

10958

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

Lee S. Alford, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ERIC SPRATT,

APPELLANT

APPELLATE CASE NO. 2011-193948

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT	1
OPENING STATEMENTS	4
TESTIMONY	
ERIC ANTONIO SCOTT	
Direct Examination by Ms. Inzerillo	15
Cross Examination by Ms. Joyner	19
Redirect Examination by Ms. Inzerillo	28
Recross Examination by Ms. Joyner	32
E. B. SPRINGS, IV, ESQUIRE	
Direct Examination by Ms. Joyner	50
Cross Examination by Ms. Inzerillo	52
CLOSING ARGUMENTS	53
SENTENCING	75
STATE'S EXHIBIT NO. 1 (ATTORNEY REPRESENTATION)	77
STATE'S EXHIBIT NO. 2 (NOTICE OF INITIAL APPEARANCE)	78
DEFENDANT'S EXHIBIT NO. 1 (BOOKING REPORT)	79
DEFENDANT'S EXHIBIT NO. 2 (BOOKING REPORT)	80
RECORD ON APPEAL	81
COURT OF APPEALS OPINON NO 4534, (APRIL 21, 2009)	152
SUPREME COURT OPINION NO. 2011-MO-005 (JANUARY 31, 2011)	155
CERTIFICATE OF COUNSEL	156

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF YORK) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 ERIC ANTONIO SPRATT,) 2006-GS-46-1625
7 DEFENDANT.) JUNE 6, 2011
YORK, SOUTH CAROLINA

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9
10 B E F O R E:
11 THE HONORABLE LEE S. ALFORD, JUDGE.
12

13
14 A P P E A R A N C E S:
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INDEX

1		
2		
3	WITNESSES	PAGE
4	ERIC ANTONIO SPRATT (DW)	
5	DIRECT EXAMINATION BY MS. INZERILLO	15
6	CROSS EXAMINATION BY MS. JOYNER	19
7	REDIRECT EXAMINATION BY MS. INZERILLO	28
8	RE CROSS EXAMINATION BY MS. JOYNER	32
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

EXHIBITS

	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-1	ATTORNEY REPRESENTATION FORM		26
4	S-2	NOTICE OF INITIAL APPEARANCE		26
5				
6	D-1	BOOKING REPORT		31
7	D-2	BOOKING REPORT		31
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 (PROCEEDINGS, JUNE 6, 2011)

2 THE COURT: Counsel?

3 MS. JOYNER: May it please the court, Your Honor,
4 we are back before this court in the matter of the State
5 versus Eric Spratt.

6 Your Honor, Mr. Spratt was tried in his absence
7 and convicted on June 9th, 2006, of trafficking cocaine --
8 or crack cocaine, less than 100 grams.

9 The sealed sentence was issued by Judge Cole, who
10 was the trial judge.

11 Mr. Spratt was picked up on a bench warrant and
12 brought before this court on May 25th of 2007, where his
13 sentence was opened by Judge Newman.

14 Judge Newman ruled at that time that Mr. Spratt
15 had been incorrectly sentenced as a third offense. He
16 reduced Judge Cole's 30 year sentence to 10 years as
17 trafficking crack cocaine less than 100 grams, second
18 offense.

19 Your Honor, the State appealed that sentence by
20 Judge Newman and this matter was reversed and remanded back
21 to the trial court.

22 Your Honor, we have previously provided the court
23 with a copy of that opinion.

24 We are back before this court, Your Honor, for the
25 purposes of resentencing, as the court ordered a hearing to

1 determine whether Mr. Spratt waived his right to counsel
2 during a 1998 guilty plea before Judge Hayes for possession
3 of crack cocaine, first offense.

4 And, Your Honor, I did ask that Ms. Meeks to bring
5 up to court the folder for the trafficking crack cocaine
6 charge. 2006-GS-46-1625 was the indictment number on that
7 case.

8 THE COURT: Let me -- clarify for me, the sentence
9 that was used for enhancement, who sentenced on that?

10 MS. JOYNER: There was two sentences, Your Honor,
11 that are included with the folder that Ms. Meeks passed up.
12 They were Court's Exhibit 1 and 2.

13 The State sought to use a 1998 conviction for
14 possession of crack cocaine, and also a 1999 conviction for
15 I believe also -- I believe that was the possession with
16 intent to distribute crack cocaine. We sought to use those
17 two convictions.

18 As to the 1999 conviction, which was actually
19 Court's Exhibit 1, Your Honor, Mr. Spratt did have an
20 attorney on that charge, and Ms. Inzerillo did not challenge
21 the State's use of that charge for enhancement.

22 She did challenge the use of the 1998 conviction
23 for possession of crack cocaine, first offense, and that
24 would be Court's Exhibit No. 2 contained in the folder, Your
25 Honor. That was a guilty plea taken by Judge Hayes on.

1 September 22nd of 1998, and Mr. Spratt received five years,
2 suspended to three years probation.

3 THE COURT: All right, I'm with you.
4 Counsel?

5 MS. INZERILLO: Thank you, Your Honor.

6 May it please the court.

7 Your Honor, we would agree with Ms. Joyner's
8 rendition of the facts.

9 We have handed up a copy of the transcript from
10 the hearing in front of Judge Newman, which included all of
11 the exhibits that were provided to the court during that
12 hearing. We would just ask to incorporate that, all of
13 those exhibits into the transcript of this hearing as well.

14 We do so -- well, we are before Your Honor on a
15 motion to essentially leave Mr. Spratt's sentence as it is.
16 We are still challenging that 1998 conviction as effective,
17 and, therefore, cannot be used to enhance.

18 Your Honor, as Ms. Joyner did explain to the
19 court, when the sentence was re-opened on May 25th, 2007,
20 Judge Newman did read the sentence and did hear the motion.

21 Your Honor, at this time we would ask that Judge
22 Newman's -- the defense's motion be placed back in front of
23 Judge Newman for reconsideration.

24 In consideration of this, we have handed the court
25 and to the State Cox v. Fleetwood Homes of Georgia, Inc.,

1 which is very factually similar to our case, Your Honor, in
2 which on a remand -- it's effectively a civil case, but on a
3 remand it went back before the judge who originally made the
4 determination on I believe a contracted issue. And the
5 court did say that the original judge would be allowed to go
6 back and make more specific findings based on what he heard
7 previously, even though he is no longer in this
8 jurisdiction.

9 Judge Newman was a visiting judge in this
10 jurisdiction during that term of May 25th, 2007. As the
11 court is aware, he's actually a resident judge in Richland
12 County, and so with this case being factually similar, Your
13 Honor, we would just ask that this be placed back before
14 Judge Newman.

15 MS. JOYNER: Your Honor, we would oppose the
16 motion. We believe it's correctly before this court. Under
17 the authority of Locklear v. Harvey, 273 S.C. 58, and State
18 v. McGuinn, 268 S.C. 112, the South Carolina Supreme Court
19 decision; 1977 as to McGuinn, and 1979 as to Harvey.

20 I think that the case that Ms. Inzerillo handed up
21 is distinguishable. I think, number one, is because -- and
22 I don't have my rule book with me, but I believe that that
23 opinion is predicated on the Rules of Court that are very
24 specific to the procedural posture that case was in.

25 I think that the opinion, the Fleetwood opinion,

1 cites back to rules repeatedly, and in those specific rules
2 the judge is allowed to retain jurisdiction over the matter
3 throughout, and I don't think that is applicable here.

4 I think the reasoning of Harvey and McGuinn,
5 although they are not on all fours, I don't believe
6 Fleetwood is on all fours either, but I think they are
7 closer to the issue, and that each of those cases involve a
8 remand for the resentencing, and they very specifically
9 stated that any judge may hear those. And I think that
10 this, the Spratt opinion, the written opinion the court very
11 specifically remanded it to trial court does not remand it
12 to Judge Newman, so we would ask that it remain with Your
13 Honor.

14 THE COURT: Okay. I have given some thought to
15 that. I would be more than happy to hand this back to Judge
16 Newman, if he was available, but he's not available in this
17 jurisdiction, obviously. Efforts would have to be made to
18 do that, but I do not find in this case that it was
19 specifically remanded to Judge Newman. I do not see that
20 they remanded it to the trial court, and that's important.
21 If they remanded it back to the judge who made that decision
22 to take further testimony and evidence and make a decision
23 on that issue, they didn't do that.

24 What they did is they ruled and reversed it and
25 sent it back. The issues that's to be passed on, which is

1 whether the 1998 offense could be used to enhance or not,
2 any judge can make that determination. Judge Newman would
3 have no more information than I would. He would have to
4 collect the same information that I have got to collect and
5 make that decision. He doesn't have any special -- he
6 doesn't retain any information about this case that I have
7 to go back and get. In other words, we both start from
8 exactly the same point.

9 Now, there are a line of cases which says -- you
10 know, judges used to rotate when we had some travel. You
11 remember those days. It's probably about three years ago
12 and we used to rotate frequently. Back then, particularly
13 civil cases, but even in a criminal case, I think if you --
14 if you sentence somebody in a criminal case and the person
15 can file a motion to reconsider the verdict, or change the
16 sentence, or reconsider the sentence, change the sentence,
17 the judge who heard it would retain jurisdiction to be able
18 to do that. Even though he would leave the circuit and go
19 outside the circuit, he would retain -- he would retain
20 jurisdiction to make that decision, but only he can make
21 that decision, or she, as the case may be. But in civil
22 cases that is more likely to occur, because a judge who
23 maybe heard a week of trial on various issues and that and
24 makes a ruling or issues a ruling in that case and then the
25 court determines that he needs to make some additional

1 findings based on that information he had, which may be an
2 extension of the transcript, or he heard the whole trial,
3 they sent it back to that particular judge. Otherwise, a
4 new judge might have to try the case over again to make that
5 decision. So in those cases, even though the judge has left
6 the jurisdiction, he would retain jurisdiction and they
7 would refer it specifically to him and make that issue.

8 Also, if a judge took something under advisement
9 and wasn't ready to rule on it, and he took it under
10 advisement, once he left the circuit, basically he would
11 have no more jurisdiction there. But the rules say, and the
12 courts have said, that if it's something he has yet to rule
13 on and took it under advisement and has not yet ruled on,
14 even to consider a motion to reconsider that decision, a
15 motion to amend that decision for a new trial and that kind
16 of stuff, even though he left, he is the only judge that can
17 make those decisions, really; and so he would continue to
18 have jurisdiction, even though he has left the circuit.
19 It's understandable in those cases.

20 In this case I find that Judge Newman and I would
21 start out from the exact same position and he would have no
22 knowledge that I would not have as a trial judge in making
23 these decisions. So the court finds that the appellate
24 court just sent this back to the trial court and whoever the
25 judge may be. It doesn't have to be any specific judge, but

1 any judge having jurisdiction in the circuit then can
2 consider this question. Because, as I say, Judge Newman had
3 no more than knowledge about it than I had and he would have
4 to rely on anything that he already heard and then make the
5 decision.

6 So the question presented to the court is, number
7 one, could the sentence be used for enhancement. And I
8 believe that, if I recall my reading of the case correctly,
9 Judge Newman determined that since this was an uncounseled
10 plea, that you could not use it as an enhancer, and that
11 would not be my understanding of the law, and the appellate
12 court didn't agree with that. They said that if it was an
13 uncounseled plea, but the defendant waives his right to be
14 represented for that plea, after given his Farett-type
15 warning about self-representation, that he could waive his
16 right to have an attorney represent him and go ahead with
17 the plead pro-se, and that would have been this court's
18 understanding all along, that that is the law.

19 And so, anyway, so that's where we are, I guess.
20 They sent it back for the court to make a determination
21 whether this uncounseled plea, that the defendant was
22 given -- that Mr. Spratt was given his warnings about
23 self-representation or advised of the dangers of
24 self-representation, and he chose then to proceed on with a
25 guilty plea, and I have done that many times over the years,

1 have allowed a defendant to plead guilty after fully
2 advising him of his right to have a attorney represent him
3 and the dangers of self-representation. I've allowed them
4 to do that. And so that's where we are, as I understand it.

5 Do you disagree in any way with that at this
6 point?

7 MS. INZERILLO: No, sir.

8 THE COURT: I know that you are asking that Judge
9 Newman be the one to hear it and do the sentencing, and I
10 don't think that's necessary or required by this appellate
11 court decision. I think this court had jurisdiction to make
12 that decision, so we will proceed on.

13 MS. INZERILLO: Thank you, Your Honor.

14 In that case we would move forward with our motion
15 before the court at this time, which again is to move this
16 court to allow the sentence to remain the same and to find
17 that the 1998 conviction is uncounseled, and, therefore,
18 cannot be used to enhance.

19 By way of background, Your Honor, Mr. Spratt was
20 convicted of trafficking crack, third offense, which carries
21 25 to 30 years at the time of the sentencing. That was
22 predicated on two prior convictions; a 1998 possession of
23 crack. He was sentenced by Judge Hayes, and the paperwork
24 that I have pulled from the clerk's office, which the court
25 has a copy of, indicates that Mr. Spratt was pro-se at that

1 time.

2 THE COURT: Let me clarify one thing. I'm sorry
3 to interrupt you, but are you -- his sentence -- the minimum
4 sentence was 25, max was 30?

5 MS. INZERILLO: Yes, sir.

6 THE COURT: Okay. Go ahead, please.

7 MS. INZERILLO: He was -- subsequently, in 1998
8 Judge Hayes sentenced him to five years, suspended on three
9 years probation.

10 And in 1999, Mr. Spratt was again before the court
11 on an unrelated -- or what appears to be an unrelated PWID
12 crack cocaine charge, the plea of which -- for which he was
13 represented. The plea of which violated that probation,
14 Judge Cooper sentenced him to six months probationary
15 sentence; revocation on that case.

16 Your Honor, under the case law it is our position
17 that that revocation then calls into question that initial
18 conviction just as a threshold matter that Mr. Spratt was,
19 in fact, sentenced and did incarceration -- was sentenced to
20 incarceration pursuant to an uncounseled plea. I believe
21 the threshold matter --

22 THE COURT: So the record would be clear, what you
23 are saying is that it could be used for enhancement -- it
24 could not -- it could be used for enhancement if he didn't
25 serve any time? If he paid a fine or something, it wouldn't

1 matter whether he was represented or not. So you are saying
2 that's not the case here?

3 MS. INZERILLO: That's correct, Your Honor.

4 THE COURT: Proceed then.

5 MS. INZERILLO: Thank you, Your Honor.

6 And the case -- in this case is that he did -- was
7 actually incarcerated under that sentence a year later.

8 Your Honor, secondarily to that before we get into
9 the testimony by the defense, I would also note to the court
10 that there is no transcript of that 1998 proceeding. When
11 we did this hearing in 2006, we go through the Clerk of
12 Court's office documents, myself, could not find one. I
13 could only find the sentencing sheet. There is no markings
14 on the sentencing sheet that would give us any guidance as
15 to whether any warnings were given or Mr. Spratt waived any
16 of his right to --

17 THE COURT: You don't do that. There is no place
18 on the sentencing sheet, unless you write it in there.

19 MS. INZERILLO: Right, and I know we don't use
20 these type of sentencing sheets anymore, so I did want to
21 make that clear for the record.

22 Moreover, Your Honor, I did call Court
23 Administration. Ms. Janet Fisher was the court reporter at
24 the time, and I just wanted to verify prior to this hearing
25 that there was no transcript. And Court Administration did

1 verify that pursuant to Rule 607 what she does under court
2 reporter transcript and tapes under Section I, which is
3 retention of the tapes, that they should retain the tapes
4 for a period of five years. Court administration did verify
5 that that would have been the case in this case, that it
6 would have been retained for five years after the 1998 the
7 court date, which would have made it unavailable, not only
8 before Your Honor, but also before Judge Newman. So that
9 does put us in the situation, Your Honor, of having Mr.
10 Spratt tell the court as a defendant in that case what his
11 recollection was of the events at that plea.

12 And we would ask permission to allow Mr. Spratt to
13 take the stand at this time.

14 THE COURT: All right, bring him around and be
15 sworn.

16 ERIC ANTONIO SPRATT, having been first duly sworn,
17 testified as follows:

18 DIRECT EXAMINATION BY MS. INZERILLO:

19 Q. Good afternoon.

20 Can you tell the judge your name?

21 A. Eric Antonio Spratt.

22 Q. And, Mr. Spratt, were you convicted in your absence of
23 trafficking crack cocaine on June 8th, 2006?

24 A. Yes, ma'am.

25 Q. And were you present for your sentencing before Judge

1 Newman on May 25th, 2007?

2 A. Yes, ma'am.

3 Q. And was it your understanding at the time of your
4 sentencing that the conviction in the indictment was for
5 trafficking, third offense?

6 A. Yes, ma'am.

7 Q. And that that third offense was based on two prior
8 convictions of 1998, possession of crack, and 1999, PWID
9 crack cocaine?

10 A. Yes, ma'am.

11 Q. And at that sentencing hearing do you recall
12 challenging the 1998 conviction?

13 A. Yes, ma'am.

14 Q. Okay. Mr. Spratt, are you the same Eric Antonio Spratt
15 that was -- did, in fact, plea before Judge Hayes in the
16 1998 possession of crack?

17 A. Yes, ma'am.

18 Q. And when you pled to that charge, you did not have an
19 attorney, is that right?

20 A. Yes, ma'am.

21 Q. And Judge Hayes gave you a probationary sentence?

22 A. Yes, ma'am.

23 Q. And then the next year you -- that probationary
24 sentence was violated when you pled to a second PWID crack
25 cocaine charge?

1 A. Yes, ma'am.

2 Q. All right. And you got jail time of six months
3 revocation?

4 A. Yes, ma'am, but also four years.

5 Q. Okay. The four years was on the PWID, is that right?

6 A. Yes, ma'am.

7 Q. Now, do you remember pleading in 1998 in front of Judge
8 Hayes?

9 A. Yeah, I remember standing before Hayes accepting the
10 plea.

11 Q. Okay. Did you have an attorney?

12 A. No, ma'am.

13 Q. Did you sign any piece of paper waiving your right to
14 have an attorney?

15 A. My right hand to God, I never waived my rights to
16 counsel.

17 Q. Do you remember conversing with Judge Hayes during that
18 hearing?

19 A. I remember being here. I guess I was in the back
20 somewhere, and a lady came to me and she told me what the
21 situation was. She brought me before the judge and we stood
22 and I accepted probation.

23 Q. Okay.

24 A. I never waived my right for counsel.

25 Q. Do you recall if Judge Hayes explained to you you had

1 the right to get an attorney?

2 A. No, ma'am.

3 Q. Did he not do it, or do you not recall that he did it?

4 A. If I was told that I could have someone to fight for
5 me, the things I did not know, I would have accepted it. I
6 would never turn down help from counsel, because I know
7 nothing about law myself.

8 Q. Okay. And how old were you at the time that you
9 entered this plea?

10 A. 17. I had just turned 17.

11 Q. Was it your first time coming to General Sessions?

12 A. My first time ever.

13 Q. When you were arrested again in 1998, were you
14 represented?

15 A. Yes, ma'am.

16 Q. Okay. Mr. Spratt, did you appeal your 1998 -- I
17 mean -- yeah, 1998 conviction?

18 A. No, ma'am. I was 17. I didn't know. I really
19 realized -- I basically thought everything that happened was
20 supposed to happen that way. I didn't know until you
21 brought it to my attention in 2007.

22 Q. Okay. Is there anything else that you remember from
23 that hearing that you would wish the court to know?

24 A. No, ma'am, just that I just didn't know I could have
25 had someone argue the things I did not know of, or maybe get

1 something better than I did get, but, no, ma'am.

2 Q. The lady that came and spoke to you back in -- you were
3 in this holding cell here?

4 A. Yes, ma'am.

5 Q. The lady that came to speak with you, was her name
6 Julia Mims?

7 A. I'm assuming. I remember Julia, or something, I guess,
8 yes, ma'am.

9 Q. Was she a solicitor?

10 A. Well, she -- when we came in here, she posted me at one
11 end -- yeah, she went to the opposite end.

12 Q. So she sat across the courtroom before you?

13 A. Yes, ma'am.

14 MS. INZERILLO: Those are all the questions that I
15 have.

16 CROSS EXAMINATION BY MS. JOYNER:

17 Q. Mr. Spratt, could you just please tell me -- you said
18 that you were 17 when you entered your guilty plea in 1998?

