on the property. See Attachment A for photographs of the residence.

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

DESCRIPTION OF PROPERTY

All illegal narcotics, to include but not limited to marijuana, cocaine, crack cocaine, methamphetamines, heroin, and ecstasy. All paraphernalia that may be used in the manufacturing, storage, use, or distribution of illegal narcotics. All monies in close proximity to illegal narcotics. Any documentation showing activity of drug use or distribution.

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

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

Judge C. McKinney

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

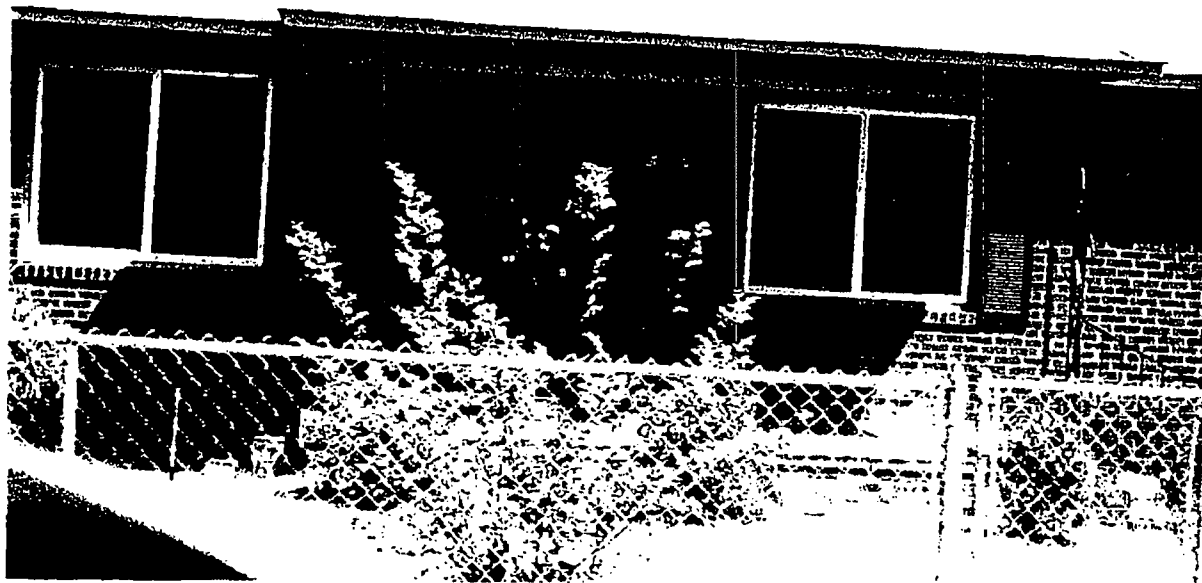
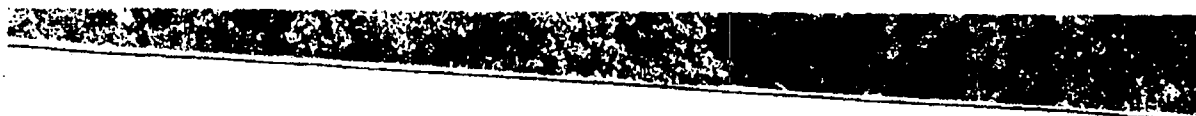
A copy of this Search Warrant shall be delivered to the person in charge of the premises searched at the time of such search if practicable, and, if not, to such persona as soon thereafter as is practicable; in the event the identity of the person in charge is not known or if such person cannot be found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

Aiken . S.C.  
April 19 , 20 11

Capt McKinney (L.S.)  
 Signature of Judge

SCCA/513  
 (3-78)

