

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Court of Common Pleas

The Honorable Robert E. Hood, Circuit Court Judge
Lower Court Case No: 2016-CP-40-6916

Appellate Case No. 2017-002577

ORIGINAL
RECEIVED
OCT 31 2018
SC Court of Appeals

CHARLES E. CARPENTER,

APPELLANT,

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTION AND
THE STATE OF SOUTH CAROLINA,

RESPONDENTS.

SUPPLEMENTAL RECORD ON APPEAL

DESA BALLARD
S.C. Bar No. 498
Ballard & Watson
Post Office Box 6328
West Columbia, South Carolina 29171
(803) 796-9299

HARVEY M. WATSON, III
S.C. Bar No. 74053
Ballard & Watson
Post Office Box 6328
West Columbia, South Carolina 29171
(803) 796-9299

ATTORNEYS FOR APPELLANT

ALAN WILSON
Attorney General

J. CLAYTON MITCHELL
Assistant Attorney General
S.C. Bar No. 101443
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-3737

DAMON C. WLODARCZYK
S.C. Bar No. 70460
Riley Pope & Laney, LLC
Post Office Box 11412
Columbia, South Carolina 29211
(803) 799-9993

ATTORNEYS FOR RESPONDENT

INDEX

INDEX i

INDICTMENTS.....1

SENTENCING SHEETS.....14

ORDER (DATED FEBRUARY 3, 1992).....18

ORDER (SOUTH CAROLINA SUPREME COURT, DATED NOVEMBER 15, 1989).....24

STATE GRAND JURY OF SOUTH CAROLINA

FILED
FEB 15 1990
LISA C. DUNBAR,
CLERK, STATE GRAND JURY

STATE OF SOUTH CAROLINA
v.
CHARLES EUGENE CARPENTER
a/k/a "FIREBALL"
BOBBY GENE HORNE a/k/a "WORMY"
KENNETH RAY TAYLOR a/k/a "KT"
SHIRLEY K. HORNE
TIMOTHY GENE HORNE a/k/a "TIMMY"
PATRICIA B. RIVERS
RICKY LYNN JOHNSON
GARY D. HARPER a/k/a "BUTCH"
MADELINE IRENE BROWN GHANT
ROBERT KENT HOOVER
JAMES CARLOS PLYLER a/k/a "BUDDY"

CASE NO. 90GS4705002

S.C. CODE ANN. SECTIONS
44-53-370 (b)(3);
(d)(3); (e)(1)(b);
(e)(2)(a); (e)(2)(b);
(e)(2)(d); (e)(2)(e)

INDICTMENT FOR
UNLAWFUL DRUGS

At a session of the State Grand Jury of South Carolina, convened at Columbia, South Carolina on February 13, 1990, the State Grand Jurors present upon their oath:

COUNT ONE - CONSPIRACY (TRAFFICKING IN COCAINE)
S.C. Code Ann. Section 44-53-370 (e)(2)(e)

That CHARLES EUGENE CARPENTER a/k/a "FIREBALL", BOBBY GENE HORNE a/k/a "WORMY", KENNETH RAY TAYLOR a/k/a "KT", SHIRLEY K. HORNE, TIMOTHY GENE HORNE, a/k/a/ "TIMMY", PATRICIA B. RIVERS, RICKY LYNN JOHNSON, GARY D. HARPER a/k/a "BUTCH", MADELINE IRENE BROWN GHANT, ROBERT KENT HOOVER, and JAMES CARLOS PLYLER a/k/a "BUDDY" did in Chesterfield and Marlboro Counties, from or about early 1988 up to and including the date of this Indictment, did knowingly, unlawfully and willfully conspire, confederate, agree and have tacit understanding with each other and/or with other persons, whose names are both known and unknown to the State Grand Jurors, for the purpose of selling, delivering, or bringing into

908

this State, or providing financial assistance or otherwise aiding and abetting the sale, delivery or bringing into this State, or the knowing actual or constructive possession of more than four hundred (400) grams of Cocaine, a controlled substance under provisions of Section 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law.