19 A. Yes, ma'am.

20 Q. That wasn't the first time that you had ever been
21 arrested, was it?

22 A. Well, as a juvenile I was.

23 Q. As a juvenile.

24 Now, how many of those offenses as a juvenile were you
25 approved for the public defender's office?

1 A. I don't know. My mom -- every time I was in trouble
2 they called my mom. I never had to deal with anything.

3 Q. So your mom requested the attorneys on your behalf?

4 A. I would guess so. I mean, that's who was in charge. I
5 mean, that's who they called anytime. I got in trouble,
6 they never consented with me or anything about it.

7 Q. Do you recall meeting with Anna Timothy on one of your
8 cases? Do you recall having a female public defender as a
9 juvenile?

10 A. It's been a long time. I mean, I remember being in
11 trouble as a juvenile, going through --

12 Q. So if I told you you had Anna Timothy as a lawyer in
13 1996, would you doubt me? Would you say that's a lie, or
14 could that be true?

15 A. Well, would I doubt it --

16 Q. Yeah.

17 A. -- that I had an attorney?

18 Q. Right.

19 A. Well, I mean, I was a juvenile. I mean, I -- I guess
20 they did what they were supposed to. I mean --

21 My mom was always there. I mean, every time I went in
22 as a juvenile my mom was there. I didn't really have to do
23 anything. She -- you know.

24 Q. But did you have an attorney represent you in Family
25 Court?

1 A. I would guess. I mean --

2 Q. Is there a reason that you think you can't remember
3 this?

4 A. Not --

5 Q. Just that's it's been a long time?

6 A. There's not a reason. It's just that everything was
7 set up different. I mean, it was a Family Court, and, you
8 know, I was with my mom then, you know. People -- I mean,
9 people stood there and people argued. I was young. I don't
10 know nothing about court, or law, or any of that, you know,
11 but I accept the fact that I'm pretty sure she didn't sit
12 there and let me go without it.

13 Q. You are pretty sure what?

14 A. My mom didn't let me go without. I'm pretty sure she
15 didn't let me go without it, without counsel. I mean --

16 Q. So if I told you that on -- you had a hearing in Family
17 Court on July 20th of 1998, and you were represented by now
18 deputy public defender B.J. Barrowclough, would you agree
19 with me that that's correct?

20 A. Like I said before, I would agree.

21 Q. Okay.

22 A. But, I mean -- yes, ma'am.

23 Q. Okay. Do you remember being convicted in Family court
24 of driving without a license on July 20th of 1998?

25 A. Yeah, I remember being in trouble for driving.

1 Q. Okay. So that you were -- you did -- were you
2 adjudicated delinquent for that charge, correct?

3 A. What?

4 Q. You were found guilty in Family Court, correct?

5 A. Yeah. Yes, ma'am.

6 Q. So if I tell you that was -- the court records reflect
7 that was July 20th of 1998, you would agree with that?

8 A. I mean, you are asking me to point out some things that
9 are pretty obvious. I mean, yeah, I wouldn't -- I wouldn't
10 argue with you. I mean --

11 Q. Do you recall which date, what date that you were
12 convicted?

13 Let's go back to your adult record, your first adult
14 conviction.

15 A. Okay.

16 Q. Do you recall what date that you were arrested for that
17 possession of crack charge?

18 A. No, ma'am.

19 Q. Were you -- do you recall the facts of that case, how
20 you came to be arrested?

21 Was it a traffic stop? I mean, do you remember that
22 kind of stuff about the conviction?

23 A. About the drug charge?

24 Q. Yeah, the 1998 drug charge.

25 A. I think it happened in the city jail.

1 Q. It happened in the city jail?

2 A. I'm thinking. I don't know. I don't -- I don't --

3 Q. So the incident date on the indictment -- the incident
4 date on the warrant for that charge would tell you what day
5 that you were arrested, right? They caught you with the
6 drugs on you?

7 A. (No response).

8 Q. Okay, that's a confusing question.

9 As to your first adult conviction, were you found with
10 drugs actually on your person?

11 A. I'm -- I'm -- I'm thinking. I don't know, but I'm
12 pretty -- I don't -- I remember getting the drug charge. I
13 just don't -- I mean --

14 Q. You don't remember the facts of the case exactly?

15 A. No, ma'am, that's -- I mean, not specifically where
16 they got them from, no, I just -- no, ma'am.

17 Q. So if I told you it was July 29th, 1998, that you were
18 arrested as an adult for possession of crack, do you agree
19 that sounds like the right date?

20 A. I got a few drug charges. I mean --

21 Q. You have what?

22 A. I said I have a few drug charges, and the police --
23 each one, and how it went is going to be pretty hard. I
24 mean --

25 Q. Okay.

1 (Attorney Representation Form marked as State's
2 Exhibit No. 1 for identification)

3 (Notice of Initial Appearance Form marked as
4 State's Exhibit No. 2 for identification)

5 BY MS. JOYNER:

6 Q. So your vague recollection, is this correct, that you
7 were already in the city jail when you were found with
8 crack?

9 A. Like I said, I got in trouble for drugs a few times,
10 and to place each one at the time would be difficult. All I
11 know is it happened.

12 Q. Okay. I'm going to show you first what's been marked
13 as State's Exhibit 1. Is that your signature, Mr. Spratt?

14 A. Yes, ma'am.

15 Q. Okay. And it's kind of hard to read the date, but does
16 that look to be like July 29th, 1998?

17 A. (No response).

18 Q. That's okay.

19 But that is your signature?

20 A. Yes, ma'am.

21 Q. Okay. And can you read to me that first paragraph
22 regarding attorney representation?

23 A. "If you would like an attorney representing you --

24 Q. Can you read it out loud for the court?

25 A. "If you would like an attorney to represent you --

1 THE COURT: Sir, I can't hear you. If you would
2 speak up just a little bit.

3 A. "If you would like an attorney to represent you on your
4 pending charges, you should secure such", authority -- I
5 mean "attorney prior to your initial appearance as listed on
6 your bond. You should be sure to get a letter of
7 representation from your attorney and bring that letter to
8 the court with you."

9 BY MS. JOYNER:

10 Q. Okay. And does that indicate -- is it circled that you
11 should seek private counsel or private attorney?

12 A. That's what it says, the initial appearance, private --
13 yeah, I should have counsel.

14 Q. And did you sign that form, Mr. Spratt? Is that your
15 signature?

16 A. I mean, it looks like it.

17 Q. It looks like your signature?

18 A. Yes, ma'am, it looks like it.

19 Q. Do you remember one way or the other whether you signed
20 it?

21 A. No, ma'am.

22 Q. Okay.

23 A. I mean --

24 Q. Let me show you what's been marked as State's Exhibit

25 2.

1 A. Yes, ma'am.

2 Q. Is that your signature?

3 A. It looks like it.

4 Q. Okay. And is that your notice of initial appearance
5 for your July 1998 crack charge?

6 A. That's what it's saying.

7 Q. That's what it says. Okay.

8 MS. JOYNER: Your Honor, we would offer State's
9 Exhibit -- actually put State's Exhibits 1 and 2 into the
10 record.

11 THE COURT: Any objection, counsel?

12 MS. INZERILLO: Could I review them just one more
13 time?

14 THE DEFENDANT: Yeah, because -- I mean --

15 MS. INZERILLO: No objection.

16 THE COURT: Admitted without objection.

17 BY MS. JOYNER:

18 Q. Now, I'm going to ask you -- you said that you had a
19 lot of drug charges? You got in trouble for -- pinpointing
20 which day, you know, what happened.

21 Do you recall in your 1998 plea Judge Hayes discussing
22 with you your right to have a jury trial?

23 A. To have a jury trial? No, I mean, the jury trial
24 didn't come up. I mean, the woman -- the lady that talked
25 to me told me she was recommending me get probation. We

1 came in and I got probation. I never was given counsel,
2 but, I mean, I wouldn't have turned it down.

3 Q. I'm sorry, what was the last thing you said?

4 A. I was saying I never was given counsel because I would
5 have never turned it down. She came to me and she was
6 saying that I was offered -- she was offering probation.

7 Q. So you don't recall whether Judge Hayes discussed with
8 you your right to a jury trial?

9 A. No, because I accepted the plea that she offered me. I
10 mean, a jury trial didn't -- I don't recall that coming up.
11 It didn't come up.

12 Q. I'm sorry?

13 A. I say I don't recall anything about a trial coming up.
14 I only accepted the plea that she offered.

15 Q. Do you recall him talking to you about your rights to
16 confront your witnesses?

17 A. No, ma'am.

18 Q. Do you recall him asking you whether you had any legal
19 defenses to the crime?

20 A. Legal defenses to the crime?

21 Q. Did he ask you if you had any legal defenses?

22 A. Meaning what? What do you mean? Like -- what do you
23 want, before that?

24 Q. During this plea did he ask you any questions about
25 whether you had any legal defenses?

1 A. Legal defenses? You mean -- what's that? Like you are
2 talking about something that happened before I was in front
3 of him or something?

4 Q. Well, I'm asking you, do you recall Judge Hayes asking
5 you a question about whether or not you had any legal
6 defenses to the 1998 crack charge during the plea? Did he
7 ask you that question?

8 A. I -- no, ma'am. I recall being given -- all I remember
9 is him announcing that I was given probation; five years,
10 three. I remember getting probation.

11 Q. That's all that you remember about that 1998 plea?

12 A. Yeah. I -- I ain't smart. I mean, I -- that's what
13 happened to me. I know that. I mean --

14 MS. JOYNER: Beg the court's indulgence?

15 A. Yes, ma'am.

16 (Off the record)

17 (Back on the record)

18 MS. JOYNER: We don't have any more questions for
19 Mr. Spratt, Your Honor.

20 MS. INZERILLO: Your Honor, may I follow up with a
21 few more questions?

22 THE COURT: Yes, ma'am.

23 REDIRECT EXAMINATION BY MS. INZERILLO:

24 Q. Mr. Spratt, I just want to be clear on just a couple of
25 things, okay?

1 A. Yes, ma'am.

2 Q. All right. When the solicitor was asking you about
3 Family Court cases that you had --

4 A. Yes.

5 Q. -- do you remember going to the court in Family
6 Court --

7 A. Yes.

8 Q. -- as a juvenile?

9 A. Yes, ma'am.

10 Q. And just to clarify, those were criminal cases?

11 A. Yes, ma'am.

12 Q. Is that right?

13 A. Yes.

14 Q. You got charged with a crime?

15 A. Yes.

16 Q. That's why you had to go to juvenile court?

17 A. Yes, ma'am.

18 Q. When you went to juvenile court, did you just get an
19 attorney, or did you have to ask for one?

20 A. Every time I had help, I just remember them being
21 there. They come and talked to me. I never had to, you
22 know --

23 Q. So you didn't have to ask anybody for an attorney?

24 A. No, ma'am.

25 Q. Okay. And if you -- you don't remember yourself asking

1 anyone for an attorney?

2 A. No. I mean, growing up, especially when I started --
3 when my first time here, I thought you had to pay for a
4 lawyer. I didn't know anything about the law. I mean,
5 so --

6 Q. Okay. Now, do you remember -- around the same time
7 that you went in front of Judge Hayes, do you remember going
8 to city court for a possession of marijuana charge that was
9 a first offense? Do you remember going in front of Judge
10 Modla?

11 A. City court?

12 Q. Yes, the lady judge at Rock Hill city court?

13 A. Yeah, I remember being in city court.

14 Q. Okay. And at that time do you remember if you had an
15 attorney?

16 A. City court?

17 Q. Do you remember having to pay a fine --

18 A. Yeah. Yes, ma'am.

19 Q. -- from there?

20 Do you remember if an attorney was there when you went
21 in front of the lady judge?

22 A. No, ma'am.

23 Q. Okay. Do you remember asking anyone at that court for
24 an attorney?

25 A. No, ma'am.

1 Q. Okay.

2 (Booking Report and Certified Conviction sheet
3 marked as Defendant's Exhibit No. 1 for identification)

4 (Booking Report and Certified Conviction Sheet
5 marked as Defendant's Exhibit No. 2 for identification)

6 MS. INZERILLO: Your Honor, at this time we would
7 move Defendant's Exhibit 1 and 2, which are copies of the
8 certified convictions from Judge Modla's court indicating
9 that Mr. Spratt did not have an attorney.

10 MS. JOYNER: No objection.

11 THE COURT: Admitted without objection.

12 BY MS. INZERILLO:

13 Q. Now, Mr. Spratt, Ms. Joyner also asked you about
14 State's Exhibit 1 and 2, is that right?

15 A. Yes, ma'am.

16 Q. I'm going to show you these, okay?

17 A. Yes.

18 Q. And I want you to you tell me, is there anywhere on
19 that piece of paper that tells you you have the right to an
20 attorney, or does it just tell you what you need to do if
21 you get one?

22 A. It says --

23 Q. Does it tell you you need to get -- if you get an
24 attorney, you need to get a letter of representation?

25 A. Yes, ma'am.

1 Q. Okay. So nowhere in there does it tell you you have
2 the right to an attorney, is that right?

3 A. No, ma'am, it only says, "on that date you will be
4 provided with a preliminary hearing on your charges, unless
5 you choose to waive your right," which I never have done it.

6 Q. Okay. So that's the only right they told you that you
7 can waive is a preliminary hearing?

8 A. Yes, ma'am. It says, "unless you choose to waive your
9 right." Yes, ma'am.

10 Q. Okay. And nowhere on that sheet or that form does it
11 tell you that essentially it's in your best interest to get
12 an attorney, because the attorney can help you with things
13 like legal defenses you may not know, if you don't have an
14 attorney?

15 A. Yes, ma'am.

16 Q. Is that right?

17 A. Yes.

18 Q. And --

19 MS. INZERILLO: I have no more questions, Your
20 Honor.

21 RECROSS EXAMINATION BY MS. JOYNER:

22 Q. I want to be clear, Mr. Spratt. You agree that on July
23 20th of 1998, you were convicted in Family Court of driving
24 without a license, correct?

25 A. I remember being convicted of driving without a

1 license.

2 Q. Okay. And you did have an attorney, B.J. Barrowclough,
3 in court with you, correct?

4 A. Yes.

5 Q. In Family Court?

6 A. Yes, ma'am.

7 Q. Okay. Nine days later you were arrested and charged
8 with possession of crack cocaine as an adult, correct?

9 A. Yes, ma'am.

10 Q. Okay. And you completed forms -- you signed -- it is
11 your signature on forms State's Exhibit 1 and 2, correct,
12 these forms I showed you earlier?

13 A. Yes, ma'am.

14 Q. And that form -- that form, State's Exhibit 1, it does
15 mention public defenders, doesn't it?

16 A. Yes, ma'am, which I was not given one.

17 Q. What's that?

18 A. Just I was not -- I clearly didn't have one.

19 Q. Okay.

20 A. Okay.

21 Q. But you had been in the past represented by other
22 members of the public defender's office in Family Court, is
23 that correct?

24 A. Yes, ma'am.

25 Q. Okay. And do you recall what date in 1998 that you

1 entered your guilty plea?

2 A. No, ma'am.

3 Q. Okay. And you don't really recall anything about your
4 guilty plea, except that you received probation, is that
5 correct?

6 A. I recall understanding this for a fact. I would never
7 turn down a defender, someone gives me someone to help me.
8 I mean, that's never happened. I mean, it never happened.
9 Until then I come here and I was without it. I would have
10 never turned it down and I never waived my right to it.

11 Q. Okay. But you don't remember anything about your 1998
12 guilty plea, do you?

13 A. I mean, you were asking me specific dates and times and
14 stuff. I mean, I'm -- I'm not going to sit here and lie
15 about it. I'm not -- no, I don't remember what you asked
16 me.

17 Q. You don't remember --

18 A. No, ma'am.

19 Q. You don't remember anything that Judge Hayes discussed
20 with you?

21 A. No, I would -- I would remember someone saying you have
22 a right to someone helping you and you have a right to
23 choose to turn it down. I would clearly would remember
24 that.

25 Q. You would remember that?

1 A. Yes, ma'am.

2 Q. You wouldn't remember somebody talking to you about
3 your trial rights, but you would remember somebody
4 offering --

5 A. I mean, not dates and times and stuff like that, no, I
6 wouldn't, but something that could help me, yes, I pay
7 attention to it.

8 Q. You would only remember something that would help you?

9 A. Of course. I mean --

10 Q. You wouldn't remember something that would hurt you,
11 would you?

12 A. I would never turn my right down. If that's what you
13 are trying to get at, I would never turn my right down for
14 counsel.

15 Q. But you don't remember anything that Judge Hayes said
16 to you during your guilty plea, do you?

17 A. You asked me -- I mean, you asked me specific
18 questions. And instead of me lying, I'm telling you the
19 truth.

20 Q. Okay. Do you remember anything that Judge Hayes said
21 to you during your guilty plea, other than getting
22 probation?

23 A. I remember him giving me five years suspended to three
24 years probation.

25 Q. Do you remember anything else about the guilty plea?

1 A. He asked me did I agree with the probation, did I agree
2 with the five years. Yeah, I agreed with it. I mean --

3 Q. That's what you remember?

4 A. Yes, ma'am.

5 Q. Okay.

6 MS. JOYNER: Nothing else, Your Honor.

7 MS. INZERILLO: Nothing further, Your Honor.

8 THE COURT: All right, let me ask you this. You
9 have a pretty convenient memory. The only thing that you
10 remember is that you don't remember and that you were not
11 advised by Judge Hayes at the time that you pled guilty that
12 you had a right to have an attorney and you wanted an
13 attorney to represent you. You don't recall him asking you
14 that?

15 THE DEFENDANT: Your Honor --

16 THE COURT: Just answer my question. I don't need
17 the rigamarole. You just went through it every time
18 somebody asked you a question. I'm asking you a specific
19 question. I want a yes or no.

20 Did Judge Hayes say "you have a right to an
21 attorney. Do you want an attorney to represent you?" Did
22 he ask you that?

23 THE DEFENDANT: I don't recall him --

24 THE COURT: You don't recall that?

25 THE DEFENDANT: No.

1 THE COURT: But he could have asked you that? You
2 just don't recall it?

3 THE DEFENDANT: Your Honor, I didn't -- I didn't
4 waive -- I don't --

5 THE COURT: I know your answer to everything is "I
6 didn't waive my right to an attorney," but I'm asking you to
7 answer my specific questions, because I got to make a
8 determination about that.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. And I'm asking you, did Judge
11 Hayes say, "you have a right to an attorney to represent you
12 on this charge. Do you want an attorney, or do you want to
13 proceed without an attorney?" You don't remember him
14 telling you that you had a right to an attorney and asked
15 you if you wanted an attorney?

16 THE DEFENDANT: No, sir.

17 THE COURT: You don't remember him asking you
18 that?

19 THE DEFENDANT: No, sir.

20 THE COURT: Did he ask you that?

21 THE DEFENDANT: No, sir.

22 THE COURT: Did you waive your right to have your
23 charge presented to the Grand Jury to proceed on with a
24 guilty plea? Did you waive your right?

25 THE DEFENDANT: To present it to the Grand Jury?

1 THE COURT: Yes, sir.

2 THE DEFENDANT: Talking about here, in the
3 courtroom?

4 THE COURT: On this charge. We are talking about
5 Judge Hayes.

6 When he was taking up your plea, did he ask you if
7 you wanted to waive your right to have the charge presented
8 to the Grand Jury, or waive it?

9 THE DEFENDANT: No, sir.

10 THE COURT: Is this your signature waiving
11 presentment to the Grand Jury on your indictment, sir, at
12 the time of your plea? Is that your signature waiving
13 presentment to the Grand Jury?

14 THE DEFENDANT: What -- Your Honor --

15 THE COURT: Here, look at it.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Look at it.

18 Is that your signature?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: So you waived presentment to the Grand
23 Jury, but you don't recall waiving your right to have this
24 charge presented to the Grand Jury before the court took
25 your plea?