# Attachment A



# Attachment B



## City of Aiken

Post Office Box 1177  
Aiken, South Carolina 29801  
(803) 642-7600

### NOTIFICATION OF COURT DATE

March 18, 2011

Jamaris Coleman  
Morgan St  
Aiken, SC 29801

RE: 1093194

This letter is to advise you that a court date of **Wednesday, April 27, 2011** at **9:15 AM** has been set for you to appear at **2511 Laurens St. Northwest, Aiken Municipal Court** on the violation **§ 16-9-10 (a) (1) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z) (aa) (ab) (ac) (ad) (ae) (af) (ag) (ah) (ai) (aj) (ak) (al) (am) (an) (ao) (ap) (aq) (ar) (as) (at) (au) (av) (aw) (ax) (ay) (az) (ba) (bb) (bc) (bd) (be) (bf) (bg) (bh) (bi) (bj) (bk) (bl) (bm) (bn) (bo) (bp) (bq) (br) (bs) (bt) (bu) (bv) (bw) (bx) (by) (bz) (ca) (cb) (cc) (cd) (ce) (cf) (cg) (ch) (ci) (cj) (ck) (cl) (cm) (cn) (co) (cp) (cq) (cr) (cs) (ct) (cu) (cv) (cw) (cx) (cy) (cz) (da) (db) (dc) (dd) (de) (df) (dg) (dh) (di) (dj) (dk) (dl) (dm) (dn) (do) (dp) (dq) (dr) (ds) (dt) (du) (dv) (dw) (dx) (dy) (dz) (ea) (eb) (ec) (ed) (ee) (ef) (eg) (eh) (ei) (ej) (ek) (el) (em) (en) (eo) (ep) (eq) (er) (es) (et) (eu) (ev) (ew) (ex) (ey) (ez) (fa) (fb) (fc) (fd) (fe) (ff) (fg) (fh) (fi) (fj) (fk) (fl) (fm) (fn) (fo) (fp) (fq) (fr) (fs) (ft) (fu) (fv) (fw) (fx) (fy) (fz) (ga) (gb) (gc) (gd) (ge) (gf) (gg) (gh) (gi) (gj) (gk) (gl) (gm) (gn) (go) (gp) (gq) (gr) (gs) (gt) (gu) (gv) (gw) (gx) (gy) (gz) (ha) (hb) (hc) (hd) (he) (hf) (hg) (hh) (hi) (hj) (hk) (hl) (hm) (hn) (ho) (hp) (hq) (hr) (hs) (ht) (hu) (hv) (hw) (hx) (hy) (hz) (ia) (ib) (ic) (id) (ie) (if) (ig) (ih) (ii) (ij) (ik) (il) (im) (in) (io) (ip) (iq) (ir) (is) (it) (iu) (iv) (iw) (ix) (iy) (iz) (ja) (jb) (jc) (jd) (je) (jf) (jg) (jh) (ji) (jj) (jk) (jl) (jm) (jn) (jo) (jp) (jq) (jr) (js) (jt) (ju) (jv) (jw) (jx) (jy) (jz) (ka) (kb) (kc) (kd) (ke) (kf) (kg) (kh) (ki) (kj) (kk) (kl) (km) (kn) (ko) (kp) (kq) (kr) (ks) (kt) (ku) (kv) (kw) (kx) (ky) (kz) (la) (lb) (lc) (ld) (le) (lf) (lg) (lh) (li) (lj) (lk) (ll) (lm) (ln) (lo) (lp) (lq) (lr) (ls) (lt) (lu) (lv) (lw) (lx) (ly) (lz) (ma) (mb) (mc) (md) (me) (mf) (mg) (mh) (mi) (mj) (mk) (ml) (mm) (mn) (mo) (mp) (mq) (mr) (ms) (mt) (mu) (mv) (mw) (mx) (my) (mz) (na) (nb) (nc) (nd) (ne) (nf) (ng) (nh) (ni) (nj) (nk) (nl) (nm) (nn) (no) (np) (nq) (nr) (ns) (nt) (nu) (nv) (nw) (nx) (ny) (nz) (oa) (ob) (oc) (od) (oe) (of) (og) (oh) (oi) (oj) (ok) (ol) (om) (on) (oo) (op) (oq) (or) (os) (ot) (ou) (ov) (ow) (ox) (oy) (oz) (pa) (pb) (pc) (pd) (pe) (pf) (pg) (ph) (pi) (pj) (pk) (pl) (pm) (pn) (po) (pp) (pq) (pr) (ps) (pt) (pu) (pv) (pw) (px) (py) (pz) (qa) (qb) (qc) (qd) (qe) (qf) (qg) (qh) (qi) (qj) (qk) (ql) (qm) (qn) (qo) (qp) (qq) (qr) (qs) (qt) (qu) (qv) (qw) (qx) (qy) (qz) (ra) (rb) (rc) (rd) (re) (rf) (rg) (rh) (ri) (rj) (rk) (rl) (rm) (rn) (ro) (rp) (rq) (rr) (rs) (rt) (ru) (rv) (rw) (rx) (ry) (rz) (sa) (sb) (sc) (sd) (se) (sf) (sg) (sh) (si) (sj) (sk) (sl) (sm) (sn) (so) (sp) (sq) (sr) (ss) (st) (su) (sv) (sw) (sx) (sy) (sz) (ta) (tb) (tc) (td) (te) (tf) (tg) (th) (ti) (tj) (tk) (tl) (tm) (tn) (to) (tp) (tq) (tr) (ts) (tt) (tu) (tv) (tw) (tx) (ty) (tz) (ua) (ub) (uc) (ud) (ue) (uf) (ug) (uh) (ui) (uj) (uk) (ul) (um) (un) (uo) (up) (uq) (ur) (us) (ut) (uu) (uv) (uw) (ux) (uy) (uz) (va) (vb) (vc) (vd) (ve) (vf) (vg) (vh) (vi) (vj) (vk) (vl) (vm) (vn) (vo) (vp) (vq) (vr) (vs) (vt) (vu) (vv) (vw) (vx) (vy) (vz) (wa) (wb) (wc) (wd) (we) (wf) (wg) (wh) (wi) (wj) (wk) (wl) (wm) (wn) (wo) (wp) (wq) (wr) (ws) (wt) (wu) (wv) (ww) (wx) (wy) (wz) (xa) (xb) (xc) (xd) (xe) (xf) (xg) (xh) (xi) (xj) (xk) (xl) (xm) (xn) (xo) (xp) (xq) (xr) (xs) (xt) (xu) (xv) (xw) (xx) (xy) (xz) (ya) (yb) (yc) (yd) (ye) (yf) (yg) (yh) (yi) (yj) (yk) (yl) (ym) (yn) (yo) (yp) (yq) (yr) (ys) (yt) (yu) (yv) (yw) (yx) (yy) (yz) (za) (zb) (zc) (zd) (ze) (zf) (zg) (zh) (zi) (zj) (zk) (zl) (zm) (zn) (zo) (zp) (zq) (zr) (zs) (zt) (zu) (zv) (zw) (zx) (zy) (zz)** issued by Public Safety Officer Penny Schultz.