COUNT TWO - TRAFFICKING IN COCAINE
S.C. Code Ann. Section 44-53-370 (e)(2)(e)

That CHARLES EUGENE CARPENTER a/k/a "FIREBALL", KENNETH RAY TAYLOR a/k/a/ "KT", and ROBERT KENT HOOVER did in Chesterfield County on or about November 8, 1988 knowingly sell, cause to have delivered or brought into this State, or did provide financial assistance or did otherwise aid or abet in the sale, delivery or the bringing into this State of a quantity of Cocaine in excess of 200 grams, Cocaine being a controlled substance under provisions of Section 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, and such conduct not having been authorized by law.

COUNT THREE - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF COCAINE
S.C. Code Ann. Section 44-53-370 (d)(3)

That KENNETH RAY TAYLOR a/k/a "KT" and PATRICIA B. RIVERS did in Chesterfield County on or about February 7, 1989, possess with intent to distribute and did distribute more than ten (10) grains 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 and distribution not having been authorized by law.

COUNT FOUR - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF COCAINE
S.C. Code Ann. Section 44-53-370 (d)(3)

That KENNETH RAY TAYLOR a/k/a "KT", TIMOTHY GENE HORNE a/k/a "TIMMY" and PATRICIA B. RIVERS did in Chesterfield County on or about March 10, 1989, possess with intent to distribute and did distribute more than ten (10) grains 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 and distribution not having been authorized by law.

COUNT FIVE - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF COCAINE
S.C. Code Ann. Section 44-53-370 (d)(3)

That KENNETH RAY TAYLOR a/k/a "KT" and PATRICIA B. RIVERS did in Chesterfield County on or about April 19, 1989, possess with intent to distribute and did distribute more than ten (10) grains 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 and distribution not having been authorized by law.

COUNT SIX - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF COCAINE
S.C. Code Ann. Section 44-53-370 (d)(3)

That KENNETH RAY TAYLOR a/k/a "KT" did in Chesterfield County on or about April 21, 1989, possess with intent to distribute and did distribute more than ten (10) grains 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 and distribution not having been authorized by law.

COUNT SEVEN - TRAFFICKING IN COCAINE
S.C. Code Ann. Section 44-53-370 (e)(2)(a)

That KENNETH RAY TAYLOR a/k/a "KT" did in Chesterfield County on or about April 26, 1989, sell, deliver or provide financial assistance or otherwise aid or abet the sale or delivery, or was knowingly in actual or constructive possession of more than ten (10) grams of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law.

COUNT EIGHT - TRAFFICKING IN COCAINE
S.C. Code Ann. Section 44-53-370 (e)(2)(a)

That KENNETH RAY TAYLOR a/k/a "KT" did in Chesterfield County on or about April 26, 1989, sell, deliver or provide financial assistance or otherwise aid or abet the sale or delivery, or was knowingly in actual or constructive possession of more than ten (10) grams of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law.

COUNT NINE - TRAFFICKING IN COCAINE
S.C. Code Ann. Section 44-53-370 (e)(2)(a)

That BOBBY GENE HORNE a/k/a "WORMY" did in Chesterfield County on or about July 18, 1989, sell, deliver or provide financial assistance or otherwise aid or abet the sale or delivery, or was

knowingly in actual or constructive possession of more than ten (10) grams of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law.

COUNT TEN - TRAFFICKING IN COCAINE
S.C. Code Ann. Section 44-53-370 (e)(2)(b)

That BOBBY GENE HORNE a/k/a "WORMY" did in Chesterfield County on or about July 31, 1989, sell, deliver or provide financial assistance or otherwise aid or abet the sale or delivery, or was knowingly in actual or constructive possession of more than twenty-eight (28) grams of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law.