1 THE DEFENDANT: I'm saying, are you saying in
2 court?

3 THE COURT: I'm not saying anything. I'm asking
4 you a question.

5 Do you remember waiving your right to have this
6 charge presented to the Grand Jury by the plea judge before
7 he would take your plea? Do you recall that, waiving your
8 right to have the charge presented to the Grand Jury?

9 THE DEFENDANT: No.

10 THE COURT: The judge advising you about your
11 right to have it presented to the Grand Jury.

12 THE DEFENDANT: To the preliminary?

13 THE COURT: To the Grand Jury for indictment.

14 THE DEFENDANT: You mean preliminary hearing,
15 right?

16 THE COURT: No, enough on the preliminary hearing.
17 This is presentment to the Grand Jury. It's not a
18 preliminary hearing before a magistrate. This is
19 presentment of the charge to the Grand Jury.

20 Did the judge -- do you remember if the judge
21 asked you if you wanted to waive your right to have the
22 charge presented to the Grand Jury and go forward with the
23 guilty plea?

24 THE DEFENDANT: I mean, if it's there, I had to.

25 I mean, Your Honor, I mean I am just being honest with you.

1 THE COURT: Yeah, I know.

2 The only thing you remember is you didn't waive.
3 your right to a lawyer, you would never do that.

4 THE DEFENDANT: Your Honor --

5 THE COURT: Did he ask you -- did he advise you of
6 your right to have a trial by jury, what your rights would
7 be in a jury trial? Did Judge Hayes advise you of that,
8 that you had a right to go before the jury?

9 THE DEFENDANT: I'm trying to recall that part,
10 but, I mean, I accepted the plea. And if I did turn down
11 any --

12 THE COURT: Did he advise you of your right to
13 remain silent and not say anything?

14 THE DEFENDANT: We didn't go through all that.

15 THE COURT: All right. He didn't go through that
16 with you, is that what you are saying?

17 THE DEFENDANT: Your Honor, I can only recall
18 going through remaining silent and --

19 THE COURT: Did he ask the solicitor to present
20 the facts concerning your charge, what happened with regard
21 to your charge?

22 THE DEFENDANT: I remember --

23 THE COURT: Did he ask you if you agreed with what
24 they said or not?

25 THE DEFENDANT: Yeah, I remember her explaining

1 what went on with me getting the charge and everything, or
2 how it happened.

3 THE COURT: And did the judge ask you if you
4 agreed with it or not?

5 THE DEFENDANT: Yeah, I remember agreeing with
6 everything she put up.

7 THE COURT: So now you do remember that?

8 THE DEFENDANT: No. I'm just saying I can
9 remember her saying what happened and why I was in front of
10 him, do you understand, my charges, I remember.

11 THE COURT: You remember probation, don't you?

12 THE DEFENDANT: Yes, sir, Your Honor.

13 THE COURT: That's the reason you pled guilty to
14 get that probation, correct?

15 THE DEFENDANT: I mean, I pled it -- yes, sir,
16 that's what she came to me with.

17 THE COURT: But you had a chance to get out of
18 jail that day on probation, didn't you?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. I have no further
21 questions.

22 Any followup to the questions that I asked, from
23 either side?

24 MS. JOYNER: Not from the State.

25 MS. INZERILLO: No, Your Honor.

1 THE COURT: Thank you, sir. You may stand down.

2 MS. INZERILLO: Your Honor, at this time that
3 would be the extent of the testimony that the defense is
4 prepared to present.

5 We do believe that we have carried our burden of
6 the preponderance of evidence to at least call into a
7 question the 1998 conviction.

8 Mr. Spratt has indicated under oath that not only
9 does he not specifically recall Mr. -- I mean, I'm sorry,
10 Judge Hayes advising him of his rights, but that he does
11 remember not being advised of his rights, and as well does
12 specifically recall had he been advised of those rights, he
13 would have certainly taken the judge up on that and gotten
14 an attorney.

15 I can go more into argument now, Your Honor. I'm
16 not sure how Your Honor wants to structure this hearing. I
17 can go into argument, but if you think --

18 THE COURT: I don't really need any argument right
19 not.

20 It's going to come down to the question -- the one
21 concern I have -- and, of course, I will allow the State to
22 present anything they wish to present on this. If they are
23 not prepared to do that, I had agreed that if you had a
24 witness that was not available right now that you wanted to
25 call, that I would allow you to do that later and keep the

1 record open to do that.

2 The only question I have got is who has the burden
3 of proof on this. And I -- you know, I know if you come
4 back on a post-conviction relief, the applicant has the
5 burden of proof as to whether a charge is enhanced or not.

6 When it comes down to a sentence enhancement, we
7 are back to the point where he is -- the defendant has, I
8 guess -- was he found guilty after a trial?

9 MS. INZERILLO: Yes.

10 THE COURT: If he was -- yeah, that's right.

11 If he was found guilty after the trial and you get
12 into the sentencing phase, you are to that point.

13 MS. INZERILLO: Yes, sir.

14 THE COURT: And so we backtrack to that.

15 The judge -- Mr. Spratt was not -- he was absent
16 for his trial. The judge entered a sentence that was
17 sealed. Judge Newman opened up the sentence and he read it
18 at that time.

19 Now, either when Judge Cole sentenced Mr. Spratt
20 originally at the trial in absence or when Judge Newman
21 heard it when he opened the sentence, he could hear that
22 issue as well. And it being sent back and the court
23 determine -- Judge Newman incorrectly looked at the
24 enhancement, but now it's back before this court. So I'm in
25 the same position that Judge Cole would have been in and the

1 same position that Judge Newman would have been in. We are
2 back to the question of enhancement at that point.

3 Now, who bears the burden on that point with
4 regard to the issue of enhancement? This is not a PCR, so
5 we are back to that point. Who has the burden?

6 MS. INZERILLO: I do, Your Honor. The burden --
7 my understanding of the procedure for this would be that Ms.
8 Joyner has the burden to present prior convictions that
9 would in her view enhance this to third. Then under Talley
10 v. State, which I handed up to Your Honor, the burden then
11 shifts to the defense to show by a preponderance of the
12 evidence that one, or more, of those prior convictions are
13 defective. And so having gone --

14 THE COURT: Let's do that. Does the State wish
15 more time to present testimony?

16 MS. JOYNER: Yes, sir, Your Honor. We have one
17 witness we would like to call that's not available.

18 THE COURT: All right. Well, why don't we do this
19 then. Just save your argument and let's take up that
20 witness.

21 I would tell you, though, that Judge Hayes has
22 sentenced many people in his 20 years, or so, on the bench.
23 And the 13 years that I have been on the circuit bench I
24 have had occasions to look at his guilty pleas that he
25 presided over, including many of them on post-conviction

1 relief, and I have seen his plea colloquy many times in
2 those transcripts, including those where somebody waives
3 their right to have an attorney and are familiar with the
4 colloquy that he asks a defendant about. That doesn't mean
5 he does it in every single case, but I'm just saying I have
6 never seen one where he didn't advise a defendant of his
7 right to have an attorney, an appointed attorney, if he
8 wanted one. I have never had one, never seen one where
9 Judge Hayes didn't do that.

10 And I can tell you for a fact that I have never
11 done that in my 13 years. I have never not advised somebody
12 of their right to have an attorney represent them and
13 explain those rights to them or what benefits they would
14 have in not appointing someone and have somebody. And I
15 think everybody knows that I will appoint one if I have any
16 reason to question as to whether they are entitled to have
17 one, I will appoint one.

18 And so in having said that, that doesn't mean
19 necessarily that Judge Hayes didn't it in this particular
20 case. I understand that. So I'll look at that, but Mr.
21 Spratt has a convenient memory about that. He doesn't
22 remember anything except that he pled guilty and he would
23 not have waived his right to an attorney, if he had asked if
24 he wanted one. He remembers he got probation and walked out
25 after that plea was processed out. So that's the only thing

1 he remembers. He doesn't remember any of his rights or
2 anything being given to him by the plea judge.

3 But let's -- I'll just -- I'll wait until I hear.
4 I just wanted to be sure I want this presented and certified
5 whose burden of proof it was. I know it's Mr. Spratt's
6 burden. That would be by a preponderance of the evidence.

7 MS. INZERILLO: Yes, Your Honor.

8 MS. JOYNER: Yes.

9 THE COURT: Thank you. We will hold it open.

10 (Whereupon, proceedings were adjourned until June
11 7, 2011)

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF YORK) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 ERIC ANTONIO SPRATT,) 2006-GS-46-1625
7 DEFENDANT.) JUNE 7, 2011
YORK, SOUTH CAROLINA

8
9
10 B E F O R E:

11 THE HONORABLE LEE S. ALFORD, JUDGE.
12

13
14 A P P E A R A N C E S:

15 ERIN JOYNER, ASSISTANT SOLICITOR
16 ATTORNEY FOR THE STATE

17 MELISSA INZERILLO, ASSISTANT PUBLIC DEFENDER
18 ATTORNEY FOR THE DEFENDANT

19
20 MICHAEL R. WATTS
CIRCUIT COURT REPORTER
21
22
23
24
25

INDEX

1		
2		
3	WITNESSES	PAGE
4	E.B. SPRINGS, IV, ESQUIRE (SW)	
5	DIRECT EXAMINATION BY MS. JOYNER	50
6	CROSS EXAMINATION BY MS. INZERILLO	52
7		
8		
9		
10		
11		
12		
13		
14		
15		
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EXHIBITS

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1 (PROCEEDINGS, JUNE 7, 2011)

2 THE COURT: Ready to proceed?

3 MS. JOYNER: Yes, Your Honor.

4 Your Honor, the State calls E.B. Springs.

5 E.B. SPRINGS, IV, ESQUIRE, having been first duly
6 sworn, testified as follows:

7 DIRECT EXAMINATION BY MS. JOYNER:

8 Q. Would you please state your full name for the record?

9 A. My name is Eli Baxter Springs, IV.

10 Q. And are you a solicitor in the Sixteenth Circuit?

11 A. I am.

12 Q. How long have you been employed in the Sixteenth
13 Circuit?

14 A. I started as an assistant solicitor here in July of
15 1998.

16 Q. And at that time was Judge John C. Hayes a resident
17 judge here in York County, as he is today?

18 A. He was.

19 Q. And beginning in July for 1998 to the present, have you
20 had an occasion to witness Judge Hayes conduct pleas in plea
21 court?

22 A. Yes, I have, many, many times.

23 Q. And going back to 1998, July, onward from 1998, have
24 you ever had an occasion to see Judge Hayes do pleas
25 involving pro-se defendants?

1 A. I have seen him do many pro-se pleas, watching other
2 people's pleas, and he's done many, many pro-se guilty pleas
3 of my own.

4 Q. And in your experience in viewing these pleas, in 1998,
5 did Judge Hayes have a certain routine or practice regarding
6 advising pro-se defendants of their right to have an
7 attorney?

8 A. Yes. Judge Hayes, as he goes through the Boykin
9 advisement colloquy, the Faretta Warnings to a pro-se of the
10 dangers of self-representation, he has sort of a rhythmic
11 cadence that he gets, and I have heard that cadence come
12 from him year after year after year that covers all the
13 warnings about the dangers of self-representation.

14 Q. And just in general as to the general plea colloquy
15 regarding the right to a trial and all those other companion
16 rights, does he also have routine and practice regarding
17 those rights?

18 A. Yes. Yes, he does.

19 Q. Okay. And has that been your experience from 1998,
20 forward, as to Judge Hayes?

21 A. Yes. And as I say, I have been hearing that same
22 rhythmic colloquy from Judge Hayes these 12, 13 years.

23 Q. Now, you did not take a part at all in the prosecution
24 of Mr. Spratt in 1998?

25 A. I don't know. I have prosecuted a lot of people.

1 Q. Thank you.

2 Please answer any questions that Ms. Inzerillo has.

3 MS. INZERILLO: May it please the court, Your
4 Honor?

5 THE COURT: Counsel.

6 CROSS EXAMINATION BY MS. INZERILLO:

7 Q. Good morning, Mr. Springs.

8 A. Good morning, Ms. Inzerillo.

9 Q. Mr. Springs, you weren't present for Mr. Spratt's
10 particular guilty plea in September of 1998, were you?

11 A. I don't know.

12 Q. So you can't testify as to whether or not Judge Hayes
13 on that day during that plea gave Mr. Spratt those Faretta
14 Warnings, or any warnings, about the dangers of
15 self-representation?

16 A. I do not remember being there for his plea that day,
17 no.

18 Q. Okay.

19 MS. INZERILLO: No further questions, Your Honor.

20 MS. JOYNER: Nothing further from the State.

21 THE COURT: Let me ask you a question, Mr.
22 Springs.

23 THE WITNESS: Yes, sir.

24 THE COURT: In all the times that you have seen
25 Judge Hayes, Judge Hayes -- of course, you say since 1998,

1 you started in July of 1998. And, of course, he's been a
2 circuit judge for about 20 years, have you ever heard him
3 take a guilty plea, a pro-se guilty plea, without first
4 having explained the right -- the dangers of
5 self-representation and getting a waiver of a right to an
6 attorney from a defendant in a pro-se plea? Have you ever
7 heard of one?

8 THE WITNESS: No, sir, never once.

9 THE COURT: That's all the questions that I have.
10 Any questions related to the questions that I
11 asked?

12 MS. JOYNER: No, sir, Your Honor.

13 MS. INZERILLO: No, sir, Your Honor.

14 THE COURT: Thank you, sir.

15 MS. JOYNER: We have no further witnesses.

16 THE COURT: Anything in reply?

17 MS. INZERILLO: No, Your Honor.

18 If I could --

19 THE COURT: Yes, ma'am.

20 MS. INZERILLO: -- make the argument.

21 Your Honor, I just wanted to start today by saying
22 when we convened this hearing at the end of the last
23 session, the court did inquire as to which side bears the
24 burden. And in reply to that question I did cite Talley v.
25 State. To correct that, I think a better analysis of that

1 in the State v. Payne case that has been handed to the court
2 by the State in this matter.

3 THE COURT: Let me find that, if you don't mind.

4 MS. INZERILLO: Sure.

5 It's about four of five paragraphs from the
6 conclusion section.

7 THE COURT: How does it start, the paragraph?

8 MS. INZERILLO: The paragraph starts -- it's an
9 addendum paragraph. It says, "when the State is prosecuting
10 a person for an offense."

11 THE COURT: I got you. Just give me one moment.

12 (Off the record)

13 (Back on the record)

14 THE COURT: Okay, proceed.

15 MS. INZERILLO: Thank you, Your Honor.

16 Your Honor, in this case, as State v. Payne does
17 explain once the State has presented certified convictions
18 of prior convictions of which it is using to enhance a
19 current case, the burden then shifts to the defense to prove
20 by a preponderance of the evidence that one or more of those
21 priors are defective.

22 Your Honor, at issue in this case is the
23 conviction from 1998.

24 As a threshold matter, as we discussed on Monday,
25 I don't think it's disputed by the client that Mr. Spratt

1 did receive probation in front of Judge Hayes in 1998, and
2 in 1999 was subsequently convicted -- revoked for six months
3 on that probation, which would, under the current case law,
4 would give Mr. Spratt grounds to challenge that conviction.

5 Going forward, Your Honor, it is our belief that
6 we have met that burden by a preponderance of the evidence.
7 The testimony that has been taken today, in its entirety Mr.
8 Spratt did take the stand. He is the only person that's
9 taken the stand who was present that day during that plea.
10 He was a bit confused about some of the questions, but did,
11 when pressed by the court and by the State, say
12 unequivocally he did not receive those rights.

13 While it's true he did not remember a lot of
14 things about that hearing, he did say, again very
15 emphatically, that he did not receive the right; and,
16 moreover, indicated had he heard that, he would have stopped
17 the proceeding and moved forward.

18 I think the court can see some of his confusion in
19 the State's questions about legal defenses. Certainly that
20 is one of the reasons why we give Faretta Warnings, because
21 there is an inherent danger of self-representation, and
22 that's evidenced by Mr. Spratt's confusion about some of
23 those questions and some of his rights.

24 Your Honor, when we first argued this case the
25 first time I did make arguments based on State v. Soughsby,

1 which is in the transcript, which I have handed to the
2 court. I do stand by those arguments, but in framing this
3 motion, in light of the Court of Appeals opinion that has
4 been handed back down under State v. Payne, State v. Payne
5 does indicate that when attacking -- any collateral attacks,
6 it's treated on the same standard as essentially a PCR,
7 which I know the court is well aware of that standard, so I
8 won't go any further into that.

9 By testimonial evidence, Your Honor, the only
10 person who was there has indicated he did not receive those
11 rights. While Mr. Springs can comment on Judge Hayes' usual
12 practice of having a custom, he indicated that he is not
13 aware at all of what happened during Mr. Spratt's hearing,
14 nor does he recognize Mr. Spratt at all, having any sort of
15 tangential recollection of not only Mr. Spratt, but of his
16 hearing on that day.

17 Your Honor, in light of this, because that is the
18 only evidence as to what happened in the courtroom on that
19 day, the defense feels it has met its burden and does ask
20 the court to not consider the 1998 conviction and make a
21 finding that this should be a crack cocaine, second offense.

22 THE COURT: Thank you.

23 MS. JOYNER: Your Honor, I just handed Ms.
24 Inzerillo and up to the court two cases or federal cases,
25 Your Honor. State v. Jennings -- excuse me, U.S. v.

1 Jennings and the Lucas case. And both of those cases
2 involve federal challenges to prior convictions, collateral
3 attacks of the prior conviction and in both of those cases
4 allow for routine. And, in fact, there is testimony, which
5 is why we presented testimony of Mr. Springs.

6 I'll tell the court both objecting about this case
7 and yet he has no recollection of this plea at all. And I
8 think it is for that reason when you are dealing with
9 collateral attacks so far down the line, that routine and
10 practice does come into play.

11 But before I reach that point, I would like to say
12 to this court as to the defense's burden, it is the State's
13 position they haven't met the burden.

14 Mr. Spratt is the only person who took the stand
15 that was present at the plea. And of all the people who
16 should have a recollection of what happened at the plea, Mr.
17 Spratt very conveniently has no memory of a lot of things
18 that he was asked about. Just to point to the court, he had
19 a lack of memory as to the fact of his underlying arrest
20 even. And he explained that he had been arrested several
21 times, so that was -- that was the source of confusion and
22 it was hard to remember.

23 And I think at one point, or I will have to defer
24 to the record, but I think he even referenced some of the
25 juvenile stuff that it was a long time. Well, I'll point

1 out that a lot of his juvenile convictions were very close
2 in time to this conviction. And, in fact, the last juvenile
3 hearing he had was about nine days before he was arrested on
4 this underlying crack charge from 1998.

5 Very frankly he doesn't have a recollection of a
6 plea colloquy. He doesn't remember anybody asking him or
7 discussing his right to a trial by jury, or legal defenses,
8 or anything else. So the only thing that he's willing to
9 say about the hearing is that he got probation and that
10 nobody ever talked to him about his right to an attorney.
11 But that -- I don't think that was unequivocal. I think
12 that there was a lot of wavering, because it was "I don't
13 recall, I don't recall, I don't recall." And when finally
14 pushed, it was like, "well, no, that didn't happen, because
15 I would have basically availed myself of those rights."

16 I think when you are looking at his credibility,
17 you have to remember which persons he said. The first thing
18 he said, or one of the first things he said, is "if I was
19 told that I could have someone to fight for me, I would
20 have." But when I questioned him on cross, you know, he
21 acknowledged that he did have attorneys in the Family Court,
22 but that it's sort of like this feigning ignorance of the
23 whole process. So I think that goes to his credibility.
24 Not necessarily the question of whether he received the
25 right, but it goes to his credibility on the matter.

1 I think that they have not met their burden,
2 because his recollection is just so poor, and it is -- you
3 know, it leaves me -- or at least leaves me skeptical when
4 the only thing that he can say for certain is that he didn't
5 hear those Faretta Warnings and he did not get his rights.