You must post the bond indicated on your tickets before this new date or appear in court. If you have already posted a cash bond at Aiken Public Safety and did not wish to appear in court, you may disregard this notice. If you fail to appear, and have not posted a cash bond, you may be treated in your absence and a bench warrant may be issued for your arrest.



PO BOX 3475 Cust: UHS  
TOLEDO, OH 43607-0475

STATEMENT DATE: 02/15/11  
DUE DATE: 03/05/11

Please check box if address or insurance information has changed and indicate changes on reverse side.

000482 0101  
FREDDIE BUTLER  
MORGAN ST NW  
AIKEN, SC 29801-3661

00010949524200000000175000999999970008000



WITNESSES

Aiken Department Of Public Safety

John C Medlin

Law Enforcement Case #: 11-35928

DOCKET NO. 2012GS0200132

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

JANUARY TERM 2012

BAY

ARREST WARRANT NUMBER

1093304

FILED January 9 2012

L. G. Anderson  
REC'D & RGS  
Shannon W. Roach  
Deputy Clerk

THE STATE  
vs.

KELVIN JONES

AKA "KJ"; AKA "KEVIN EPPS

ACTION OF GRAND JURY

True bill

CDR #: 0281

Indictment for

TRAFFICKING COCAINE

§ 44-53-0370(e)(2)(e)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA  
COURT OF GENERAL SESSIONS  
County of Aiken, South Carolina do hereby certify  
that the foregoing are a true and correct copy of the  
original documents which have been filed in accordance with  
15 Aug 2013  
[Signature]  
Clerk of Court

Wishon Eubank  
Foreperson of Grand Jury  
Date: January 9, 2012

VERDICT

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA    )  
                                           )  
 COUNTY OF AIKEN                )  
                                           )

INDICTMENT FOR  
 TRAFFICKING COCAINE

§ 44-53-0370(e)(2)(e)

At a Court of General Sessions, convened on January 9, 2012, the Grand Jurors  
 of Aiken County present upon their oath:

That **KELVIN JONES, AKA "KJ"; AKA "KEVIN EPPS**, did in Aiken County on  
 or about April 21, 2011, commit the offense of Trafficking In Cocaine by knowingly or  
 intentionally having in actual or constructive possession 400 grams or more of Cocaine,  
 a controlled substance under provisions of Section 44-53-110, et. seq., Code of Laws of  
 South Carolina (1976), as amended, such possession not having been authorized by  
 law.