COUNT ELEVEN - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF COCAINE
S.C. Code Ann. Section 44-53-370 (d)(3)

That KENNETH RAY TAYLOR a/k/a "KT" and SHIRLEY K. HORNE did in Chesterfield County on or about October 27, 1989, possess with intent to distribute and did distribute more than ten (10) grains of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such possession and distribution not having been authorized by law.

COUNT TWELVE - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF COCAINE
S.C. Code Ann. Section 44-53-370 (d)(3)

That KENNETH RAY TAYLOR a/k/a "KT" and RICKY LYNN JOHNSON did

in Chesterfield County on or about November 7, 1989, possess with intent to distribute and did distribute more than ten (10) grains of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such possession and distribution not having been authorized by law.

**COUNT THIRTEEN - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF COCAINE
S.C. Code Ann. Section 44-53-370 (d)(3)**

That SHIRLEY K. HORNE and KENNETH RAY TAYLOR a/k/a "KT" did in Chesterfield County on or about November 9, 1989, possess with intent to distribute and did distribute more than ten (10) grains of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such possession and distribution not having been authorized by law.

**COUNT FOURTEEN - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF COCAINE
S.C. Code Ann. Section 44-53-370 (d)(3)**

That KENNETH RAY TAYLOR a/k/a "KT" and SHIRLEY K. HORNE did in Chesterfield County on or about November 16, 1989, possess with intent to distribute and did distribute more than ten (10) grains of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such possession and distribution not having been authorized by law.

**COUNTY FIFTEEN - TRAFFICKING IN COCAINE
S.C. Code Ann. Section 44-53-370 (e)(2)(a)**

That BOBBY GENE HORNE a/k/a "WORMY" did in Chesterfield County

on or about November 20, 1989, sell, deliver or provide financial assistance or otherwise aid or abet the sale or delivery, or was knowingly in actual or constructive possession of more than ten (10) grams of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law.

COUNT SIXTEEN - TRAFFICKING IN COCAINE
S.C. Code Ann. Section 44-53-370 (e)(2)(d)

That BOBBY GENE HORNE a/k/a "WORMY" was in Chesterfield County on or about November 26, 1989, knowingly in actual or constructive possession of more than two hundred (200) grams of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law.

COUNT SEVENTEEN - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF COCAINE
S.C. Code Section 44-53-370 (d)(3)

That GARY D. HARPER a/k/a/ "BUTCH" and MADELINE BROWN GHANT did in Chesterfield and Lancaster counties on or about March 11, 1989, possess with intent to distribute and did distribute more than ten (10) grains of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such possession and distribution not having been authorized by law.

COUNT EIGHTEEN - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF COCAINE
S.C. Code Section 44-53-370 (d)(3)

That GARY D. HARPER a/k/a/ "BUTCH" and MADELINE BROWN GHANT did in Chesterfield and Lancaster counties on or about April 14, 1989, possess with intent to distribute and did distribute more than ten (10) grains of Cocaine, a controlled substance under provisions of Sections 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such possession and distribution 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.

A TRUE BILL

Richard T. Mincey
FOREMAN


T. TRAVIS MEDLOCK
ATTORNEY GENERAL

STATE GRAND JURY OF SOUTH CAROLINA

FILED
FEB 15 1990
LISA C. DUNBAR,
CLERK, STATE GRAND JURY

STATE OF SOUTH CAROLINA)

v.)

CASE NO. 90GS4705001

CHARLES EUGENE CARPENTER)

a/k/a "FIREBALL")

EDGAR FREEMAN, JR. a/k/a "PEE WEE")

BOBBY GENE HORNE a/k/a "WORMY")

KENNETH RAY TAYLOR a/k/a "KT")

JOSEPH EARL SMITH a/k/a "JESSIE JAMES",)

a/k/a "BUZZY")

JOSEPH WAYNE BOYKIN)

JOHNNY JOE CATOE)

CYNTHIA A. PARNELL)

SHIRLEY K. HORNE)

RICKY LYNN JOHNSON)

PATRICIA B. RIVERS)

KENNETH WAYNE SIMS a/k/a "WAYNE")