6 I think as to the State -- as to -- if the court
7 believes they have met their burden, then the burden under
8 State v. Payne comes back to the State and routine or
9 practice evidence, as I said before, I think it has to come
10 into play when you are dealing with collateral attacks this
11 far down the line. There is no transcript. And I -- Ms.
12 Inzerillo and I discussed this before. I never expected
13 there would be. I, in fact, I complimented her for going to
14 Court Administration and taking that final no, but I had no
15 doubt there would be no transcript. I have no doubt that
16 there would no party left that would have a recollection of
17 the plea because so much time has passed, so I think routine
18 and practice evidence has to come into play, because that's
19 why there is colloquy. That's why there is a procedure.
20 There is presumption of regularity that attaches to these
21 things and I think that the further in time you get away
22 from things, the more relevant the presumption comes.

23 To not allow the routine of practice evidence,
24 does not find that to be credible for the court would
25 basically leave the State to the disadvantage of never being

1 able to prove it in an instance like this when a prior
2 conviction is so far removed.

3 So we would submit that they have not met the
4 burden. If they have met the burden, that the State
5 compiling evidence that he would have received and he did
6 receive those warnings by routine practice.

7 MS. INZERILLO: Just briefly, Your Honor.

8 Your Honor, just in a quick review of the cases
9 the State has handed forward, I would distinguish the case
10 of Lucas v. U.S. the State did hand forward. In that case
11 there actually was a more thorough record I think by
12 availability to the parties. In that case the actual
13 solicitor that tried the case or that prosecuted the case or
14 did the plea testified and did testify that that person
15 himself advised the defendant of that case of his right to
16 an attorney; that the court heard from two of Judge
17 Westbrook's clerks that testified as to his routine and
18 practice because, of course, the clerk would see every
19 single plea that the late Judge Westbrook would have done.
20 So there is more -- I don't want to say eyewitness
21 testimony, but more testimony and a full record from more
22 people who were there. Unfortunately that is not the case
23 in this case. We did not -- the solicitor in this case has
24 moved and is not present to testify. Mr. Spratt is the only
25 one who did testify.

1 Your Honor, addressing State v. Payne, it does
2 allow for routine of practice evidence to be heard and to be
3 taken into consideration, but it does also call for
4 testimonial evidence, Your Honor, and we believe we have
5 provided that. Considering Mr. Spratt's Sixth Amendment
6 Right is at issue here, we do believe that we have met the
7 burden. While it is at least currently in the times I have
8 been in front of Judge Hayes, I have seen him give Faretta
9 Warnings. There has been no evidence that that specifically
10 happened here. And, again, we would reiterate that, Your
11 Honor.

12 We have nothing further.

13 THE COURT: Okay. Well, counsel, I think you have
14 done a good job, doing the very best for Mr. Spratt in the
15 this case, doing everything that you can possibly raise in
16 this. And I realize the seriousness of it, because there is
17 a major difference between, you know, whether this is
18 enhanceable as to a third or a second is a major difference.
19 And that being that on the third being a mandatory minimum
20 sentence, and being a lesser sentence on the second, and
21 that's what Judge Newman sentenced under. And I understand
22 the importance of that. It's a substantial difference, a
23 major difference.

24 And I can't get into the law itself. I mean, I
25 have to take the law as it is and I can't -- it's not my

1 decision whether I'm -- you know, I have to enforce the law,
2 whatever it is. The legislature makes the laws. The courts
3 do not make the laws. All we do is enforce them. So it's
4 not up to us to concern ourselves with the wisdom of those
5 laws. We just except them as they are. The elected
6 officials make those decisions. It is a substantial
7 difference, however, with the enhancement.

8 In this case the defendant bears some burden by a
9 preponderance of the evidence to show that he was not -- in
10 this case he's alleging he was not advised of his right to
11 an attorney and didn't waive his right to have an attorney
12 represent him on the charge, which at that time was simple
13 possession. And, of course, ultimately he got probation,
14 and he ultimately was revoked six months, served six months
15 on that, and so to that extent it certainly required to be
16 represented by an attorney, or he had to have waived that
17 right to an attorney. Of course, Judge Newman ruled that
18 the mere fact that he didn't have an attorney, an
19 uncounseled plea was sufficient not to allow them to use it
20 for enhancement. As I said earlier in the hearing before we
21 adjourned, that was always my understanding that it either
22 had to be a counseled plea or a waiver of a counsel plea or
23 it couldn't be considered for enhancement purposes, if the
24 defendant waives his right to have an attorney represent him
25 after he was advised of his rights, and that's what the

1 appellate court ruled and sent it back down for the
2 sentencing.

3 I certainly understand -- well, let me -- I
4 understand your position. You have done everything that you
5 could possibly do to help Mr. Spratt in this to raise
6 everything that you could. However, he has the burden, and
7 the court finds he has not met that burden by a
8 preponderance of the evidence. And my reasons would be
9 simply this. Of course, we have had testimony from Mr.
10 Springs, who has been a practicing solicitor for a time just
11 prior I think to this trial in absence all the way up to the
12 current time. He's still an assistant solicitor. His
13 testimony as it was just his regular practice and procedure
14 that Judge Hayes uses in all of his guilty pleas and the
15 rights that he advises all defendants of and the colloquy is
16 just kind of pretty much a rhythmic kind of thing that he
17 goes through. And he's testified of the procedure used in
18 giving Faretta Warnings to a pro-se defendant before and
19 requires them to waive their right to have an attorney
20 represent them before he goes forward with the plea. And so
21 that's one of the rights he explains in his colloquy to a
22 pro-se defendant and they have to waive their right to an
23 attorney.

24 And as I told you earlier in the hearing, one of
25 the things, you have two judges in the circuit. We have had

1 so much non-travel over the last probably ten years. We
2 have probably had five years, or so, of no travel because of
3 no money to travel on. And as a result of that a judge does
4 not hear his own plea or trial in a post-conviction relief.
5 If he presided there, he doesn't hear the post-conviction
6 relief. A different judge has to hear it. If you have got
7 very little travel, that means I have had to hear a lot of
8 Judge Hayes' cases and he's had to hear a lot of mine when
9 you do them on post-conviction relief. And I have not seen
10 one single case, and I get -- I read the transcripts as part
11 of those post-conviction relief proceedings. I have not
12 seen one single plea where Judge Hayes did not give his
13 colloquy, the same colloquy to the defendant. Maybe a
14 slight variation, but pretty much exactly the same. And
15 also I have never seen one where it involved a pro-se
16 defendant where he did not advise him, given the Faretta
17 Warnings about self-representation and have a defendant
18 waive his right to have an attorney representing him before
19 he would accept that plea as being freely and voluntarily
20 made. I have not seen one in looking at the transcripts
21 that I have heard on post-conviction relief. It doesn't
22 mean that he could have not given him one in some case. I
23 understand that, but we are looking at the defendant, Mr.
24 Spratt's, burden of proof in this case and I have got to
25 consider that. And so -- I can think of maybe one possible

1 judge who I might not automatically assume this or not, that
2 who varies from what he did with regard to pleas, one
3 particular judge, but he's no longer, of course, a judge,
4 and he's not even alive now, but that judge, you know,
5 reading some of his transcripts he had didn't necessarily
6 follow any kind of regular procedure in that, but Judge
7 Hayes has followed that, according to what I have seen.

8 And, of course, Mr. Springs has testified as to
9 his normal practice and procedure with all guilty pleas, and
10 that's confirmed by the ones that I have seen. I haven't
11 seen them all, but it doesn't mean he could have not failed
12 to do it in Mr. Spratt's case, but I think it's unlikely
13 that he failed to do it. If he did it in every single case,
14 I don't know why he would just not have done it with Mr.
15 Spratt's case.

16 With regard to Mr. Spratt's testimony, I don't
17 find his testimony credible at all. First of all -- of
18 course, I realize at the time he was 17. In fact, it's been
19 a long time ago and so it would be difficult to remember
20 everything, but he doesn't even remember. But if anybody is
21 going to remember what happened, there is no one else to be
22 able to testify. In fact, we don't have any -- I wish we
23 had the transcript. Maybe they ought to change the rules on
24 that. I might bring that up to the chief justice, talk with
25 them about the rule change, because I had another PCR

1 hearing last week which I wish we had a transcript, but it
2 had been beyond the five year period and we didn't have a
3 transcript and didn't either and so that's an issue in that
4 case, but it works against the applicant in a
5 post-conviction relief. And certainly if a defendant says
6 he wasn't given those rights about the right to have an
7 attorney represent him, it certainly works against him if
8 you don't have a transcript. I wish we could have a
9 transcript. But I believe if we had a transcript, it would
10 show that he was given his Fareta Warnings. I believe
11 that. And he doesn't remember anything. He doesn't
12 remember Judge Hayes advising him of his right to a jury
13 trial, and he doesn't remember advising him of his right to
14 the remain silent. He doesn't remember having the facts
15 given to him at that hearing and agreeing or not agreeing
16 with the facts. He doesn't remember waiving his right to
17 have the charge presented to the Grand Jury, even though he
18 signed that waiver on the indictment waiving his right. I
19 am sure that right would have been explained to him. He
20 signed it. He waived his right, and the court doesn't have
21 jurisdiction to take that plea unless he waives it. And so
22 for all those -- he doesn't remember anything. The only
23 thing he knows, you know, is if he was offered some
24 assistance, somebody to fight for him, he would have taken
25 that assistance, if it would have been offered to him. He

1 doesn't specifically remember it, but he remembers -- he
2 knows particularly when a substantial difference in the
3 penalty he's facing today with his enhancement, he
4 specifically remembers at that time if he'd been offered any
5 help, he would have taken that help to help him with the
6 procedure.

7 Another reason why, you know, the court finds that
8 he might very well have waived his right to have an attorney
9 represent him after being advised of it is, number one, he
10 was caught with the crack cocaine found on his person in the
11 jail, the Rock Hill jail, when he was there. So, I mean,
12 they had a record of that. I mean, it was found on him
13 there. And even if he had an attorney, what defense would
14 he have? None. What could the attorney have done for him?
15 He knows the attorney could have gotten him probation. You
16 know what he got? Probation. So why would you worry about
17 an attorney if you were getting the best results you could
18 get under the facts and circumstances? Why would you worry
19 about an attorney? What could the attorney have done to
20 help him? And I'm just saying that that would have been
21 certainly his reasoning and the explanation given to us from
22 the solicitor about why he should go ahead and plead.

23 You know what else? He's 17 years old and he's in
24 jail and he has been in jail a little while. And you know
25 what? By pleading guilty and getting a probationary

1 sentence he gets out of jail, okay, and he goes his own way.
2 So that would be a reason to go ahead and not wait to have
3 an attorney appointed to go through that, because he
4 certainly -- if an attorney had been appointed for him, then
5 an attorney would have had to have met and that sort of
6 thing and try to work out something with the solicitor's
7 office, or, you know -- of course, you always have the
8 possibility of a trial, but it was delayed. There's no
9 question about it.

10 So for all those reasons I don't find his
11 testimony credible and I don't find he's proven by a
12 preponderance of the evidence that he wasn't advised of his
13 right by an attorney representing him and he chose to plead
14 guilty on a pro-se basis without an attorney. I just don't
15 find that he's established that to the court's satisfaction.

16 And, you know, if he had any concrete evidence
17 other than he just doesn't remember it, he said he thought
18 he would. He thinks he would have taken any help that was
19 offered to him.

20 All right. That's the ruling of the court. So
21 the court finds that the offense could be used to enhance
22 and it would be a third offense as opposed to a second
23 offense and should be sentenced as a third offense.

24 MS. INZERILLO: Thank you, Your Honor.

25 Just one final thing.

1 THE COURT: Okay.

2 MS. INZERILLO: If I may, I have referenced
3 several times on the record of the transcript from the
4 previous hearing. And I know I have provided the State and
5 the court with the copy of it, but I wanted to make it a
6 part of the record. We can do that as a defense exhibit or
7 a court's exhibit.

8 THE COURT: Are you talking about the hearing we
9 held earlier this week in this hearing?

10 MS. INZERILLO: No.

11 THE COURT: The one Judge Newman had?

12 MS. INZERILLO: Yes, sir.

13 THE COURT: All right. Well, certainly you can.
14 The appellate court had it when they made their decision.
15 Certainly you can make it a part of the record in this case.

16 MS. INZERILLO: Thank you. Do you have a
17 preference as to whether it's would be a defense exhibit or
18 a court exhibit?

19 THE COURT: Yeah, I would rather it be a defense
20 exhibit, because it's not --

21 MS. INZERILLO: All right. Thank you, Your Honor.

22 THE COURT: Well, what's before me is the
23 appellate court decision.

24 MS. INZERILLO: Yes, sir.

25 (Court Transcript, dated May 25, 2007, marked as

1 Defendant's Exhibit No. 3 for identification)

2 MS. JOYNER: Your Honor, I wasn't sure of the
3 situation, but it's my understanding now that sentencing
4 goes back to Your Honor, we start afresh with the sentencing
5 as a third.

6 THE COURT: Yes.

7 MS. JOYNER: So I have prepared a new sentencing
8 sheet.

9 THE COURT: For the purpose of sentencing, we
10 start over. I'm not bound by Judge Cole's sentence, and
11 obviously I'm not bound by Judge Newman's, because it was
12 based on a second offense as opposed to a third. I am bound
13 by whatever the law is, okay, but I'm not bound by Judge
14 Cole's sentence. I'm in the same shoes Judge Newman would
15 have been in in opening the sealed sentence.

16 MS. JOYNER: Yes, sir, Your Honor.

17 THE COURT: Let me be sure you are in agreement
18 with what the court thinks the possible sentence was at that
19 time. It looks like to me it would have been a minimum of
20 15 and maximum of 30?

21 MS. JOYNER: I believe it would have been a
22 minimum of 25, and I think in the transcript at one point I
23 misstated that, Your Honor, as 15 to 30, but I believe it
24 was 25 to 30.

25 THE COURT: According my records, it would have

1 been 15 to 30 under the old law. But now that is old, old
2 law when you go all the way back there, so let's take a look
3 at what have you got?

4 MS. JOYNER: Just by going by CDR Code, Your
5 Honor, it's showing that it is a felony, 25 to 30 years. I
6 can pull up the statute.

7 Your Honor, there is a statute section it's
8 currently as a 25 to 30 years as the penalty range, and
9 that's the South Carolina court website that shows the same
10 penalty for the CDR Code. I believe it is a 25 to 30 years,
11 because he was trafficking more than 28 grams, third
12 offense.

13 THE COURT: I thought he was charged with
14 possession with intent to distribute. You say it was
15 trafficking?

16 MS. JOYNER: Trafficking, Your Honor.

17 THE COURT: That was the charge, trafficking?

18 MS. INZERILLO: Yes, sir.

19 MS. JOYNER: Yes, sir.

20 THE COURT: Oh, that's different. I thought that
21 you told me possession with intent to distribute third.

22 MS. JOYNER: One of his priors -- I apologize.
23 One of his priors was PWID from 1999.

24 THE COURT: Well, that makes a difference then.

25 What amount? How many grams was it?

1 MS. JOYNER: It was more than 28, less than 100.

2 THE COURT: All right. I beg your pardon. I
3 misunderstood you. I thought you said PWID third.

4 That has not been changed, the new law of the
5 trafficking.

6 MS. JOYNER: I do not believe so, Your Honor. I
7 have not done drug cases for a very long time, so --

8 THE COURT: SO it would be 25 to 30 and a \$50,000
9 fine. Okay.

10 MS. JOYNER: Your Honor, just for the record, Mr.
11 Spratt's prior convictions are certified convictions are
12 included in the file and they are the 1998 conviction for
13 possession of crack, and the 1999 possession with intent to
14 distribute crack cocaine. That's his only prior record,
15 Your Honor.

16 THE COURT: Can I ask you to hand me that
17 sentencing sheet that you had there?

18 THE CLERK: I'm filling it out.

19 THE COURT: Still working on it.

20 All right. Of course, I can hear you with regard
21 to his record.

22 MS. JOYNER: The only prior record that Your Honor
23 is aware of, Your Honor, as we were not the original parties
24 to the case and I defer to Ms. Inzerillo, if you have any
25 questions that you have.

1 THE COURT: Yes, sir.

2 MS. INZERILLO: Like Mr. Spratt, I'm the
3 original -- the last remaining original party in this.

4 I did handle -- did represent Mr. Spratt in the
5 pendency of his case through the trial and then through the
6 sentencing initially.

7 Mr. Spratt has been incarcerated since 2007. So,
8 Your Honor, I will have to calculate that time for you. I
9 know he was sentenced on May 25th, 2007.

10 Your Honor, I will tell you that Mr. Spratt is
11 married. His wife's name Michelle. They do have children.
12 I have been in contact with Michelle. She's concerned about
13 this case.

14 Essentially, Your Honor, we are asking for the
15 mandatory minimum as given in this case. I know at the time
16 I believe Mr. Spratt is sorry for what happened. I don't
17 want the court to think any of the subsequent motions that
18 we have made to detract from that, but, Your Honor, this is
19 a serious crime. Mr. Spratt is aware of that. And we would
20 ask the court to consider sentencing him to the minimum 25
21 year sentence.

22 THE COURT: I'm giving him credit for the time
23 served. I don't mind putting it in and let the sentence
24 begin effective whenever he started serving the sentence,
25 but if you know when that is.

1 MS. INZERILLO: May 25th, 2007. And the court --
2 I can beg the indulgence of the court for one moment. He
3 gets any credit for any time served.

4 THE COURT: Yes.

5 MS. INZERILLO: If my recollection serves me, as
6 soon as he was picked up on the bench warrant, they got him
7 into court fairly soon thereafter.

8 And I don't -- I see where Judge Newman did mark
9 credit for time served, but there is no amount.

10 THE COURT: Okay. All right.

11 MS. INZERILLO: Mr. Spratt indicates it was April
12 the 7th that he was picked up.

13 THE COURT: On the bench?

14 MS. INZERILLO: Yes.

15 THE COURT: April 27th or April 7th?

16 MS. INZERILLO: April the 7th.

17 THE COURT: 2007?

18 MS. INZERILLO: Yes, sir.

19 THE COURT: Mr. Spratt, is there anything that you
20 want to tell to the court?

21 THE DEFENDANT: I'm sorry, I mean, but --

22 THE COURT: Well, the court's hands are somewhat
23 tied in this case because you got a minimum sentence. I
24 can't go below that. Of course, Judge Cole sentenced you to
25 30 years, which is the maximum. Now that was a unsealed

1 sentence. You are entitled to mitigation to that and make a
2 finding, so I think the appropriate sentence is for the
3 minimum sentence is 25 years.

4 In case number -- so I'm going to pose the
5 sentence on you that I would impose on you at that time if I
6 were the sentencing judge. I think based on the mitigation
7 and what we have heard here.

8 In case number 2006-GS-46-1625, Eric Spratt,
9 having been found guilty of trafficking crack cocaine, third
10 offense, in an amount between 28 and 100 grams, the sentence
11 of the court is he be committed to the State Department of
12 Corrections for a determinate term of 25 years.

13 He was given credit for time served by beginning
14 this sentence effective April the 7th of 2007.

15 MS. INZERILLO: Thank you, Your Honor.

16 (END OF REQUESTED TRANSCRIPT OF RECORD)

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CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Sixteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for YORK County, South Carolina, on the 7th day of June, 2011.

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

September 12, 2011



Michael R. Watts
Circuit Court Reporter



STATE'S
EXHIBIT

Eric Antonio Spratt

CLERK OF COURT'S OFFICE

P.O. Drawer 11746, Rock Hill, South Carolina 29731

P.O. Box 649, York, South Carolina 29745

ATTORNEY REPRESENTATION

If you would like an attorney to represent you on your pending charges you should secure such attorney prior to your Initial Appearance as listed on your bond. You should be sure to get a letter of representation from your attorney and bring that letter to court with you.

PUBLIC DEFENDER

If you have been appointed a Public Defender you must contact that office to get a letter of representation prior to your Initial Appearance. You must bring that letter to court with you! To do so, go by the Public Defender's Office at the Moss Justice Center, 1675 York Highway (Hwy. 5), York, S.C. or call their office Monday through Friday 8 a.m. - 5 p.m. at (803) 628-3031 for an appointment.

