

15
This Appeal is being filed out of an abundance of caution as Defendant requested that this appeal be filed on the date of Sentencing February 14, 2020. However, the Defendant has not requested via writing or verbal that the appeal be filed since the date of sentencing. Counsel has not heard from Defendant or Defendant's family regarding the same.

WRITTEN EXPLANATION PURSUANT TO S.C. APPELLATE COURT RULE 203

Motion for Continuance

On February 7, 2020, Counsel for Larekius Price sent a request for a Motion for Continuance to the Chief Administrative Judge for the Sixth Circuit. The trial was scheduled to start on February 10, 2020 and Counsel was as of February 6, 2020 continuously receiving discovery from the Assistant Solicitor from South Carolina Law Enforcement Division. The SLED Bench notes that were turned over indicated that the drugs were "damp". Mr Price was charged with Trafficking Crack Cocaine 28g-100g for a mandatory minimum sentence of 7-25 years. The crack cocaine was of a "wet slush" substance and Counsel was not allowed to thoroughly look at the narcotic substance to determine the chain of custody, prior to the date of the trial. Counsel has a right to fully inspect the drugs, and obtain an independent chemist for the purpose of drug testing, given the condition and the substance of the drugs, as changed from what was previously described as "crack cocaine" "rock" substance on the Best Evidence sheet which was turned over by the Lancaster County Solicitor's Office. The "white rock substance" was collected on 02/08/2019, however when Counsel reviewed the evidence on 01/29/2020 and 2/4/2020, Counsel noticed that the "white rock substance" was of a "slush" substance.

This matter was raised via a written e-mail to The Honorable Brian Gibbons and denied on February 7, 2020. The matter was raised again with The Honorable William B McKinnon and denied.

On 02/08/2019, Lancaster County Sheriff's Office Narcotics Unit, Lancaster County Sheriff's Office SWAT Unit, they seized the DVR. I was notified that the Lancaster County Sheriff's Office sent this to SLED Department and SLED Department did not produce the images or the video recording files from the DVR.

In Kyles vs Whitley, due process requires the disclosure of any evidence that provides grounds for the defense to attack the reliability, thoroughness and good faith of the police investigation, to impeach the credibility of the State's witnesses, or to bolster the defense against prosecutorial attacks. 514 U.S. 419 (1995).

Defendant has a right to due process and a fair trial. The trafficking charge of 28-100 grams is based upon the statutory amount. This is an element of the crime as alleged

RECEIVED

FEB 28 2020

SC Court of Appeals

and a denial of a continuance for independent testing, is in violation of due process and a fair trial. **Alleyne v United States**, 133 S.Ct. 2151 (2013).

The prosecution must turn over all evidence that might exonerate the defendant to include any and all exculpatory evidence to the defense. **Brady v Maryland** 373 U.S. 83 (1963). The prosecution seized evidence that belonged to Defendant in the form of a DVR which would have produced video files and images. The Defense requested all evidence to be turned over and the State failed to do so.