S.C. CODE ANN. SECTIONS

44-53-370 (b)(3)

44-53-370 (d)(3)

44-53-370 (e)(1)(b)

44-53-370 (e)(2)(a)

44-53-370 (e)(2)(b)

44-53-370 (e)(2)(d)

44-53-370 (e)(2)(e)

INDICTMENT FOR
UNLAWFUL DRUGS

At a session of the State Grand Jury of South Carolina, convened at Columbia, South Carolina on February 13, 1990, the State Grand Jurors present upon their oath:

COUNT ONE - CONSPIRACY (TRAFFICKING IN MARIHUANA)
S.C. Code Ann. Section 44-53-370 (e)(1)(d)

That CHARLES EUGENE CARPENTER a/k/a "FIREBALL", EDGAR FREEMAN, JR. a/k/a "PEE WEE", BOBBY GENE HORNE a/k/a "WORMY", KENNETH RAY TAYLOR a/k/a "KT", JOSEPH EARL SMITH a/k/a "JESSIE JAMES", a/k/a "BUZZY", JOSEPH WAYNE BOYKIN, CYNTHIA A. PARNELL, PATRICIA B. RIVERS, RICKY LYNN JOHNSON, and KENNETH WAYNE SIMS a/k/a "WAYNE", did in Chesterfield, Marlboro and Lexington counties, from, in or about early 1985 until the date of this Indictment, did knowingly, unlawfully and willfully conspire, confederate, agree and have tacit understanding with each other and/or with other persons, whose names are both known and unknown to the State Grand Jurors,

917

to sell, deliver, or bring into this state, or provide financial assistance or to otherwise aid and abet in the sale, delivery or bringing into this state of a quantity of marijuana in excess of 2,000 pounds; or did conspire, agree or have tacit understanding with each other and with persons whose names are both known and unknown to the State Grand Jurors, to become in possession either actually or constructively, of a quantity of marijuana in excess of 2,000 pounds; marijuana being a controlled substance under the provisions of Section 44-53-110 et seq. of the Code of Laws of South Carolina (1976), as amended, said conduct not having been authorized by law.

COUNT TWO - TRAFFICKING IN MARIHUANA
S.C. Code Ann. Section 44-53-370 (e)(1)(b)

That CHARLES EUGENE CARPENTER a/k/a "FIREBALL" did in Chesterfield, Marlboro and Lexington counties on or about November 1988, commit the offense of trafficking in Marihuana in that he knowingly brought into this state, or sold or delivered, or was in actual or constructive possession of more than one hundred (100) pounds of Marihuana, a controlled substance under the provisions of Section 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law; that EDGAR FREEMAN, JR. a/k/a "PEE WEE", BOBBY GENE HORNE a/k/a "WORMY", JOSEPH EARL SMITH a/k/a "JESSIE JAMES", a/k/a "BUZZY", CYNTHIA A. PARNELL, KENNETH RAY TAYLOR a/k/a "KT", did in Chesterfield, Marlboro and Lexington counties on or about the month of

November 1988, commit the offense of trafficking in Marihuana in that they did knowingly sell, deliver or bring into this state, or aided and abetted in the sale or the delivery or the bringing into this state a quantity of marijuana in excess of one hundred (100) pounds, marijuana being a controlled substance under provisions of Section 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law; to wit:

COUNT THREE - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF MARIHUANA
S.C. Code Ann. Section 44-53-370 (d)(3)

That BOBBY GENE HORNE a/k/a "WORMY", JOSEPH EARL SMITH a/k/a "JESSIE JAMES", a/k/a "BUZZY" and JOHNNY JOE CATOE did in Chesterfield and Lexington counties, on or about January 12, 1989, possess with intent to distribute and did distribute more than twenty-eight (28) grams of Marihuana, a controlled substance under provisions of Section 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such possession and distribution not having been authorized by law.