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

  
 J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken Department Of Public Safety

John C Medlin

Law Enforcement Case #: 11-35928

BAY

ARREST WARRANT NUMBER

1093305

FILED January 9 2012

Lee Godard Jr  
S.C.P.A.G.S.

Shannon D. Rosen (Party)  
Deputy Clerk

ACTION OF GRAND JURY

True bill

William E. ...

Foreperson of Grand Jury  
Date: January 9, 2012

VERDICT

Foreperson of Petit Jury  
Date:

DOCKET NO. 2012GS0200133

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

JANUARY TERM 2012

THE STATE  
vs.

KELVIN JONES  
AKA "KJ"; AKA "KEVIN EPPS"

CDR #: 0107

Indictment for

POSSESSION WITH INTENT TO  
DISTRIBUTE COCAINE WITHIN  
PROXIMITY OF A PARK

§ 44-53-0445(B)(1)

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN  
Lee Godard, Clerk of Court of General Sessions  
for Aiken County, do hereby certify  
that the foregoing constitutes a true and correct copy of the  
original documents which have been filed in this case.  
15 days Aug 13  
Shannon D. Rosen  
Deputy Clerk

STATE OF SOUTH CAROLINA     )  
                                          )  
COUNTY OF AIKEN             )     INDICTMENT FOR  
                                          )     POSSESSION WITH INTENT TO DISTRIBUTE  
                                          )     COCAINE WITHIN PROXIMITY OF A PARK  
                                          )

§ 44-53-0445(B)(1)

At a Court of General Sessions, convened on January 9, 2012, the Grand Jurors of Aiken County present upon their oath:

That **KELVIN JONES, AKA "KJ"; AKA "KEVIN EPPS"**, did in Aiken County on or about April 21, 2011, knowingly or intentionally possess with intent to distribute Cocaine, a controlled substance under provisions of Section 44-53-110, et. seq., Code of Laws of South Carolina (1976), as amended, while in, on, or within a one-half mile radius of the grounds of a public school, to wit: Pine Crest School, such possession not having been authorized by law.

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

  
J. STROM THURMOND, SOLICITOR

WITNESSES  
Aiken Department Of Public Safety  
John C Medlin  
Law Enforcement Case #: 11-35928

DOCKET NO. 2012GS0200134  
The State of South Carolina  
County of Aiken

COURT OF GENERAL SESSIONS  
JANUARY TERM 2012

BAY  
ARREST WARRANT NUMBER  
1093303 FILED January 9 2012  
*Liz Anderson Jr*  
Sheriff  
*Shannon D. Rosenkrantz*  
Deputy Clerk

THE STATE  
vs.  
KELVIN JONES  
AKA "KJ", AKA "KEVIN EPPS"

ACTION OF GRAND JURY  
*True bill*

CDR #: 0180

*Wesley Embury*  
Foreperson of Grand Jury  
Date: January 9, 2012

Indictment for  
POSSESSION OF 3,4-  
METHYLENEDIOXYMETHAMPHETAMIN  
E (ECSTASY)  
§ 44-53-0370(d)(2)

VERDICT  
  
  
  
Foreperson of Petit Jury  
Date:

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF AIKEN ) INDICTMENT FOR  
 ) POSSESSION OF 3,4-  
 ) METHYLENEDIOXYMETHAMPHETAMINE  
 ) (ECSTASY)

§ 44-53-0370(d)(2)

At a Court of General Sessions, convened on January 9, 2012, the Grand Jurors of Aiken County present upon their oath:

That **KELVIN JONES, AKA "KJ"; AKA "KEVIN EPPS"**, did in Aiken County on or about April 21, 2011, knowingly or intentionally possess a quantity of 3,4-Methylenedioxyamphetamine, a controlled substance under provisions of §44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such possession not having been authorized by law.

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

  
STROM THURMOND, SOLICITOR

2014-GS-02-01182 Q  
DOCKET NO. ~~2014-GS-02-00132~~  
(Superseding Indictment)

The State of South Carolina  
County of Aiken

COURT OF GENERAL SESSIONS  
August 14  
JULY 31, 2014 TERM

THE STATE  
vs.  
KELVIN JONES;  
AKA "KJ";  
AKA "KEVIN EPPS"  
D.O.B. [REDACTED] /1982

Superseding Indictment for  
TRAFFICKING COCAINE  
400 GRAMS OR MORE

S.C. CODE §44-53-370(e)(2)(e)  
CDR Code: 0281

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant  
I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant  
Witness:  
C.C.C PLS. AND G.S.