PRIVATE COUNSEL

If you do not qualify for a Public Defender or you wish to retain private counsel you should do so prior to your Initial Appearance. You should be sure to get a letter of representation from your private counsel when you retain them. You must bring that letter to court with you!

INITIAL APPEARANCE

Sent. 4, 1999 1:00 P.M.

When you attend your Initial Appearance you should have your attorney present, if you choose to have an attorney represent you on your charges. On that date you will be provided with a preliminary hearing on your charges unless you choose to waive that right. You will subsequently be required to appear in court as directed by the Solicitor's Office.

I have read/had read to me the above instructions and have been given a copy.

Date 22 JUN -6 AM 11:22

CERTIFIED TRUE COPY

Eric Spratt

Signature of Defendant

Ray Long

Witness

NOTICE OF INITIAL APPEARANCE

State of South Carolina
County of York

vs.

Mr./Ms. Eric Antonio Spratt

you are charged with possession Crack

Uniform Warrant Numbers: — 1. F-761992 3. _____ 5. _____
2. _____ 4. _____ 6. _____

Your Initial Appearance date is the 4th day of Sept., 1998, at 1:00 am/pm at the Joseph R. Moss Justice Center located at 1675 (Hwy. 5) York Highway, York, S.C. If you choose to obtain private legal counsel, you are required to have done so by this date. If you desire a preliminary hearing, one will be held on your case at this time. ATTENDANCE ON THIS DATE IS MANDATORY. FAILURE TO APPEAR WILL RESULT IN YOUR BOND BEING REVOKED.

Eric Spratt
Defendant's Signature

Ray L...
Judge's Signature

July 29, 1998
Date

White-Clerk's Office

Yellow-Arresting Agency

Pink-Defendant's Copy

FILED-RECEIVED
JUL 31 2 30 PM '98

STATE'S
EXHIBIT

CERTIFIED TRUE COPY
2011 JUN -5 AM 11:28
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

CT Violation Status Maintenance

File Edit Options Help

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Citation #	095883AX	Viol #	1	** Comments **	Docket #	C9803966
Violator Name	SPRATT, ERIC		* Minor *	Age at time of Violation	17	
	B. M. I. No DL			In Queues	None	

Violation | Fees | History | Receipts | Clerk Comments | Docket Comments | Prosecutor Comments | Judgment |

Status	CL	DOCKET CLOSED - FOUND GUILTY	Date	8/20/1998	Thr	Time	05:00 PM
Alt. Status #1			Date			Time	12:00 AM
Alt. Status #2			Date			Time	12:00 AM
Plea	NG	NOT GUILTY	Date	8/20/1998	Thr	Docket-Weight Override	
Judge	388	JANE PITTMAN MODLA					
Court Location	RHC	ROCK HILL COURT					
Type of Trial	by Judge						
Conviction Date	8/20/1998						
Attorney		<no Attorney>					
County	YO	YORK					
Review Attorney		<none>					

Bonds	
Bond Set Override	☐
Set	0.00
Posted	0.00

Fine/Costs	
Fine	373.00
Fees	0.00
Total	373.00

Credits	
Cash	373.00
NCsh	0.00
Pend	0.00
Bal	0.00

Collect Fees Only ☐

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Offense VDL (USE OFF CODE C116) FOR POSS OF MARIJUANA 1ST

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 ROCK HILL MUNICIPAL COURT
 ROCK HILL, SOUTH CAROLINA

DEFENDANT'S
 EXHIBIT

CT Violation Status Maintenance			
File Edit Options Help			
Citation #	095883AX	Viol #	1
Violator Name		SPRATT, ERIC	
B. M.		I. No DL	
Docket #		C9803966	
Age at time of Violation		17	
In Queues		None	
Violation Fees History Receipts Clerk Comments Docket Comments Prosecutor Comments Judgment			
7/25/2005 19:45 CONVERSION 373/30			
Clerk Comments New			
Offense VDL (USE OFF CODE C116) FOR POSS OF MARIJUANA 1ST			

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 ROCK HILL MUNICIPAL COURT
 ROCK HILL, SOUTH CAROLINA

DEFENDANT'S
 EXHIBIT

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COPY

81

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED
JUL 13 1984
SC Court of Appeals

Appeal From York County
Honorable Clifton Newman, Circuit Court Judge

THE STATE,

Appellant,

vs.

ERIC SPRATT,

Respondent.

RECORD ON APPEAL

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INDEX

TRANSCRIPT	1
INDICTMENTS AND SENTENCING SHEETS	
(2006-GS-46-01625 & 2006-GS-45-01626)	39
COURT'S EXHIBIT 1	48
COURT'S EXHIBIT 2	59
DEFENDANT'S EXHIBIT 1	65
DEFENDANT'S EXHIBIT 2	67
CERTIFICATE OF COUNSEL FOR APPELLANT	68

STATE OF SOUTH CAROLINA	)	IN THE
	)	COURT OF GENERAL SESSIONS
COUNTY OF YORK	)	
	)	CASE NO.: 05-GS-46-0855

STATE OF SOUTH CAROLINA,	)	
	)	
PLAINTIFF,	)	
-VS-	)	TRANSCRIPT OF RECORD
ERIC ANTONIO SPRATT,	)	
	)	
DEFENDANT.	)	

May 25, 2007
York, South Carolina

B E F O R E:

HONORABLE CLIFTON NEWMAN, JUDGE.

A P P E A R A N C E S:

Ms. Erin Joyner
Assistant Solicitor
Attorney for the State
York, South Carolina

Ms. Melissa Inzerillo
Assistant Public Defender
Attorney for the Defendant
York, South Carolina

Shannon McGilberry
Court Reporter

1 THE CLERK: Sir, please raise right hand, place your
2 left on the Bible.

3 (WHEREUPON, Eric Antonio Spratt was duly sworn.)

4 THE COURT: All right. And, sir, your name is --

5 MR. SPRATT: Eric Spratt.

6 THE COURT: All right. Mr. Spratt, I have before me a
7 sealed sentence in the case of State versus Eric A. Pratt,
8 section 20- -- 17-25-310 of the South Carolina Code entitled
9 Opening and Enforcement of Sealed Sentences Upon Arrest.
10 That law provides that upon the arrest of a person for whom
11 there is a sealed sentence, the Sheriff shall forthwith
12 carry the prisoner before the clerk of the court, who shall
13 in the presence of the prisoner and the attorney of record,
14 if there be one, open and publish such sentence and it shall
15 at once be enforced unless stayed by appeal.

16 I'm going to hand this sentence to the clerk of court
17 to open and publish. You may publish it.

18 THE CLERK: On 2006-1625, trafficking crack cocaine,
19 thirty years and \$50,000 concurrent; 2006-1626 for
20 possession of marijuana second, one year concurrent.

21 THE COURT: All right. If you'll let me have the --
22 All right. This sentence was imposed on June 8th, 2006.
23 The sentencing judge -- is this Judge Durham Cole?

24 MS. INZERILLO: I believe that's right.

25 THE CLERK: Judge Cole.

1 MS. INZERILLO: Yes, sir, Your Honor.

2 THE COURT: Judge -- by Judge Durham Cole. All right.
3 Anything further in this matter by the State or the defense?

4 MS. JOYNER: Your Honor, if I can make Court's Exhibit
5 1 and 2, pass these forward to Your Honor. These are the
6 prior convictions of the defendant, one in 1998 for
7 possession of cocaine -- or crack cocaine, in 1999,
8 possession with intent to distribute crack cocaine.

9 MS. INZERILLO: Your Honor, at this time the defense
10 does have a motion to reconsider the sentence on two bases.
11 The first basis is that the first conviction of Mr. Spratt,
12 the one in 1998, should not be used to enhance to make this
13 a third offense.

14 Your Honor, by way of background, Mr. Spratt, then
15 seventeen years old, was -- in 1998 was sentenced by Judge
16 Hayes to a probationary sentence. He was pro se at the
17 time, had no attorney. The next year, while represented by
18 Mr. Barrowclough of our office on a additional charge, he
19 was -- had six months of that sentence revoked, Your Honor,
20 and I would make part of the record and also hand up to the
21 Court certified copies of this from the clerk's file on the
22 probationary sentence, as well as the revocation.

23 Your Honor, due to the fact that Mr. Spratt entered a
24 pro se plea and was subsequently revoked on that and we
25 believe that that -- that that involved a depravation of

1 liberty interest, which was outlined in Alabama versus
2 Shelton and, therefore, should not be used to enhance his
3 sentence.

4 Your Honor, I have reviewed this file, both with Mr.
5 Spratt and reviewed the clerk's file and can find no
6 evidence of pro se waiver in that file and, therefore, we
7 would argue that it was an uncounselled plea.

8 Your Honor, the underlying reasoning of that is that
9 any time served, even later during probation, is that that
10 uncounselled conviction actually does result in
11 imprisonment.

12 Two cases have come down since Mr. Spratt's trial,
13 State v. Souhsby, which I handed up to the Court earlier
14 and Talley v. State, which addressed a situation where a pro
15 se defendant is later -- is later put on probation and then
16 has part of that revoked.

17 Your Honor, Souhsby lays out that the defendant must
18 show that defendant was actually incarcerated for that
19 probation violation. We feel the paperwork we've handed
20 forward doesn't show that.

21 Talley v. State requires that the defendant show by
22 preponderance of the evidence that the prior conviction is
23 defective. Your Honor, the evidence we've put forward, and
24 I have spoken with Mr. Spratt about that the Court may
25 question him further on this, Mr. Spratt was seventeen years

1 old at the time. He had no attorney with him. He did
2 plead, subsequently was found in violation of probation.
3 That involved a deprivation of liberty interest and,
4 therefore, under Talley, Soughsby, and Alabama versus
5 Shelton, should not be used to enhance in this case.

6 THE COURT: Based on what?

7 MS. INZERILLO: Your Honor, in speaking with Mr.
8 Spratt, this being a '98 case, his memory's a bit faulty,
9 but he does not feel that he knowingly waived his right to
10 counsel at that time. He feels very sure that had he been
11 aware of that, he would have certainly halted any plea and
12 retained counsel.

13 I would point out to the Court that several months
14 later, when Mr. Spratt was picked up for another drug
15 offense, he did go through and apply for the public
16 defender's office and was assigned to Mr. Barrowclough and I
17 believe that may lend credence to what he has told me. He
18 does not feel that he was -- that he's knowingly waived his
19 right to counsel on that and, therefore, it should be used
20 against him as an enhancement.

21 THE COURT: And tell me your understanding of State
22 versus -- of Alabama versus Shelton.

23 MS. INZERILLO: Alabama versus Shelton, Your Honor,
24 involved a situation where a person -- it involved mainly
25 the question of whether a person was entitled to counsel and

1 under what circumstances the defendant was entitled to
2 counsel.

3 It held that any time there's a deprivation of liberty
4 interest, that that would result in the showing that the
5 defendant had made a -- had made a knowing waiver of counsel
6 so that that -- anything that was done at that point could
7 be used to enhance. That general rule, as I said, Your
8 Honor, has been exculpated later through State v. Souhsby
9 and we believe Talley v. State to deal specifically with the
10 probationary scenario.

11 THE COURT: All right. Ms. Joyner.

12 MS. JOYNER: Your Honor, I think that Alabama versus
13 Shelton and that that -- we would submit that the only the
14 use of an uncounselled conviction, one of the ways that a
15 conviction becomes -- can become uncounselled, other than
16 the absence of attorney, is the absence of a valid, knowing,
17 and intelligent waiver of the right to counsel.

18 Your Honor, and I don't think that the defendant's fair
19 assertion that he was unaware of his right to counsel or did
20 not voluntarily waive it would be sufficient from which the
21 Court could decide that that conviction was constitutionally
22 defective and could not be used to enhance.

23 State versus Robert Payne, Your Honor, is 332 S.C. 266.
24 That is a Court of Appeals from the State of South Carolina
25 case from 1998. That is a case that involves enhancement of

1 a prior DUI.

2 THE COURT: Okay. I'm going to -- let me just take
3 break and look at these cases for a moment, then come back.
4 We'll take about five minutes.

5 (WHEREUPON, a short recess was observed.)

6 THE COURT: All right. Ms. Joyner, thank you very
7 much. You may proceed.

8 MS. JOYNER: Thank you, Your Honor. I would just like
9 to point out that under State v. (coughing) -- Ms. Inzerillo
10 did properly state the burden of proof. The burden of
11 attacking collaterally a conviction is -- that belongs to
12 the defendant, it is by a preponderance of the evidence that
13 he must show that the prior conviction is constitutionally
14 defective.

15 I'd point that the cases that Ms. Inzerillo handed up
16 tot the Court, State versus Souhsby and State versus -- or
17 Talley versus State, really do not squarely address the
18 issue that she is raising.

19 In State versus Souhsby they never reached the issue
20 of whether he made a knowing and intelligent waiver of his
21 right to counsel, because they decided that he did not
22 present any evidence that he was actually incarcerated for
23 the prior uncounselled convictions, so that case does not
24 address the issue before the Court at all. I don't think
25 there's any dispute that Mr. Spratt was incarcerated for his

1 probation violation from 1998 and that that was a plea
2 without the benefit of attorney.

3 The State's position is that the presumption of
4 regularity mentioned in the State versus Payne and adopted
5 by the State versus Payne applies for this conviction and
6 that his -- convict-- -- or his guilty plea is presumed
7 constitutional until he has proved by a preponderance of the
8 evidence that it is not.

9 I would submit to the Court that this sentence was
10 imposed by the Honorable John C. Hayes. Judge Hayes has
11 been a judge for many years and been doing guilty pleas for
12 many years and I would submit the presumption regularity
13 could certainly attach to any plea that Judge Hayes does, as
14 he obtains knowing, intelligent waivers of counsel as part
15 of all pro se guilty pleas.

16 Your Honor, also, the other case that has been handed
17 up to the court by Ms. Inzerillo, Talley versus State, that
18 case likewise does not answer any -- the question raised by
19 the defense and the issue before the Court, because in that
20 case Mr. Talley received a sentence that was immediately
21 suspended on time. He never served any time. So that case,
22 likewise, does not answer the issue of whether a guilty plea
23 involved a knowing and intelligent waiver of the right to
24 counsel.

25 MS. INZERILLO: Your Honor, may I respond?

1 THE COURT: Yes.

2 MS. INZERILLO: Thank you, Your Honor. In response to
3 Ms. Joyner's first point as to the State v. Payne case that
4 she's presented to the Court, Your Honor, the defense would
5 maintain that the State v. Souhsby in outlining the
6 defendant's burden in this situation should be looked at
7 more closely by the Court instead of State v. Payne. The
8 Court clearly said as recently as November 13th of 2006 that

9 --

10 THE COURT: In which case? In the case of --

11 MS. INZERILLO: Souhsby.

12 THE COURT: The Courts has most recently pronounces as
13 late as November, 2006 in the case of State versus Souhsby
14 what?

15 MS. INZERILLO: That the defendant's burden, by the
16 preponderance of the evidence, involved presenting evidence
17 that he was incarcerated for the prior uncounselled
18 conviction and in doing that that is what we have done.
19 That is the standard that our courts have most recently set
20 out as what the defendant must do in order to meet the
21 presumption or burden of preponderance of the evidence in
22 this case. We have presented that. So we would hold that
23 as that is the most recent law and the most recent
24 explanation of the defendant's burden in this case is that
25 and the Courts would -- as the Courts rely on that and not

1 on State v. Payne.

2 Secondly, Your Honor, regarding the presumption of
3 regularity, Your Honor, in this case I would argue that in
4 order to meet or to -- in order to -- the evidence presented
5 by the State in this case that just asserting that Judge
6 Hayes always does something is not applicable and is not
7 evidence in this case.

8 I know I have only been in this county for a couple of
9 years and I believe Ms. Joyner has been here for two or
10 three years herself, was certainly not appearing before
11 Judge Hayes back in 1998 when this case came down and,
12 therefore, can present no evidence as to whether this was
13 Judge Hayes's custom or habit back in 1998. Certainly she
14 can present evidence that it is now, but we would argue that
15 in relation to that, that that allegation must be in some
16 way tailored to the time around which Mr. Spratt was
17 sentenced, which would be the 1998 year or term. No
18 evidence can be presented on that, therefore, Your Honor, we
19 would maintain that we have met our burden as laid out in
20 State v. Sougbsby in showing that it was an uncounselled
21 conviction through Mr. Spratt's memory and assertions that
22 he was not -- did not knowingly waive his right to counsel
23 on that date and also --

24 THE COURT: Well, is that even necessary? My
25 understanding in reviewing these cases is that an

1 uncounselled guilty plea which results in incarceration
2 cannot be used for enhancement purposes.

3 MS. INZERILLO: Yes, Your Honor.

4 THE COURT: It's not incumbent upon the defense to
5 prove whether or not it was a knowingly, intelligent waiver,
6 because he is -- he is not a lawyer, but if it's an
7 uncounselled guilty plea where he's represented pro se, that
8 it cannot be used for enhancement purposes where the
9 defendant has actually been incarcerated and the burden of
10 proof is on the defendant to show that he was actually
11 incarcerated. Is that your understanding of the law?

12 MS. INZERILLO: It is my understanding, Your Honor..

13 THE COURT: And that's not your understanding of the
14 law?

15 MS. JOYNER: Your Honor, my understanding of the law is
16 that a prior uncounselled guilty plea cannot be used for
17 enhancement. However, the right to counsel, like all
18 Constitutional rights, can be knowingly, intelligently
19 waived. Now, --

20 THE COURT: Well, that's not -- the question
21 undoubtedly and I think your argument goes to whether or not
22 he can waive his right to counsel and the presumption of
23 regularity that attaches to that, but this Soughsby case
24 under page five of seven at the bottom of the page that says
25 that the use of an uncounselled conviction resulting in a

1 sentence of imprisonment to enhance the punishment in a
2 subsequent conviction violates the Sixth and Fourteenth
3 Amendments to the U.S. Constitution.

4 MS. JOYNER: Your Honor, it does state that. However,
5 I think if you look at Alabama versus Shelton and all the
6 cases before and after, an uncounselled plea is not
7 necessarily a plea where a person is unrepresented. A
8 person is unrepresented, yes, in that they are not
9 sufficiently advised of the dangers of self-representation,
10 offered the opportunity to obtain counsel, they have not
11 knowingly, intelligently waived their right to counsel, a
12 pro se plea would be uncounselled. However, if a person
13 knowingly and intelligently waives their right to counsel,
14 they can go forth. The right to self-representation is a
15 Constitutional right. They can choose to waive their right
16 to counsel, represent themselves. Their plea does not
17 become defective simply because they waived their right to
18 counsel. The question is whether, if they knowingly and
19 intelligently, voluntarily waived that right to counsel,
20 that guilty plea can be used for enhancement.

21 THE COURT: Under what case?

22 MS. JOYNER: Your Honor, Alabama versus Shelton
23 discusses that you can waive --

24 THE COURT: Well, there's no question you can waive
25 your right to counsel and you can be --- but this is a 2002

1 case in which they held that if you have a possibility of
2 going to jail, then you have the right to a lawyer.

3 MS. JOYNER: Yes, sir, Your Honor. You have to -- and
4 you can waive that right to a lawyer.

5 THE COURT: So the right is waived, but that's not the
6 issue, whether or not he can waive his right to counsel and
7 plead guilty. The question is whether or not an
8 uncounselled guilty plea can be used for sentence
9 enhancement purposes.

10 MS. JOYNER: Your Honor, State --

11 THE COURT: Shelton has nothing to do with sentence
12 enhancement.

13 MS. JOYNER: You're right, Your Honor. State versus
14 Soughsby does, but it's the same principle that applies. In
15 State versus Soughsby the Court -- I think if you look at
16 the whole section dealing with the uncounselled plea, Mr.
17 Soughsby argument was that he could not be sentenced to life
18 without the possibility of parole because one of the
19 predicate offenses was an uncounselled guilty plea, so it
20 goes to the rule in that case.

21 He -- there's basically two questions when you're
22 dealing with an uncounselled -- whether his plea is an
23 uncounselled guilty plea. One is did it result in
24 incarceration. The other is if he did not have counsel, was
25 he -- Judge, was he advised of the right to counsel and he

1 knowingly and intelligently waive that right.