COUNT FOUR - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF MARIHUANA
S.C. Code Ann. Section 44-53-370 (d)(3)

That BOBBY GENE HORNE a/k/a "WORMY", JOSEPH WAYNE BOYKIN and PATRICIA B. RIVERS did in Chesterfield County on or about January 20, 1989, possess with intent to distribute and did distribute a quantity of marihuana, a controlled substance under provisions of Section 44-53-110 et seq., Code of Laws of South Carolina (1976),

as amended, such possession and distribution not having been authorized by law.

COUNT FIVE - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF MARIHUANA
S.C. Code Ann. Section 44-53-370 (d)(3)

That BOBBY GENE HORNE a/k/a "WORMY", JOSEPH WAYNE BOYKIN and PATRICIA B. RIVERS did in Chesterfield County on or about February 3, 1989, possess with intent to distribute and did distribute a quantity of Marihuana, a controlled substance under provisions of Section 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such possession and distribution not having been authorized by law.

COUNT SIX - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF MARIHUANA
S.C. Code Ann. Section 44-53-370 (d)(3)

That BOBBY GENE HORNE a/k/a "WORMY", JOSEPH WAYNE BOYKIN and PATRICIA B. RIVERS did in Chesterfield County on or about April 19, 1989, possess with intent to distribute and did distribute more than twenty-eight (28) grams of Marihuana, a controlled substance under provisions of Section 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such possession and distribution not having been authorized by law.


COUNT SEVEN - POSSESSION WITH INTENT TO DISTRIBUTE
AND DISTRIBUTION OF MARIHUANA
S.C. Code Ann. Section 44-53-370 (d)(3)


That KENNETH RAY TAYLOR a/k/a "KT" did in Chesterfield County

on or about November 16, 1989, possess with intent to distribute and did distribute a quantity of Marihuana, a controlled substance under provisions of Section 44-53-110 et seq., Code of Laws of South Carolina (1976), as amended, such possession and distribution 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.

A TRUE BILL


F. TRAVIS MEDLOCK
ATTORNEY GENERAL


RICHARD T. MINCEY
FOREMAN

SENTENCE

Count 1

3544

REFERENCE

Conspiracy - Trafficking in
Marihuana - 544-53-37
(EX 1X d)

STATE OF SOUTH CAROLINA)
COUNTY OF CHESTERFIELD)

13

CASE NUMBER 90 GS-18 4705001

THE DEFENDANT Charles Eugene Carpenter IS COMMITTED TO THE STATE
OR COUNTY DEPARTMENT OF CORRECTIONS FOR A TERM OF 25

~~MONTHS~~/YEARS AND/OR TO PAY A FINE OF \$ 50,000 ; PROVIDED UPON THE SERVICE
OF _____ MONTHS/YEARS AND/OR PAYMENT OF FINE OF \$ _____ ; PLUS
PAY/WAIVE COSTS AND ASSESSMENTS AS APPLICABLE*, THE BALANCE
IS SUSPENDED WITH PROBATION FOR _____ MONTHS/YEARS.

RESTITUTION YES / NO

For Physical Injury \$ _____

For Property damage \$ _____

to be paid _____

to the Clerk of Court for _____

(to be paid to victim's compensation fund if subrogated)

OTHER CONDITIONS: consecutive to sentence of 90GS4705002

DATE: August 9, 1990

Edel B. Cottingham
PRESIDING JUDGE
E. B. COTTINGHAM

COSTS AND ASSESSMENTS:

Ang Patterson
Assistant Clerk of Court, CHESTERFIELD COUNTY, S.C.
State Grand Jury

FILED

AUG 9 1990

LISA C. DUNBAR,
CLERK, STATE GRAND JURY

ATTEST

A TRUE COPY

Lisa C. Dunbar

000345

STATE OF SOUTH CAROLINA

COUNTY OF Chesterfield

VS.

CASE NO: 90GS4705001
90GS4705002

Charles Eugene Carpenter
A/K/A 'Fire Ball'

I, Charles Eugene Carpenter, do hereby
90GS4705001 90GS4705002

enter a plea of Guilty to any or all count(s) 1 + 1

of the Superseding Indictment in the above captioned case.