STATE OF SOUTH CAROLINA  
COUNTY OF AIKEN  
I, Liz Godard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

FEB 12 2015

Liz Godard  
C.C.C.P. & C.S., Aiken County, S.C.  
Shannon D. Rosenkrantz Jode  
Deputy Clerk

WITNESSES

Captain Martin Sawyer, ADPS

FILED July 31, 2014

[Signature]

ARREST WARRANT NUMBER

Direct Indictment 2014-000001 [Signature]

ACTION OF GRAND JURY

true bill

[Signature]

Foreperson of Grand Jury  
Date: July 31, 2014 [Signature]

VERDICT

X [Signature]  
Foreperson of Petit Jury  
Date: 2-19-15

STATE OF SOUTH CAROLINA )  
 )  
 )  
 COUNTY OF AIKEN )

**SUPERSEDING INDICTMENT**


**TRAFFICKING COCAINE  
 400 GRAMS OR MORE**

At a Court of General Sessions, convened on <sup>August 14,</sup> ~~July 31,~~ 2014, the Grand Jurors of Aiken County present upon their oath:

That Kelvin Jones, AKA "KJ", AKA "Kevin Epps", did in Aiken County on or about April 21, 2011, knowingly sell, manufacture, cultivate, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase or bring into this State, or did knowingly actually or constructively possess or did knowingly attempt to become in actual or constructive possession of four hundred (400) grams or more of cocaine, a controlled substance under provisions of § 44-53-110, et. seq., Code of Laws South Carolina (1976), as amended, such conduct not having been authorized by law. This is in violation of Section 44-53-370(e)(2)(e) 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

OFFICE OF THE ATTORNEY GENERAL

  
 ALAN WILSON (MBB)  
 ATTORNEY GENERAL

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Aiken

STATE

Kelvin vs. Jones

AKA:

KJ

Race:

B

Sex:

M

Age:

DOB:

[REDACTED]

SS#:

[REDACTED]

Address:

City, State, Zip:

DL#

SID#

SC 01307194

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

INDICTMENT/CASE#: 2012-GS-02-00133

AW#: 1093305

Date of Offense: 04/21/2011

S.C. Code §: 44-53-445(D)(1)

CDR Code #: 0107

SENTENCE SHEET (0-10 yrs)

In disposition of the said indictment comes now the Defendant who was  CONVICTED OF or  PLEADS TO: Possession With Intent To Distribute Cocaine Within Proximity of a School

In violation of §: 44-53-445(D)(1) of the S.C. Code of Laws, bearing CDR Code # 0107  
 NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45 (CSC w/minor 1<sup>st</sup> or Lewd Act)

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

ATTEST: [Signature] 71716 SC Bar # [Signature] 79714 SC Bar #  
Soleitor At. A.S. Defendant Attorney for Defendant

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

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.  
Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_ Obtain GED

Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_ May serve W/E beginning Substance Abuse Counseling

\*Fine: \_\_\_\_\_ Random Drug/Alcohol Testing   
§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_ Fine may be pd. in equal consecutive weekly/monthly  
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100 prmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_  
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_ \$ \_\_\_\_\_ Paid to Public Defender Fund  
§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_  
Proviso 47.9 (Public Def/Prob) \$500 \$ \_\_\_\_\_  
§14-1-212 (Law Enforce. Funding) \$25 \$ 25  
§14-1-213 (Drug Court Surcharge) \$150 \$ 150  
§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5  
3% to County (if paid in installments) \$ 8.40  
TOTAL \$ 288.40

Other: \_\_\_\_\_

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

Presiding Judge [Signature]  
Judge Code: 2155  
Sentence Date: 2-19-15

Clerk of Court/Deputy Clerk [Signature]  
Court Reporter: [Signature]

SCCA/217 (03/2011) Trial occurred in Dorchester County.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Arden

STATE

Kelvin Jones aka KJ

AKA:

Race:

Sex:

Age:

SS#:

City, State, Zip:

Arden S.C. 29801

SID#

CDE Yes  No  CIVL Yes  No  Hazmat Yes  No

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

TO:

Possession of Ecstasy (MDMA)

In violation of §:

44-53-370(d)(2)

of the S.C. Code of Laws, bearing CDR Code #

0180

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

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

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

ATTEST:

Magistrate 71716 / Kelvin Jones / 79714  
Solicitor ASTAS SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of 0 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$ \_\_\_\_\_; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.  
Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered PTUP \_\_\_\_\_

Total: \$ \_\_\_\_\_ plus 20% fee: \$ \_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_ Obtain GED

Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_ May serve W/E beginning Substance Abuse Counseling

\*Fine: \_\_\_\_\_ Random Drug/Alcohol Testing   
§14-1-206 (Assessments 107.5%) \$ \_\_\_\_\_ Fine may be pd. in equal consecutive weekly/monthly  
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100 prmts. of \$ \_\_\_\_\_ Beginning \_\_\_\_\_  
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ \_\_\_\_\_ \$ \_\_\_\_\_ Paid to Public Defender Fund  
§56-5-2995 (DUI Assessment) \$12 \$ \_\_\_\_\_  
§56-1-286 (DUI Breath Test) \$25 \$ \_\_\_\_\_  
Proviso 47.9 (Public Def/Prob) \$500 \$ \_\_\_\_\_  
§14-1-212 (Law Enforce. Funding) \$25 \$ 25  
§14-1-213 (Drug Court Surcharge) \$150 \$ 150  
§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
Proviso 90.5 (SCCJA Surcharge) \$5 \$ \_\_\_\_\_  
3% to County (if paid in installments) \$ 8.40  
TOTAL \$ 288.40

Clerk of Court/Deputy Clerk Cheryl Graham Presiding Judge [Signature]  
Court Reporter: Sharon Vize Judge Code: 2155  
Sentence Date: 2-17-15

SCCA/217 (03/2011)

Plea accepted and sentenced in Dorchester County  
Sentence 2-19-15  
[Signature]

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

Aiken

STATE

VS.

Kelvin Jones

AKA:

KJ

Race:

R

Sex:

M

Age:

DOB:

1/82

SS#:

[REDACTED]

Address:

City, State, Zip:

DL#

SID#

SC01207194

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the said indictment comes now the Defendant who was TO: Trafficking Cocaine 400 grams or more.

In violation of §: 44-53-370(e)(2)(c) of the S.C. Code of Laws, bearing CDR Code # 0281

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS (CSC w/minor 1<sup>st</sup> or Lewd Act)  \$17-25-45

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (def.'s initials)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

Nigel B. Buckled 71716

Defendant

SC Bar #

Defendant

[Signature]

Attorney for Defendant

79714

SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center, for a determinate term of 2.5 days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years and/or to pay a fine of \$200,000; provided that upon the service of \_\_\_\_\_ days/months/years and or payment of \$ \_\_\_\_\_, plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_\_\_ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or  CONSECUTIVE to sentence on:  
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered

PTUP \_\_\_\_\_

Total: \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ days/hours Public Service Employment

Payment Terms: \_\_\_\_\_

Obtain GED

Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. \_\_\_\_\_

Recipient: \_\_\_\_\_

May serve W/E beginning Substance Abuse Counseling

*Fine:		\$	<u>200,000</u>
§14-1-206 (Assessments 107.5%)		\$	<u>215,000</u>
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	<u>100</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
Proviso 47.9 (Public Def/Prob)	\$500	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	<u>25</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$	<u>150</u>
§50-21-114 (BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	<u>5</u>
3% to County (if paid in installments)		\$	<u>12,458.40</u>
TOTAL		\$	<u>427,738.40</u>

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

Other: \_\_\_\_\_

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

Clerk of Court/Deputy Clerk [Signature]  
Court Reporter: [Signature]

Presiding Judge [Signature]  
Judge Code: 2151  
Sentence Date: 2-19-15

SENTENCE SHEET (25-30 yrs)

INDICTMENT/CASE#: 2014-GS-02-01182

AW#: Direct Indictment

Date of Offense: 04/21/2011

S.C. Code §: 44-53-370(e)(2)(c)

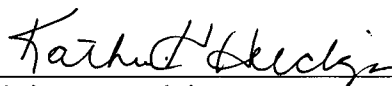
CDR Code #: 0281

CONVICTED OF or  PLEADS

## 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 April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Kathrine H. Hudgins  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 24th day of September, 2018.

**RECEIVED**  
SEP 24 2018  
SC Court of Appeals