2 THE COURT: But in Soughsby it says that we find no
3 merit to his allegation that his prior uncounselled
4 conviction should not have been used for enhancement
5 purposes. Soughsby did not present any evidence that he was
6 actually incarcerated for the prior uncounselled conviction.
7 Because he failed to meet his burden of proving that his
8 prior uncounselled plea was unconstitutional and because the
9 record indicates that the prior conviction did not result in
10 imprisonment, we find no error.

11 MS. JOYNER: Yes, sir, Your Honor, because he was not
12 actually incarcerated. There was no --they did not have to
13 consider the question.

14 THE COURT: But she has presented evidence that this
15 guy was actually incarcerated.

16 MS. JOYNER: Yes, sir, Your Honor, but the Court -- I
17 think that what the Court did in their reasoning was state
18 that because he was never incarcerated, they didn't have to
19 visit that issue of whether he made a knowing and
20 intelligent, voluntary waiver of his right to counsel such
21 to make his -- or his prior plea counseled or uncounselled.
22 He hadn't been incarcerated, therefore, they didn't have to
23 deal with that second prong of the analysis.

24 THE COURT: All right. Well, my conclusion, based on
25 my review of this case, is that he has shown, the defense

1 has shown that his prior uncounselled plea resulted in
2 conviction and that pursuant to Soughsby, because it was an
3 uncounselled plea, it cannot be used for sentence
4 enhancement purposes in this case. I am granting the
5 defense's motion to reconsider the sentence.

6 MS. INZERILLO: Thank you, Your Honor. Your Honor, --

7 THE COURT: All right. Now, what's next?

8 MS. INZERILLO: Your Honor, in light of that, at this
9 time we would ask the Court's indulgence to present
10 mitigation and have Mr. Spratt re-sentenced at this time
11 under the --

12 THE COURT: I've granted your motion for
13 reconsideration, so what do you want me to reconsider? I
14 mean, what do you want me to do?

15 MS. INZERILLO: Well, Your Honor, --

16 THE COURT: I'll hear from you and I'll hear from the
17 State.

18 MS. INZERILLO: Thank you, Your Honor. Your Honor, we
19 would ask that Mr. Spratt's sentence be reduced to the
20 mandatory minimum under the second offense trafficking. Mr.
21 Spratt --

22 THE COURT: Which is what?

23 MS. JOYNER: Which is seven years, Your Honor.

24 MS. INZERILLO: Yes, Your Honor. Your Honor, I
25 initially -- I've represented Mr. Spratt since the inception

1 of this case and was his trial counsel when he was tried in
2 his absence and was unable at the time, due to his being not
3 here, to present any mitigation at the time of sentencing.

4 THE COURT: Where was he?

5 MS. INZERILLO: He tells me, Your Honor, that he
6 panicked and he drove all the way to Colorado with his
7 girlfriend and with his children, realized that that was not
8 the wisest thing to do and drove back. I can honestly tell
9 Your Honor that Mr. Spratt has been kicking himself for
10 doing that ever since.

11 Your Honor, he does have a girlfriend. He does have
12 minor children. He has not been in trouble since those
13 initial drug offenses, Your Honor. I believe that was five
14 or seven years ago. At this time --

15 THE COURT: Let me interrupt you for a moment so that -
16 - for speed purposes. I've granted the motion to reconsider
17 the sentence, so I need another sentencing sheet, I think,
18 Madam Clerk.

19 (WHEREUPON, discussion was conducted off the record.)

20 THE COURT: You may proceed, sir.

21 MS. INZERILLO: Thank you, Your Honor. Your Honor, I
22 ---

23 THE COURT: I mean -- not -- excuse me. Ma'am, you may
24 proceed.

25 MS. INZERILLO: That's quite all right, Your Honor. I

1 know it's been a long week. Your Honor, I know my thoughts
2 are all over the place. I wanted to present in mitigation
3 with Mr. Spratt that he did leave. I believe that he has
4 regretted that ever since. He has not been in any trouble.
5 He has worked since the last charge, the last drug charge
6 he's had. I do feel like he was trying to get away from
7 this life.

8 The facts of the case, Your Honor, as presented by the
9 State was that Mr. Spratt was in a car with someone that had
10 done an undercover drug deal. The person who had driven
11 then testified, of course, against Mr. Spratt, implicating
12 him in that, but it's always been Mr. Spratt's assertion
13 that he was merely riding in the car and we presented that
14 through argument to the jury. Of course, the jury
15 disagreed, which brings us here today, but in light of that,
16 this is not a case where Mr. Spratt was involved in serious
17 drug trafficking at this time. I believe that he was --
18 that he was riding in the car with someone. Obviously, that
19 was a wrong choice for him. Leaving, obviously, was a wrong
20 choice for him and I think he, as I said, has, again,
21 regretted that.

22 He has been outside of that one of the most forthright
23 people I've ever dealt with. He's very upset with his
24 decision, because he knows that he was on the straight and
25 narrow for all those years after the last conviction and was

1 building a life for himself, his girlfriend and his children
2 and in my speaking with him, having missed his trial and now
3 being sentenced, I believe he realizes the implications of
4 that.

5 Your Honor, I will say in this case it is a serious
6 charge and Mr. Spratt does admit that, but we are asking for
7 the minimum in this case. I believe he is deserving of
8 that. He certainly, outside of being a young man seventeen
9 or eighteen years old with those prior convictions, had
10 strived to move away from that to become a good member of
11 society and I believe that in this case, even facts most in
12 light of the State, was just at the wrong time -- place at
13 the wrong time. For these reasons, Your Honor, we would ask
14 for the minimum. I believe Mr. Spratt would ask permission
15 to address the Court if Your Honor would allow.

16 THE COURT: All right.

17 MR. SPRATT: I just want to say I'm sorry, but I was in
18 the wrong place at the wrong time. I ain't did nothing. I
19 was just in the car, you know, and that's the God's honest
20 truth, Judge, Your Honor.

21 THE COURT: You were in what car? Tell me what
22 happened in this case.

23 MR. SPRATT: Well, we was out in Fort Mill where my
24 girlfriend stays and I was hanging out with the fellows I
25 grew up with and I always be pushed over ever since, you

1 know, I was young, because of my size or whatnot, but I
2 chose to ride with somebody, you know, knowing that we was
3 going to McDonald's, but when we got there, you know, I saw
4 that they pulled out the drugs and then he got out of the
5 car and he went and got into another car and did something,
6 you know, that I didn't have no clue what was going on at
7 the time, but I knew he was dealing drugs. I can't stand
8 here and lie like I didn't know, you know, that he was a
9 drug dealer, but he got out of the car, he went over and got
10 in another car and he came back running with twenty, thirty
11 cops behind him. Narcotics had the whole McDonald's
12 surrounded and they came straight to the vehicle where I was
13 sitting and the drugs that he owned was still in the car and
14 me panicking, you know, right there with those. I started
15 to move. They were standing at the car and they just --

16 THE COURT: That was your first panic, huh?

17 MR. SPRATT: That was just my panic; yes, sir.

18 THE COURT: Your first panic. Your lawyer just told me
19 --

20 MR. SPRATT: I seen him running -- he was running
21 towards the car and he was like get those drugs out of my
22 sister's car, I mean, and the police and everybody was there
23 at the scene, too, and heard what he was saying and he was
24 running and cops -- just cops was everywhere and, you know,
25 I got snatched out of the car, my head first on the cement.

1 You know, they broke my tooth and I guess when they looked
2 at my prior record and him finding a way out -- to get out
3 of the situation and getting less time for hisself, you
4 know, that they gave me a chance to tell on other people,
5 you know, but one, I didn't have anything to do with it.
6 That's the God's honest truth, you know, and then that's --
7 I panicked at the time when it was time to come to court,
8 because I was facing time that I shouldn't have been at the
9 time and I thought about it and it hurt; I mean it hurt.
10 It's the truth. I got a two -- one-year old sons, you know.
11 I don't know, Your Honor. I made a mistake, you know.
12 That's the truth. I'm sorry.

13 THE COURT: All right. Ms. Joyner.

14 MS. JOYNER: Your Honor, although I was not the
15 solicitor that prosecuted the case, the quantity of drugs
16 involved in this case was sixty-nine grams of crack cocaine.
17 You're aware of the defendant's prior record. He also has a
18 juvenile conviction for possession of cocaine.

19 Your Honor, point out that what is being presented in
20 mitigation is actually the defense presenting legal defense
21 to the Court and the time for presenting the defense has
22 come and gone. He would have been entitled to some sort of
23 instruction on mere presence. Clearly, the jury decided
24 had dominion and control of those drugs. That was a jury
25 question, Your Honor.

1 I would also point out to the Court that the -- Judge
2 Cole sentenced him under the apparently mistaken impression
3 it was a third offense, which would subject him to twenty-
4 five to thirty years.

5 Your Honor, Judge Cole sat this trial, heard the facts
6 of this case and decided under the facts that he had heard
7 the defendant was entitled or the appropriate sentence was
8 the maximum in this case, Your Honor, and so he could have
9 chosen to impose the minimum and by his sentence, he clearly
10 did not believe that the minimum sentence was appropriate
11 for the defendant and I would just ask for deference to
12 Judge Cole's sentence, Your Honor. He imposed a sentence
13 after hearing the facts that he believed was appropriate and
14 that sentencing being thirty years.

15 Also make the Court aware --

16 THE COURT: What's he facing now?

17 MS. JOYNER: Sorry, sir?

18 THE COURT: What's he facing now without enhancement?

19 MS. JOYNER: Seven to thirty years, Your Honor.

20 THE COURT: All right. And before it was fifteen to
21 thirty?

22 MS. JOYNER: Before it was twenty-five to thirty, Your
23 Honor.

24 THE COURT: Twenty-five to thirty.

25 MS. JOYNER: I misspoke back in chambers. Your Honor,

1 I would also just make the Court aware that Mr. Spratt has
2 been gone for nearly a year. I don't think there is any
3 dispute that he was aware that he was coming to trial and he
4 has been missing for nearly a year. He did not turn himself
5 in. He was captured and certainly I think that, Your Honor,
6 I would just ask for the deference of Judge Cole's -- Judge
7 Cole's sentence in this case of the defendant.

8 THE COURT: Well, I'm reconsidering and I'm listening
9 to whatever facts the State has to present as well as the
10 defense has to present. I would hope that you'd give me the
11 true essence of whatever Judge Cole had. Whether I'll give
12 deference to Judge Cole's decision, the decision is not his
13 at this point, it's mine.

14 MS. JOYNER: I'm sorry. Beg the Court's indulgence.

15 THE COURT: All right.

16 MS. JOYNER: Your Honor, the facts that I have in the
17 file are that on January 19th of 2006 at 10:04 P.M. officers
18 of the drug unit arrested Eric Spratt, Romel Watts and Teddy
19 C. White for trafficking crack cocaine after recovering
20 sixty-nine grams of crack at the McDonald's on North Cherry
21 Road.

22 At 7:30 P.M. a confidential informant spoke -- right --
23 actually prior to the time of arrest, was working under
24 direct and total supervision of the drug unit, placed a
25 recorded phone call to Mr. Watts asking for an ounce of

1 cocaine. There's discussion back and forth about the
2 quality of that cocaine and where the transaction would
3 occur.

4 Mr. Watts stated that he was in Fort Mill or that he
5 wanted the confidential informant to come to Steele Street
6 in Fort Mill where he and his guy were. Another male got
7 onto Mr. Watts's telephone. This was the defendant, Eric
8 Spratt. He told the confidential informant where to come
9 and told the confidential informant to call Mr. Watts's cell
10 phone when he got to Fort Mill.

11 The original location of -- the original pre-affirmed
12 location was the Home Depot or the Zaxby's on Cherry Road or
13 the Peach Stand in Fort Mill. Watts stated to the
14 confidential informant that his guy would move for the
15 quoted cost of seven hundred and fifty dollars. The
16 confidential informant then told Watts that he was buying
17 something somewhere else and Watts told the C.I. there would
18 be no love lost. A few minutes later Watts called the
19 confidential informant and stated that he would meet the
20 confidential informant at McDonald's on Cherry Road.

21 The confidential informant was searched, nothing was
22 found, was issued government funds and wired with an
23 electronic monitoring device. His vehicle was searched,
24 nothing was located. Officers went, conducted surveillance
25 in the area. They observed the confidential informant

1 parked over to the right side of the parking lot. Several
2 minutes later three black males pulled into McDonald's
3 parking lot, circled in front, parked. Once the Honda
4 parked, Commander Brown and Lieutenant Dalton observed Watts
5 exit the driver's side of the Honda, go into McDonald's, use
6 the telephone. At the same time the confidential informant
7 received a call from Watts telling the confidential
8 informant to come into the bathroom.

9 Officers contacted the confidential informant and told
10 them that he did not go make that transaction in the
11 bathroom, so the confidential called Mr. Watts back and
12 asked him, basically, as a delay or stall technique, that he
13 wanted the crack cocaine measured up on scales and which Mr.
14 Watts replied that the scales were too big to sneak into the
15 bathroom.

16 The confidential informant asked Mr. Watts to come out
17 to his vehicle. The officers then observed Mr. Watts walk
18 out of the restaurant, approach the driver's side door and
19 began to make the deal and this was videotaped by Commander
20 Brown, who is the head of our drug unit.

21 This was a buy/bust takedown. As the officers
22 approached the C.I.'s vehicle, Mr. Watts began to walk very
23 quickly away and then began to run. The officers recovered
24 twenty-seven grams of crack, seven hundred and fifty dollars
25 and a set of scales from the C.I.'s floorboard and that

1 apparently was the transaction that was being conducted.

2 As they -- as officers were chasing Mr. Watts, Mr.
3 Watts was yelling that it was not his. Other officers
4 exited their vehicle, observed this defendant exit the
5 Honda, place his right hand in his coat pocket. Officers
6 gave Mr. Spratt -- they gave the person that was ultimately
7 identified as the defendant, they gave him commands, which
8 he refused to comply with.

9 Officer Kennedy reached the defendant. They observed
10 him throw down a plastic bag that contained twelve grams of
11 marijuana and a cell phone from his coat pocket. He was
12 taken to the ground and handcuffed. The officers recovered
13 a twenty-seven-gram bag of crack cocaine from his pocket.

14 THE COURT: From this defendant's pocket?

15 MS. JOYNER: Yes, sir, Your Honor. They continued to
16 search his person, found another bag of crack cocaine in his
17 other pocket. All individuals were Mirandized. Mr. Spratt
18 was also Mirandized, gave a statement to officers that he
19 purchased the crack from a hispanic male in Charlotte, North
20 Carolina and he'd gotten -- that the drugs -- let's see. He
21 said Spratt indicated that he'd gotten the cocaine from the
22 hispanic male and Watts was selling the crack to the
23 confidential informant. When Spratt saw the police chasing
24 Watts, he picked the crack up from the Honda and was going
25 to hide it.

1 During the investigation, Your Honor, there were
2 several -- there were several phone calls back and forth
3 between the confidential informant and Mr. Watts and the
4 officers -- during the time that the confidential informant
5 and Mr. Watts were calling back and forth regarding the
6 transaction Mr. Watts was the individual calling Mr. Spratt.

7 THE COURT: What was the sentence -- what kind of
8 sentence did Mr. Spratt get -- Mr. Watts get? What's his
9 full name, the other guy, Watts?

10 MS. JOYNER: Yes, sir. We're looking it up in the
11 computer, Your Honor, his full name. It's Teddy Cardozer
12 White -- I'm sorry. Romel Watts. I apologize, Your Honor.

13 THE COURT: Romel Watts?

14 MS. JOYNER: Yes, sir, Your Honor. Romel Watts -- my
15 personal knowledge, I believe that Mr. Watts was a
16 cooperative witness in this case, Your Honor.

17 THE COURT: Well, I think you told me that he testified
18 against Mr. -- this defendant in trial. The question is
19 what was his sentence?

20 MS. JOYNER: Your Honor, Mr. Watts, I believe -- Your
21 Honor, I did not -- I did not prosecute any of these
22 individuals. If I am not mistaken, Mr. Watts became a
23 cooperative witness in several other cases. I'm trying to
24 check that right now.

25 There's no disposition listed in the computer, Your

1 Honor, and I am having -- Your Honor, if the Court wishes,
2 we can contact Commander Brown, who would probably have a
3 personal recollection.

4 THE COURT: How much time did Mr. Watts get, Mr. --

5 MR. SPRATT: Mr. Watts didn't get anything. He became
6 a liar. I'm telling the truth, man. This guy -- man, I
7 wasn't no drug dealer and they didn't find no drugs in my
8 pocket. I was -- I smoke marijuana. That marijuana was
9 mine. They found that, and I did try to grab those drugs
10 that he left in the car to hide, but they didn't give me a
11 chance, because as soon as they saw me move, they snatched
12 me out of the car and threw me out and that was my own
13 purview, 'cause I figured if they're sitting beside me where
14 they's at, they was going to try to charge me with it
15 anyway. Romel became a worker for the police because he
16 knew people that they wanted and they could use in drug
17 busts and I didn't know anybody, so they just figured that
18 he could turn everything around on me and let him go free
19 and do their job. This is the God's honest truth, man, and
20 I don't understand why the Solicitor is sitting here making
21 like this guy was some innocent guy, when he wasn't. I know
22 who he really is and he ain't got no day in prison and all
23 the charges has been thrown out because he have become a
24 worker for the narcotics team. I ain't done nothing wrong,
25 Your Honor, sir. That's the God honest truth. This man was

1 set free when he was the guilty one the whole time. I ain't
2 done nothing but sit there.

3 MS. JOYNER: Your Honor, if I'm not mistaken, Romel
4 Watts, just for the Court's information, was a witness to a
5 shooting and was cooperative with the State of South
6 Carolina and was a testifying witness in one of my trials
7 and that was done without promise of anything, was not part
8 of any deal and I believe he may have had charges dismissed
9 against him for cooperation of -- in this trial, other
10 trials and voluntarily coming forward in an assault and
11 battery with intent to kill and I think that Mr. Springs
12 dismissed charges against him and that he then voluntarily
13 came forward and cooperated in the assault and battery with
14 intent to kill, although his charges have been dismissed
15 without leave to restore.

16 THE COURT: Just doing an inmate search, he's not in
17 the Department of Corrections, so that's probably true that
18 the charges against him were disposed of short of
19 incarceration. Anything else from the State?

20 MS. JOYNER: No, sir, Your Honor.

21 THE COURT: All right. Ms. Inzerillo.

22 MS. INZERILLO: Your Honor, just briefly, having been
23 trial counsel in this case, I can tell you that the majority
24 of the information that was presented was that Mr. Watts was
25 the point man in this deal. He was coordinating the deal.

1 Mr. Watts, of course, --

2 THE COURT: Did you -- you said being the point man --
3 being the trial counsel in what case?

4 MS. INZERILLO: Mr. Spratt's trial.

5 THE COURT: You represented him in trial in this case?

6 MS. INZERILLO: Yes; yes, sir.

7 THE COURT: All right.

8 MS. INZERILLO: Mr. Watts, of course, took the stand
9 and implicated Mr. Spratt in exchange for, I believe, some
10 consideration, although I believe Ms. Joyner has correctly
11 stated that at least during the time of Mr. Spratt's trial
12 that was not expressly delineated.

13 Your Honor, as is evidenced, Mr. --

14 THE COURT: How did Mr. Spratt explain that -- I mean,
15 Mr. Watts explain that he was the one who went in McDonald's
16 to do the drug transaction and this defendant was sitting in
17 a car?