- 1) Trafficking in marijuana.
- 2) Trafficking in cocaine.

2002 MAR 21 PM 5:10

Charles Carpenter
DEFENDANT

April 7, 1990
DATE

[Signature]
ATTORNEY FOR THE DEFENDANT

FILED
APR 7 1990
LISA D. DUNBAR
CLERK, STATE GRAND JURY

Lisa C. Dunbar
CLERK

April 7, 1990
DATE

ATTEST
A TRUE COPY

[Signature]

000346 775

Wm/38

181783

SENTENCE

3545

JK-472

OFFENSE Conspiracy Trafficking
in Cocaine § 44-53-370(c).

STATE OF SOUTH CAROLINA)
COUNTY OF CHESTERFIELD)

count one of CASE NUMBER 90 GS-16 4705002

THE DEFENDANT Charles Eugene Carpenter IS COMMITTED TO THE STATE

OR COUNTY DEPARTMENT OF CORRECTIONS FOR A TERM OF 25

~~MONTHS/YEARS~~ (AND/OR TO PAY A FINE OF \$ 200,000; PROVIDED UPON THE SERVICE

OF _____ MONTHS/YEARS AND/OR PAYMENT OF FINE OF \$ _____; PLUS

PAY/WAIVE COSTS AND ASSESSMENTS AS APPLICABLE*, THE BALANCE

IS SUSPENDED WITH PROBATION FOR _____ MONTHS/YEARS.

RESTITUTION YES / NO

For Physical Injury \$ _____

For Property damage \$ _____

to be paid _____

to the Clerk of Court for _____

(to be paid to victim's compensation fund if subrogated)

OTHER CONDITIONS: Concurrent w/ sentence now serving from
Federal Court in N.C.

DATE: June 4, 1990

E. B. Cottingham
PRESIDING JUDGE E. B. COTTINGHAM

COSTS AND ASSESSMENTS:

Ang Patterson
CLERK OF COURT, CHESTERFIELD COUNTY, S.C.
State Grand Jury

RECEIVED
JUN 11 1991
Deputy

FILED

JUN 4 1990

LISA G. DUNBAR,
CLERK, STATE GRAND JURY.

ATTEST

A TRUE COPY

Lisa G. Dunbar

STATE OF SOUTH CAROLINA

COUNTY OF

Chesterfield

VS.

CASE NO:

90GS4705001
90GS4705002

CHARLES EUGENE CARPENTER
A/K/A 'Fire Ball'

I, CHARLES EUGENE CARPENTER

do hereby

90GS4705001

90GS4705002

enter a plea of Guilty to any or all count(s)

1

+

1

of the Superseding Indictment in the above captioned

case.

- 1) Trafficking in marijuana.
- 2) Trafficking in cocaine.

Charles Carpenter

DEFENDANT

April 7, 1990

DATE

Neil S. [Signature]

ATTORNEY FOR THE DEFENDANT

FILED

APR 7 1990

LISA G. DUNBAR
CLERK, STATE GRAND JURY

Lisa C. Dunbar

CLERK

April 7, 1990

DATE

ATTEST

A TRUE COPY.

Lisa Dunbar
CLERK

17

000348

STATE OF SOUTH CAROLINA
COUNTY OF CHESTERFIELD

) COURT OF GENERAL SESSIONS
) FOURTH JUDICIAL CIRCUIT
) CASE NO. 90-GS-47-05001

STATE OF SOUTH CAROLINA

-versus-

CHARLES EUGENE CARPENTER
a/k/a "FIREBALL"

DEFENDANT.

FILED

FEB 3 1992

ORDER

LISA C. DUNBAR,
CLERK, STATE GRAND JURY

During its November 1989 term, the State Grand Jury true-billed an Indictment charging Charles Eugene Carpenter with one count of Trafficking in Marijuana in Excess of Two Thousand Pounds. In March of 1990, the State Grand Jury returned two (2) new indictments charging Carpenter with four counts of Trafficking in Cocaine and Marijuana. Each count carried a mandatory minimum term of imprisonment of twenty-five (25) years without possibility of parole. On April 7, 1990, Carpenter pled guilty to Count One of each Indictment. The plea was entered after an agreement was executed. (See Attachment 1: Plea Agreement).

At that time, I questioned the Defendant and after this full examination made a finding of fact on the record, beyond a reasonable doubt, that Charles Eugene Carpenter a/k/a "Fireball" fully and voluntarily entered both the agreement and the plea, and, further, that he understood and waived all relevant constitutional rights. (See Attachment 2: Transcript of Record - April 7, 1990).

On June 4, 1990, a sentencing hearing was held before me. (See Attachment 3: Transcript of Record - June 4, 1990). At the hearing, the State (represented by Assistant Attorney General Sean Kittrell, State Grand Jury Section) contended that the Defendant

had not fulfilled his obligations under the Plea Agreement and so recommended the imposition of consecutive sentences. I ruled that a bifurcated hearing was required, in order to enable the Defendant, through his attorneys Michael Cox and Timothy Rogers, to contest the State's position. Because the terms of the agreement only required the State to recommend concurrent sentences in the event that Mr. Carpenter fully conformed to the terms of the negotiated plea, and because the recommendation would have imposed a mandatory term of imprisonment of twenty-five (25) years without parole, I sentenced Carpenter to Count One of Indictment 90-GS-47-05-001. On August 9, 1990, a hearing was held before me relative to the issue of the Defendant's conformance or nonconformance with the terms of this Plea Agreement. During the course of that hearing, Special Agent Eddie Gordon of the Governor's RAID Team, Kenny Ray Taylor, Joseph Earl Smith, Robert Kent Hoover and Ricky Lynn Johnson testified. In addition to taking testimony, I examined the terms and conditions of the Plea Agreement in issue.

That plea agreement obligated the State to, inter alia, recommend that the Defendant be sentenced to a concurrent sentence of twenty-five (25) years as to both counts (See paragraphs 1 and 7) in the event certain conditions were met. The agreement also specifically stated that "the defendant has no right to withdraw his plea" and that "should the defendant fail to fulfill the terms of this agreement, then the State may recommend that any sentence be run consecutive, each Count to the other." Further, the agreement expressly stated that "if the State's obligations under

(the) agreement become null and void due to the lack of truthfulness or cooperation on the part of the defendant, the defendant understands that (1) the defendant will not be permitted to withdraw his plea of guilty to the offenses (of Trafficking in Marijuana and Cocaine); (3) the State may argue for a maximum sentence for the offenses to which the defendant has pled guilty." (See paragraph 2).

*R3
EBC*

The agreement contained several other conditions precedent. For instance, paragraph 12 stated that the defendant "understands that the State's obligations under this Plea Agreement are expressly contingent upon the defendant's abiding by state and federal laws." Paragraph 2 required that the defendant "fully and truthfully cooperate" with various law enforcement agencies. That cooperation was to include "truthful and complete debriefings of the defendant's knowledge concerning unlawful drug activities and related unlawful activities." Paragraph 2 further stated "the defendant must be completely honest. The defendant understands that his obligation is absolute; whether it helps the prosecution, or hurts the prosecution, and whether it helps or hurts other individuals, either indicted or unindicted. The failure of the defendant to be truthful or to cooperate at any stage can cause the State's obligations under this Agreement to become null and void."

Paragraph 3 required the defendant to voluntarily surrender "any and all assets or portions thereof acquired or obtained as a result of illegal trafficking in drugs."

At the conclusion of the hearing, I sentenced Charles Eugene

Carpenter with regard to Indictment 90-GS-47-05-001 and imposed a term of twenty-five (25) years without parole and a fine of \$50,000. I ordered that this sentence be run consecutive to Indictment 90-GS-47-05-002. (See Attachment 4: Sentencing Sheet - August 9, 1990). This sentence was imposed after I made a finding of fact beyond a reasonable doubt that the Defendant had failed to conform to the terms of his Plea Agreement.