18 MS. INZERILLO: That was his --

19 THE COURT: That the drugs were in the car with Mr.
20 Watts?

21 MS. INZERILLO: The testimony was, Your Honor, that he
22 had walked away from the car where the drugs were to do a
23 separate deal with an undercover informant that first was
24 supposed to meet in the bathroom and when officers could not
25 use the audio equipment in the bathroom, they then moved to

1 a car, which was near where the undercover officers were
2 positioned and Mr. Watts, of course, was caught red-handed
3 doing the deal by the undercover officers and --

4 THE COURT: And this defendant was sitting in the car
5 with the drugs?

6 MS. INZERILLO: This defendant was in the car.

7 THE COURT: With drugs?

8 MS. INZERILLO: The drugs were near him, Your Honor. I

9 ---

10 THE COURT: Were the drugs in the car?

11 MS. INZERILLO: Yes, Your Honor. That was his story.

12 THE COURT: I'm asking simple questions---

13 MS. INZERILLO: Yes, Your Honor.

14 THE COURT: ---and getting complicated responses.

15 MS. INZERILLO: That was the testimony that was
16 presented. Yes, Your Honor.

17 THE COURT: All right. What else do you want to tell
18 me?

19 MS. INZERILLO: Your Honor, I would just, of course,
20 reinstate that Mr. Spratt's role in this was minimal.
21 Obviously Mr. Watts was the person D.E.U. was targeting, was
22 the person the C.I. had done the majority of the work with.
23 Obviously Mr. Spratt has been convicted of this, so I will
24 not rehash any of his guilt or innocence in the case, but I
25 would just ask the Court to take that in consideration, take

1 into consideration the gap in time between this charge and
2 the defendant's prior record as well as his home life. At
3 this time he is only twenty-six years old, Your Honor. We
4 would ask that he be given the minimum sentence.

5 THE COURT: What home life at this time that you're
6 talking about?

7 MS. INZERILLO: Your Honor, he does have a girlfriend,
8 three minor children and does -- at the time was working. I
9 believe he's been incarcerated since he was --

10 THE COURT: Well, that tells me that they exist, the
11 girlfriend exists, three children exist, but you were saying
12 something about his home -- him, his --

13 MS. INZERILLO: He stays with -- he has custody of
14 them. He lives with his girlfriend and he has custody of
15 his children.

16 THE COURT: He has---

17 MS. INZERILLO: So he works to maintain --

18 THE COURT: ---custody of the children with the
19 girlfriend who lives in the house with him?

20 MS. INZERILLO: Yes.

21 THE COURT: That would be joint, natural custody by
22 parents, wouldn't it?

23 MS. INZERILLO: Yes, Your Honor.

24 THE COURT: All right.

25 MS. INZERILLO: Yes, sir. But --- and just to point out

1 that way to distinguish that this is not a visitation
2 situation where he lives apart from them. He lives in the
3 home with them and is --

4 THE COURT: All right. Anything else, Mr. Spratt?

5 MR. SPRATT: Yes. Well, Your Honor, I have been
6 changed, man. I mean, excuse me, sir. I'm sorry.
7 I have -- I played in -- well, I -- me and my girlfriend was
8 out one day and we met a acting and modeling agent and she
9 was from the North Carolina area and she gave me a card, she
10 gave us both a card one day. We was out shopping and she
11 was like, well, I'm from North Carolina and we was in North
12 Carolina shopping at the time and I called her, like, around
13 August, 2005 and I became -- I became a modeling and a
14 acting agent under her. You know, I signed as a six-month,
15 you know, a six-month -- what you call that -- contract and,
16 you know, I played in a nationwide movie as an extra for
17 three days. The casting people gave me a three-day role.

18 THE COURT: In what movie?

19 MR. SPRATT: Talladega Nights, a NASCAR comedy.

20 THE COURT: Talladega Nights.

21 MR. SPRATT: Yeah, starring Will Ferrell and Mos Def.
22 I played three days.

23 THE COURT: Where was it filmed at?

24 MR. SPRATT: Concord, North Carolina at the NASCAR
25 track.

1 THE COURT: Okay.

2 MR. SPRATT: And I really have been working. I'm
3 working hard. I didn't have a strong job at the time, but I
4 was doing little small things before that and I got three
5 checks for that. Everyday they gave me, like, a hundred and
6 twelve dollar check per day and I just want to change -- I
7 wanted to change my life ever since I was --

8 THE COURT: What have you been doing the past -- since
9 this case in January 20th of 2006, where have you been and
10 what have you been doing?

11 MR. SPRATT: Stressing. Just, man, I mean --

12 THE COURT: You've been on the run?

13 MR. SPRATT: Yeah, me and my girl, we ain't -- 'cause
14 she was pregnant at the time. We got an infant now, you
15 know, and I was just stressing and she got -- she own a
16 little --

17 THE COURT: How did you get arrested or where did you
18 get arrested?

19 MR. SPRATT: Going through a road block in Colorado.

20 THE COURT: A road block in Colorado?

21 MR. SPRATT: And I gave my I.D. willingly. I
22 willingly, -- you know, they --

23 THE COURT: Well, how did they arrest you? How were
24 they able to apprehend you?

25 MR. SPRATT: How'd they apprehend me?

1 THE COURT: I mean, there was a road block, you're in
2 Colorado. What part of Colorado was that?

3 MR. SPRATT: I was staying in Aurora, but it was in --
4 started with a A, Arapaho County. That's what I was --

5 THE COURT: Right outside of Denver?

6 MR. SPRATT: Right outside. I was arrested in Arapaho
7 County.

8 THE COURT: And did the police chase you and --

9 MR. SPRATT: Well, yeah.

10 THE COURT: That's what I'm asking you. Tell me about
11 the --

12 MR. SPRATT: I started -- okay. We started to go
13 through the road block and I started to panic 'cause I
14 didn't want to leave the way it ended up.

15 THE COURT: That's panic number 3 you're talking about?

16 MR. SPRATT: Yes, sir.

17 THE COURT: All right.

18 MR. SPRATT: And it's just been hard. I mean, I
19 started to panic, I started to run and all of a sudden I
20 just -- I just couldn't run any more. I started crying, I
21 fell to my knees and they was like what you running for, you
22 know, we just -- we just doing a road block, you know,
23 that's 'cause the person I was riding with had, like, --

24 THE COURT: So you tried to elude the road block?

25 MR. SPRATT: I just got out and started and then I

1 stopped.

2 THE COURT: What day was that? What's that date?

3 MR. SPRATT: I think it was March 13th, March 13th this
4 year.

5 THE COURT: All right.

6 MR. SPRATT: And they -- well, he got my I.D. and --
7 well, they didn't get the I.D. They just asked my name, I
8 gave them my name. I gave them my brother's name and then I
9 started to think, you know, why sit here and lie. He was
10 like, you know, don't lie, just be honest, man, why you
11 running and I gave him my I.D. and they got my I.D. and all
12 of a sudden he called in my name and he saw that I had a
13 warrant for South Carolina. He was like, you know, I see
14 why you ran now and he was like we not going to give you a
15 charge for running because we see you already in bad enough
16 position. So they took me to Arapaho County and locked me
17 up and they brought a waiver for South Carolina to come get
18 me and they said did I want to waive or not and I told them
19 yeah, I waived, let them come pick me up. I'm ready to get
20 it over with.

21 I ran because just panicking, Your Honor, sir. I just
22 want to straighten it out. You know, I got kids, I got a
23 girlfriend I care about a lot and she deserves and my kids
24 is what counts the most.

25 I made some mistakes, but I wasn't dealing drugs.

1 That's the only thing I kept running from, because I done
2 been in this predicament before being here and being
3 convicted and pointed at for drugs and I look at my life
4 when I was younger and I did deal around drugs, but I
5 stopped. The God's honest -- I was released from prison in
6 March, 2001 and I started working and I just changed.
7 That's when I started having my kids and, you know,
8 everything changed for me slowly, but then, you know, the
9 same people you grew up around ain't the same people they
10 was then, you know, and everything changes when you try to
11 get out and you hang out with your old friends and you want
12 to -- you know, it's --

13 THE COURT: All right. All right, sir. Anything
14 further from the State?

15 MS. JOYNER: No, sir, Your Honor.

16 THE COURT: All right. Mr. Spratt, I've considered
17 everything and the sentence of the Court is you be -- is
18 that you be committed to the State Department of Corrections
19 for a period of ten years and pay a fine of \$50,000.

20 MS. JOYNER: Your Honor, just -- the State would like
21 to preserve the record. We do intend to appeal on the issue
22 of him being a third offense, just to make the Court aware.

23 THE COURT: Well, we don't -- the Court doesn't get
24 notice of appeal. The Court's not a party of appeals. You
25 might let the clerk know -- the court reporter know if you

1 want a transcript, but beyond that my job is done.

2 MS. JOYNER: Yes, sir, Your Honor.

3 THE COURT: And I'll read about it in the Advance
4 Sheets.

5 MS. INZERILLO: Thank you, Your Honor.

6 MR. SPRATT: Thank you, sir.

7 THE COURT: All right. Good luck to you, sir.

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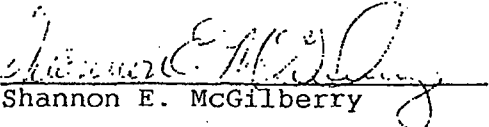
STATE OF SOUTH CAROLINA
COUNTY OF YORK

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)
) C E R T I F I C A T E

I, the undersigned Shannon E. McGilberry, Official Court Reporter for the Sixteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all proceedings had and evidence introduced in the sentencing hearing of the captioned case, relative to appeal, in the criminal court for York County, South Carolina, on the 25th day of May, 2007.

I do further certify that I am neither of kin, counsel, or interest to any party hereto.

In witness whereof, I have hereunto subscribed my name, this 4th day of August, 2007


Shannon E. McGilberry

My commission expires:
April 16, 2017

STATE VS. 2006GS4601625
Eric Spratt A/W#: H981220
AKA: Date of Offense: 01-20-2006
Race: B Sex: M Age: 25 S.C. Code §: 44-53-0375(C)(2)(c)
DOB: SS#: CDR Code #: 0349
Address: [REDACTED] ☐ CASE RESTORED
DL#: SID#: ☐ SENTENCE
☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: TRFFICKING CRACK COCAINE-3RD

in violation of § 44-53-0375(C)(2)(c) of the S.C. Code of Laws, bearing CDR Code # 0349
☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

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

ATTEST:

Debra Burn

Solicitor:

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ 5000; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35-13 (Public Def Prob)	\$500	\$
§ 73-3, 1B TP (Law Enforce. Funding)	\$25	\$
§ 33-7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

TOTAL

David Hamilton

Clerk of Court Deputy Clerk

Court Reporter: *Shirley Green*

PTUP

 days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, §35.13 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE *William De*

Judge Code: 2 8 5 3

Sentence Date: 6-8-06

Eric Spratt
 AKA: _____
 Race: B Sex: M Age: 26
 DOB: _____ SS#: _____
 Address: _____
 DL#: _____ SID#: _____

A/W#: H981220
 Date of Offense: 01-20-2006
 S.C. Code §: 44-53-0375(C)(2)(c)
 CDR Code #: 0349

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS TO: Trafficking in ice, crack or crack - 28 g or more.

in violation of § 44-53-0375(C)(2)(b) of the S.C. Code of Laws, bearing CDR Code # 0389
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)

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

ATTEST:

Eric Spratt x Eric Spratt [Signature]
 Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 10 years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ 50,000; 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 the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §7-25-135

SPECIAL CONDITIONS:

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

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

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____
☐ Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

Davis Hamilton
 Clerk of Court, Deputy Clerk
 Court Reporter: Shannon M. Gilburn

PRESIDING JUDGE [Signature]
 Judge Code: 2
 Sentence Date: 5-25-07

WITNESSES

Cashier

ARREST WARRANT NUMBER

20

ACTION OF GRAND JURY

TRUE BILL

Wm. A. J. J.
Person of Grand Jury

3-18-06

VERDICT

guilty

Delia O. Hughes
Person of Petit Jury

6/8/06

DOCKET NO. 2006-GS-46 01625

The State of South Carolina

County of York.

COURT OF GENERAL SESSIONS

May 18, Term 2006

THE STATE

vs.

ERIC ANTONIO SPRATT

Indictment for

Drugs / Trafficking in ice, crank or crack
cocaine

SC Code: 44-53-0375(C)(2)(c)
CDR Code:0349

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 ple
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

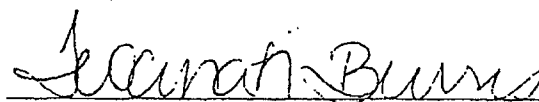
INDICTMENT

At a Court of General Sessions, convened on May 18, 2006 the Grand Jurors of York County present upon their oath:

Drugs / Trafficking in ice, crank or crack cocaine

That on or about January 19, 2006, in York County, South Carolina, the Defendant, Eric Antonio Spratt, did knowingly sell, manufacture, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of more than 10 grams of Crack Cocaine, as defined and otherwise limited in Sections 44-53-110, 44-53-210(b)(4), 44-53-210(d)(1), or 44-53-210(d)(2), all in violation of Section 44-53-375, Code of Laws of South Carolina, (1976) as amended

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


ASSISTANT SOLICITOR

NAME: Eric Spratt VS. 4000GS4001020
 AKA: _____ A/W#: H981221
 Race: B Sex: M Age: 25 Date of Offense: 01-20-2006
 DOB: _____ SS#: _____ S.C. Code §: 44-53-0370(d)(2)
 Address: Rock Hill, SC 29730 CDR Code #: 0180
 DL#: _____ SID#: _____

☐ CASE RESTORED
 SENTENCE
☐ PLEA ☒ TRIAL

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
 TO: POSSESSION OF MARIJUANA-2ND AND SUBSEQ

in violation of § 44-53-0370(d)(2) of the S.C. Code of Laws, bearing CDR Code # 0182

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

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

ATTEST:

James B. Burni
 Solicitor:

Defendant

[Signature]
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 1 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 the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine:

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

TOTAL

David Hamits
 Clerk of Court/ Deputy Clerk

Court Reporter: Shirley Breen

PTUP _____

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly

prmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP

Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [Signature]

Judge Code: 210-5-3

Sentence Date: 6-8-06

DOCKET NO. 2006-GS-46-01626

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

WITNESSES

Cashier

The State of South Carolina

County of York

Defendant

COURT OF GENERAL SESSIONS

April 13, Term 2006

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

ARREST WARRANT NUMBER

21

Defendant

THE STATE

vs.

Witness:

ACTION OF GRAND JURY

ERIC ANTONIO SPRATT

C.C.C. PLS. AND G.S.

Person of Grand Jury

VERDICT

Indictment for

POSSESSION OF MARIJUANA

SC Code: § 44-53-370
CDR Code: 182

Person of Petit Jury

6/8/06

Adra O. Hughes

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

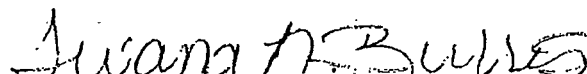
INDICTMENT

At a Court of General Sessions, convened on April 13, 2006, the Grand Jurors of York County present upon their oath:

POSSESSION OF MARIJUANA

That on or about January 19, 2006, in York County, South Carolina, the Defendant, Eric Antonio Spratt did knowingly or intentionally possess a quantity of marijuana, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, all in violation of Section 44-53-370, Code of Laws of South Carolina (1976), as amended.

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


ASSISTANT SOLICITOR

WITNESSES

Cashier

DOCKET NO. 2006-GS-46-

0626

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

May 18, Term 2006

ARREST WARRANT NUMBER

221

THE STATE

VS.

ERIC ANTONIO SPRATT

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.

97

ACTION OF GRAND JURY

Person of Grand Jury

VERDICT

guilty

Person of Petit Jury

6/8/06

Indictment for

POSSESSION OF MARIJUANA

SC Code: § 44-53-370
CDR Code: 182

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on May 18, 2006, the Grand Jurors of York County present upon their oath:

POSSESSION OF MARIJUANA

That on or about January 19, 2006, in York County, South Carolina, the Defendant, Eric Antonio Spratt did knowingly or intentionally possess a quantity of marijuana, a controlled substance under provisions of Section 44-53-110, et seq., Code of Laws of South Carolina (1976), as amended, such possession not being the Defendant's first offense, and such possession not having been authorized by law, all in violation of Section 44-53-370, Code of Laws of South Carolina (1976), as amended.

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


ASSISTANT SOLICITOR

WITNESSES

y - RHPD

ARREST WARRANT NUMBER

F-935499

ACTION OF GRAND JURY

TRUE BILL

person of Grand Jury

VERDICT

person of Petit Jury

DOCKET NO. 99-GS-46- 1020

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

APRIL 22ND, TERM 1999

THE STATE

vs.

ERIC ANTONIO SPRATT

Indictment for

**POSSESSION OF CRACK COCAINE WITH
INTENT TO DISTRIBUTE**

SC Code: 44-53-375
CDR Code: 113

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

Defendant

I Eric Antonio Spratt
hereby appear in my own proper person and p
guilty to the within indictment or to

Eric A. Spratt
Defendant

Witness:

C.C.C. PLS. AND G.S.

COURT'S	Sm
EXHIBIT NO.	1
IDENTIFICATION/EVIDENCE	
DKT. #	
DATE:	5/25/97

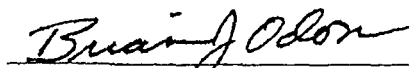
STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
INDICTMENT

At a Court of General Sessions, convened on April 22, 1999 the Grand Jurors of York County present upon their oath:

**POSSESSION OF CRACK COCAINE
WITH INTENT TO DISTRIBUTE**

That on or about March 2, 1999, in York County, South Carolina, the Defendant, Eric Antonio Spratt, did possess with intent to distribute, dispense, or deliver a quantity of crack cocaine, a controlled substance under provisions of Section 44-53-110, et seq., *Code of Laws of South Carolina* (1976), as amended, or did otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, or deliver crack cocaine, all in violation of Section 44-53-375, *Code of Laws of South Carolina*, (1976), as amended.

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


ASSISTANT SOLICITOR

ARREST WARRANT

F- 935499

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
Rock Hill

THE STATE

against

Eric Antonio Spratt

SSN: [REDACTED]

Fort Mill, SC

SSN: [REDACTED]

M Race: B Height: 5-05 Weight: 130

ate: [REDACTED] DL #:

Agency ORI #: 0460300

Issuing Agency: RHPD

Issuing Officer: JC Terry

se: Poss. with intent to Distribute

ck Offense Code:

Ordinance Sec. 44-53-375

warrant is CERTIFIED FOR SERVICE in the

County/ ☐ Municipality of

The accused

be arrested and brought before me to be
with according to law.

(L.S.)

Signature of Judge

RETURN

Copy of this arrest warrant was delivered to
defendant Eric Antonio Spratt

3-2-99

[Signature]
Signature of Constable/Law Enforcement Officer

RN WARRANT TO:

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
Rock Hill

Personally appeared before me the affiant JC Terrybeing duly sworn deposes and says that defendant Eric Antonio Sprattdid within this county and state on March 02, 1999violate the criminal laws
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Rock Hill

in the following particulars:

DESCRIPTION OF OFFENSE: Possession With Intent To Distribute Crack (44-53-375)

I further state that there is probable cause to believe that the defendant named above did c
the crime set forth and that probable cause is based on the following facts:

Defendant did willfully and unlawfully Violate SC Drug Laws by being in posse
of a quantity of crack with intent to distribute while at 972 W. Main St. This
being within the city limits of Rock Hill, SC.

** Police Investigation

** Recovery of Evidence

Sworn to and subscribed before me

on 3-2-99

[Signature] (L.S.)
Signature of Issuing Judge

Signature of Affiant

Affiant's Address 120 E. Black St.Rock Hill, SCAffiant's Telephone 329-7200

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
Rock Hill

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe
on March 02, 1999 defendant Eric Antonio Spratt
did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of Rock Hill) as set forth below:

DESCRIPTION OF OFFENSE:

Possession With Intent To Distribute Crack (44-53-375)

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her b
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
defendant at the time of its execution, or as soon thereafter as is practicable.