RH
9/3/90

Specifically, I found that the Defendant had failed to be truthful in complying with the terms of the Plea Agreement which required that he complete debriefings of his knowledge concerning unlawful drug activities and other unrelated activities. I also found that the Defendant had not been completely honest and that he had not cooperated with the State. I also found that the Defendant failed to voluntarily surrender any and all assets or portions thereof acquired or obtained as a result of illegal trafficking in drugs. Finally, I found that the Defendant had threatened and intimidated witnesses; specifically, cooperating co-defendants who had also entered pleas of guilty. Thus, the Defendant did not abide by State and Federal laws.

After the imposition of the consecutive sentence, I retained jurisdiction over this case and informed all parties that I would entertain a motion from the State for reconsideration of sentence if the Defendant began to cooperate and if the State felt that this cooperation was sufficient and in compliance with the terms of the Plea Agreement. To that end, the Defendant submitted to an initial interview with certain agents of the State Grand Jury. Over an

extended period of time, the State, through Special Agents Pete Logan (SLED), Special Agent Eddie Gordon (RAID Team), Special Agent Butch Knight (RAID Team), Special Agent Johnny Hartley (SLED) and other officers from other jurisdictions made a good faith, concerted effort to attempt to gain the full and truthful cooperation of the Defendant. That effort, involving numerous interviews in differing locations (including Charlotte, North Carolina and Jessup, Georgia) as well as several polygraph examinations did not result in the Defendant's gainful cooperation. This effort has been documented by Memoranda prepared by the agents involved, attached and made a part of this Order. (See Attachment 5: Memorandum dated November 19, 1991 from Special Agent Logan; Memorandum dated September 18, 1991 from Special Agents Knight and Gordon).

I find beyond a reasonable doubt and as a matter of record that the State has made a good faith effort to obtain the Defendant's cooperation and allowed him ample opportunity to conform to the provisions of his plea agreement. I further find beyond a reasonable doubt that the Defendant has continued to be in violation of that plea agreement.

I have been advised that the State will make no motion to reconsider the sentence I imposed on August 9, 1990. Therefore, my original Order imposing consecutive sentences is final and my jurisdiction over this matter is divested.

IT IS SO ORDERED.

Ed B. Cottingham
EDWARD B. COTTINGHAM
JUDGE, FOURTH JUDICIAL CIRCUIT

May 3, 1992

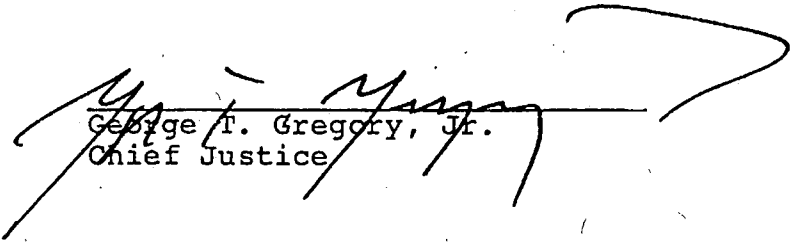
The Supreme Court of South Carolina

O R D E R

Pursuant to the provisions of Section 4, Article V, South Carolina Constitution,

IT IS ORDERED that the Honorable Edward B. Cottingham, be, and he hereby is, vested with concurrent jurisdiction in all circuits of the state to dispose of all common pleas and general sessions matters, including trials by jury, arising from State Grand Jury Investigation No. 89-005.

IT IS FURTHER ORDERED that the matter of bail for all defendants indicted by the State Grand Jury of South Carolina arising from Investigation No. 89-005 shall be heard by the presiding judge of the State Grand Jury.


George T. Gregory, Jr.
Chief Justice

November 15, 1989

Columbia, South Carolina