[Signature] (L.S.)
Signature of Issuing Judge

Judge Code: 8812Judge's Address 120 E. Black St.Rock Hill, SCJudge's Telephone 329-7200Issuing Court: ☐ Magistrate ☐ Municipal ☐ Cir

ORIGINAL

Form Approved by
S.C. Attorney General
July 26, 1990
SCCA 518

Jant

GENERAL SESSIONS DOCKET REPORT FOR YORK COUNTY

REPORT RUN DATE - 030399

DOCKETMENT NUMBER: ~~990399~~ 99-1088

DEFENDANT NAME: SPRATT, ERIC ANTONIO

AKA:

ADDRESS: ~~████████████████████~~ CITY: FORT MILL STATE: SC ZIP 29736

SOCIAL SECURITY NUMBER: 8888888888 SEX: 1 MALE RACE: 2 BLACK

DATE OF BIRTH: ~~██████~~ DRIVERS LICENSE STATE / NO.: SC / 999999999

MARITAL STATUS:

ARRANT OR TICKET NUMBER: F535499 COUNTS: 01 OFFENSE CODE: 011E

IS WARRANT? 0 NAME OF OFFENSE: DRUGS/MAN, DIST

DATE OF ARREST: 030299 DATE RECD BY CLERK: 030399 SUMMARY JUDGE:

DISP DATE: 4-26-99 000000 DISP TYPE: 1

DISP TYPE EXPLANATION:

JUDGE CODE/NAME: 54 Cooper

COURT REPORTER: Susan Wackomult

CONVICTION: CTS: 01 OFFENSE: 0000 112 TWID Crack Cocaine

SENTENCE: 4 yrs

ATU

DEFENSE ATTORNEY: *su: BJB* PUBLIC DEFEND PROSECUTING ATTORNEY:

Vale Zamora

TE Pope / Brian Olsen

W 11.046

LEAD: 110810X1, DATE: 11/08/99, TIME: 10:00 AM

REPORT IN DATE: 04/21/99

ADDRESS: 110810X1, 110810X1

ADDRESS: 110810X1, 110810X1

ADDRESS: 110810X1, 110810X1

SOCIAL SECURITY NUMBER: 555555555 SEX: 1 MALE RACE: 2 BLACK

DATE OF BIRTH: 11/08/99 DRIVERS LICENSE STATE / NO.: SC / 999999999

MARITAL STATUS:

WARRANT OR TICKET NUMBER: F935499 COUNTS: 01 OFFENSE CODE: 0112

IS WARRANT? 0 NAME OF OFFENSE: DRUGS/MAN, DIS

DATE OF ARREST: 03/02/99 DATE RECD BY CLERK: 03/05/99 SUMMARY JUDGE:

DISP DATE: 04/26/99 DISP TYPE: 1 GUILTY PLEA

DISP TYPE EXPLANATION:

JUDGE CODE/NAME: 054 COOPER THOMAS W. JR. COURT REPORTER: SUSAN WACHSMU

CONVICTION: CTS: 01 OFFENSE: 0112 DRUGS/MAN, DIS

SENTENCE:

4 YRS; AU

DEFENSE ATTORNEY: KYLE CHAPMAN

PROSECUTING ATTORNEY: BRIAN OOK

STATE VS.
Eric Spratt
 AKA:
 Race: Black Sex: Male
 DOB: [REDACTED] Age: [REDACTED]
 SSN:
 DL#:
 SID#:

99-GS-46-1028
 A/W#: E-935499
 Date of Offense: 3/2/99
 S.C. Code § : 44-53-375
 CDR Code #: 011112

SENTENCE

☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS TO: PWID Crack Cocaine

in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 011112

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

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

ATTEST:
Brian J. Odum Solicitor Eric A. Spratt Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 4 ~~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.

☐ The Defendant is to be given credit for _____ days/months jail time.
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

SPECIAL CONDITIONS:

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

Recipient: _____
 *Fine:\$
 § 14-1-206 - Assessments 100%.....\$
 § 14-1-211 - Surcharge.....\$ 100.00
 (Exceptions: See § 14-1-211)
 § 56-5-2995 (DUI).....\$
 County (3%).....\$
 TOTAL.....\$ 100.00

Clerk of Court/Deputy Clerk David Hamilton
 Court Reporter: Lusan Wadsworth

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED ☒
 Attend Voc Rehab. or Job Corps _____
 May serve W/E beginning _____
 Substance Abuse Counseling ☒
 Random Drug/Alcohol Testing ☒
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund.
 Other: ATU -

PRESIDING JUDGE [Signature]
 Judge Code: 0101514
 Sentence Date: 4-26-99

Offense Charged:

Drugs / Poss. of other controlled sub. in Sched. I to V - 2nd or sub. offense-[H981221]; Drugs / Trafficking in ice, crank or crack - 28 g or more, but less than 100 g - 3rd or sub. (Fel., 25Y to 30Y)-[H981220]

At a bail proceeding conducted by undersigned Judge, for the defendant named above, it was determined by the court:

- ☐ The release of the defendant on recognizance will not reasonably assure his appearance as required.
☐ The release of the defendant on recognizance will result in an unreasonable danger to the community.
 This determination was based upon the following findings of facts:

Nature of Circumstances of Offense; Must Immediately Notify Court of Change of Address

Considerations: Nature and Circumstances of the offense charged, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his records of convictions, and any record of flight to avoid prosecution or failure to appear at other court proceedings.]

THEREFORE, IT IS HEREBY ORDERED:

- That the above named defendant be released from custody on the condition that he will personally appear before the designated court
 1. at the place, date, and time required to answer the charge made against him and do what shall be ordered by the court and not depart the State without the permission of the court and be of good behavior.
 2. That the above named defendant be released from custody provided as follows (check one):

CASH IN LIEU OF BOND

- ☐ The defendant, acknowledging himself to be indebted to the State of South Carolina, deposits \$_____ to secure his release from custody. Should the defendant fail to comply with all terms and conditions of this Order, this sum of money is subject to being forfeited to the State.

CASH PERCENTAGE IN LIEU OF BOND

- ☐ The defendant, acknowledges himself to be indebted to the State of South Carolina, in the sum of \$_____ his release to be obtained by payment to the court of _____ (%) of this bond in cash, this amount being \$_____. The defendant will be obligated to the State in the full amount of \$_____, such sum to be levied on his real and personal property for the use of the State, should he fail to perform the conditions of this Order.

APPEARANCE RECOGNIZANCE WITH SURETY

- ☐ The defendant will provide good and sufficient surety approved by the court, in the form set forth on the reverse side, acknowledging an indebtedness to the State in the amount of \$_____

3. The defendant shall appear at:

the term of the court of general sessions beginning on [Date:] 4/18/2006 at [Time:] 8:30:00AM, at [Place:] York County General Sessions - 675 York Hwy/York, SC 29745 and remain there throughout that term of court. If no disposition is made during that term, the defendant shall appear and remain throughout each succeeding term of court until final disposition is made of his case, unless otherwise ordered by the court.

Bond Amount(s): \$50,000.00 (CS) or \$50,000.00 (SB)

Court dates are 2/27/06 @ 9 AM and 4/18/06 @ 8:30 AM in York, SC

Initials of Defendant

[Handwritten initials]

4. That the defendant will notify the court promptly if he changes his address from the one contained in this order and he will comply with those conditions described on the reverse side, which are marked.

[Signature of Judge]
 Signature of Judge

January 21, 2006

Date

ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, including any conditions included on the reverse side of this Order, a warrant for my arrest will be issued. I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence. I acknowledge the receipt of a copy of this Order and understand the conditions of my release and the penalties applicable to me in the event I violate any condition of this Order or fail to appear as required.

Address

[Handwritten address: 1411 SC]

City/State/Zip

[Handwritten zip: 281-49-4343 / (803) 547-2148]

Social Security Number/Telephone No.

[Signature of Defendant]
 Signature of Defendant

Date

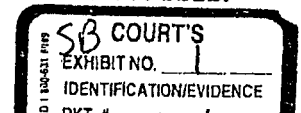
Attorney Representing Accused (If known)

ORIGINAL AND ONE COPY OF THIS FORM ARE REQUIRED TO BE COMPLETED IN EVERY BAIL PROCEEDING IN WHICH IT IS USED.

Original copy for the Trial Court - Copy for the Defendant

SCCA511 (3/90)

FORM CONTINUES ON BACK



a. ☐ Placement in custody. The defendant is placed in the custody of:

Name of person or organization

Address

City

State Zip

Phone

Who agrees (1) to supervise the defendant in accordance with conditions set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

Signature of Custodian (If Appointed)

Date

b. ☐ Restrictions on Travel, Association, or Residence. The defendant will comply with each of the following conditions:

c. ☐ Part-time release. The defendant will be released from custody from _____ to _____ on _____ on condition that he return to the custody of _____ at _____ as designated.

d. ☐ Other conditions. The defendant will comply with the following other conditions of release:
Initial Appearance: 2-27-06 @ 9 am at Moss Justice Center

APPEARANCE RECOGNIZANCE WITH SURETY

On the 21st day of January, 2006, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$50,000.00, such sum to be levied on his real and personal property for the use of the State, if the within named defendant shall fail in performing the conditions on this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

B K Bail Bonding

Name of Surety (Printed or Typed)

266 Robinson Street

Address of Surety

Rock Hill, SC 29730

City/State/Zip

Signature of Surety

Signature of Judge

Date

THE FACE OF THIS DOCUMENT HAS A COLORED SECURITY BACKGROUND AND MICROPRINTING

POWER AMOUNT

\$50,000.00

POWER OF ATTORNEY

PALMETTO SURETY CORPORATION

PS50

002641

125 Seven Farms Drive, Suite 170, Charleston, SC 29492-7595

KNOW ALL MEN BY THESE PRESENTS, that PALMETTO SURETY CORPORATION, a corporation duly authorized and existing under the laws of the State of South Carolina, does constitute and appoint the below named agent its true and lawful Attorney-in-Fact for it and in its name, place and stead, to execute, and deliver for and on its behalf, as surety, a bail bond only.

Authority of such Attorney-in-Fact is limited to appearance bonds. No authority is provided herein for the execution of surety, immigration bonds or to guarantee alimony payments, fines, wages, law claims or other payments of any kind on behalf of below named defendant. The named agent is appointed only to execute the bond consistent with the terms of this power of attorney. The agent is not authorized to act as agent for receipt of service of process in any criminal or civil action.

This power is void if altered or erased or used in any combination with other powers of attorney of this company or any other company to obtain the release of the defendant named below or to satisfy any bond requirement in excess of the stated face amount of this power. This power can only be used once. The obligation of the company shall not exceed the sum of

FIFTY THOUSAND (\$50,000.00) DOLLARS

and provided this Power-Of-Attorney is filed with the bond and retained as a part of the court records. The said Attorney-in-Fact is hereby authorized to insert in this Power-Of-Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF PALMETTO SURETY CORPORATION has caused these presents to be signed by its duly authorized officer, proper for the purpose and its corporate seal to be hereunto affixed, this

day of

Bond Amount \$ 50,000 Appearance Date 4/18/06Defendant: Eric Antonio SprattCourt: CoSCCase # H-981221Case # H-981220

Case # _____

County York City York State SC Zip 29730Offense TRVOS / PDS SUB IVPOffense TRAFICKING IVPExecuting Agent Richard K. Meyer IVP

Expires 12/31/06

PALMETTO SURETY CORPORATION



W. H. Linder

Vice President

RECEIVED
2006 JAN 24 PM 2:32
HAMILTON
S.C. & G.S.
COUNTY, SC



Additional Charge(s)

TO: Director York County Detention Center

Date: 1/20/2006

You are hereby commanded by this Court to hold in your custody,

Eric Antonio Spratt

(Defendant's name)

Classification Officer

Records Clerk

Prior Charges

S.S. Officer

F.S. Officer

DOB: [REDACTED] Race: B Sex: M

Arresting officer:

Case number	Charge	Magistrate	Bond Type	Amount
H981220	Drugs / Trafficking in ice, crack or crack - 28 g or more, but less than 100 g - 3rd or sub. (Fel., 25Y to 30Y)	York County General Sessions	CS SB	\$45,000.00 \$45,000.00
H981221	Drugs / Poss. of other controlled sub. in Sched. I to V - 2nd or sub. offense	York County General Sessions	CS SB	\$5,000.00 \$5,000.00

2006 JUN -7 AM 11:01
CLERK OF COURT
YORK COUNTY, SC

Court dates are 2/27/06 @ 9 AM and 4/18/06 @ 8:30 AM in York, SC

That you are commanded by this Court to continue custody of the named person until the person in custody is ordered to be released by a Judicial Officer.

Judge

York County

ID Pack Number

RECEIVED

)
)
)

DISCHARGE

State of South Carolina

vs.

Eric Antonio Spratt
DEFENDANT(S)

DISCHARGE

By Leon E. Yard, Esq., Magistrate in and for the County and state aforesaid,

To the Sheriff and Keeper of the Common Jail in the said County:

The Defendant, Eric Antonio Spratt, having been committed to your custody for the charge of:

Case number	Charge	Magistrate	Bond Type	Amount
H981220	Drugs / Trafficking in ice, crank or crack - 28 g or more, but less than 100 g - 3rd or sub. (Fel., 25Y to 30Y)	York County General Sessions	CS	\$45,000.00
			SB	\$45,000.00
H981221	Drugs / Poss. of other controlled sub. in Sched. I to V - 2nd or sub. offense	York County General Sessions	CS	\$5,000.00
			SB	\$5,000.00

50,000

Court dates are 2/27/06 @ 9 AM and 4/18/06 @ 8:30 AM in York, SC

Michelle Knox

has posted bond of type SB in the amount of \$50,000.00

and having given bond as required by the Court, you are hereby authorized and required to discharge the said Defendant from your custody. Provided that said Defendant is not held by you upon commitment for some other offense.

GIVE UNDER MY HAND AND SEAL THIS DAY January 21, 2006

2006 JAN 24 PM 2:32

RECEIVED

Judge

York County, SC

(Seal)

WITNESSES

Terry - RHPD

ARREST WARRANT NUMBER

F761992

ACTION OF GRAND JURY

son of Grand Jury

VERDICT

son of Petit Jury

DOCKET NO. 98-GS-46-2715

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

OCTOBER 15TH, TERM 1998

THE STATE

vs.

ERIC ANTONIO SPRATT

Indictment for

POSSESSION OF CRACK COCAINE

SC Code: § 44-53-370

CDR Code: 0100

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

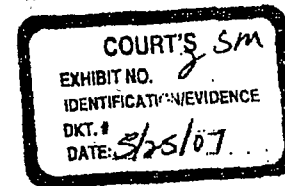
Eric Spratt
Defendant

Eric Antonio Spratt
hereby appear in my own proper person and plead guilty to the within indictment or to

As charged

Eric Spratt
Defendant

Witness Cynthia H. H. H.
C.C.C. PLS. AND G.S.



65

141

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)

INDICTMENT

n
 2, 11 0:45

At a Court of General Sessions, convened on October 15, 1998 the Grand Jurors of York County present upon their oath:

POSSESSION OF CRACK COCAINE

That on or about July 29, 1998, in York County, South Carolina, the Defendant, Eric Antonio Spratt, did possess or otherwise aid, abet, attempt, and/or conspire to possess a quantity of Crack 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, all in violation of Section 44-53-375, *Code of Laws of South Carolina* (1976), as amended.

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


 ASSISTANT SOLICITOR

207.110 AND:52
LN

Less Crack #100

61

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ALPION 800 2012 0122

JAN 24 11 34 45

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W

GENERAL CRIMINAL COURT, REPORT FOR JURY DELIBERATION

REPORT RUN DATE = 08/28/98

INDICTMENT NUMBER: ~~98-2715~~ 98.2715

DEFENDANT NAME: DEKRAIT, ERIC ANTONIO

RACE:

ADDRESS: ~~REDACTED~~ CITY: FORT MILL STATE: SC ZIP: 29715SOCIAL SECURITY NUMBER: ~~REDACTED~~ SEX: M MALE RACE: B BLACKDATE OF BIRTH: ~~REDACTED~~ DRIVERS LICENSE STATE / NO.: SC / 99999999

MARITAL STATUS:

WARRANT OR TICKET NUMBER: F761992 COUNTS: 01 OFFENSE CODE: 0100

NO WARRANT / 0 NAME OF OFFENSE: DRUGS / POSSIBL OR

DATE OF ARREST: 07/29/98 DATE REC'D BY CLERK: 07/31/98 SUMMARY JUDGE:

DISP DATE: 9/23/98 DISP TYPE: 01

DISP TYPE EXPLANATION:

JUDGE CODE/NAME: 049 Hays

COURT REPORTER: Janet Froelich

CONVICTION: CTS: 06 OFFENSE: 0000 Poss

Crack Cocain

SENTENCE: 5 yrs & \$5000 s/o 3 yrs prob

20 days PSE

SU \$100.

DEFENSE ATTORNEY:

Pro Se

PROSECUTING ATTORNEY:

JE Pope / Julie Murrens

ARREST WARRANT

F- 761932

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
Rock Hill

THE STATE
against

C. ANTONIO SPRATT

FORT MILL SC 29715

SSN:

face: B Height: 5-05 Weight: 130

DL #:

Agency ORI #: 0460300

Agency: RHPD

Officer: JC TERRY

POSSESSION OF CRACK

53-375 Offense Code: 44-53-375

ance Sec.

ant is CERTIFIED FOR SERVICE in the
y/ ☐ Municipality of

The accused
arrested and brought before me to be
according to law.

Signature of Judge (L.S.)

RETURN

f this arrest warrant was delivered to

Eric Antonio Spratt

7-29-98

JC Terry

ature of Constable/Law Enforcement Officer

7-29-98

JC Terry

ARRANT TO:

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
ROCK HILL

AFFIDAVIT

Personally appeared before me the affiant JC TERRY wh
being duly sworn deposes and says that defendant ERIC ANTONIO SPRATT
did within this county and state on JULY 29, 1998 violate the criminal laws of ti
State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of ROCK HILL
in the following particulars:

DESCRIPTION OF OFFENSE: POSSESSION OF CRACK 44-53-375

I further state that there is probable cause to believe that the defendant named above did comm
the crime set forth and that probable cause is based on the following facts:

DEFENDANT DID WILLFULLY AND UNLAWFULLY VIOLATE SC CODE OF LAWS BY BEING IN
POSSESSION OF A QUANTITY OF CRACK WHILE IN THE ROCK HILL LAW CENTER JAIL
LOCATED AT 120 E. BLACK ST. THIS BEING WITHIN THE CITY LIMITS OF ROCK HILL.

- * POLICE INVESTIGATION
- * RECOVERY OF EVIDENCE

Sworn to and subscribed before me
on 7-29-98

Signature of Issuing Judge (L.S.)

Signature of Affiant

Affiant's Address 120 E. BLACK ST
ROCK HILL SC 29730

Affiant's Telephone 803-329-7200

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of
ROCK HILL

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe tha
on JULY 29, 1998 defendant ERIC ANTONIO SPRATT
did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of ROCK HILL) as set forth below:

DESCRIPTION OF OFFENSE: POSSESSION OF CRACK
44-53-375

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable.

Signature of Issuing Judge (L.S.)

Judge Code: 3

Judge's Address 120 E. BLACK ST
ROCK HILL SC 29730

Judge's Telephone 803-329-5695

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

SOUTH CAROLINA
OF **YORK**
STATE
-VS-

DEFENDANT'S EXHIBIT
1
5/25/07

COURT
TERM **GENERAL SESSIONS**
SEPTEMBER 21, 1998

PROBATION ORDER

Defendant
Eric Antonio Spratt

No. **98** **-GS-** **46** **2715**

Offense
Possession of Crack Cocaine

SENTENCE:

the sentence of the court is that the defendant, named above, shall be in the custody of the South Carolina Department of Corrections for a term of Five years (and/or) pay a fine of 5,000.00. Upon the service of

and/or) payment of a fine and costs of \$ _____, however, the balance of this sentence is hereby

suspended and the defendant is hereby ordered to be placed on probation for a period of Three years under the supervision of the South Carolina Department of Probation, Parole and Pardon Services. During this period of probation, the Defendant shall be subject to the laws of South Carolina and the rules and orders of the Department and its Agents. This suspended sentence may be revoked or modified at any time after the date of this order. The conditions of supervision are set forth below.

IT IS FURTHER ORDERED: that the Sheriff or other law enforcement officers who have the custody of the defendant is hereby ordered to deliver said defendant to the Probation Office of this county, or if the defendant is under bond, then such bond shall remain in full force until the defendant reports to the Probation Office. The conditions of probation begin (today/after service of the required portion of the suspended sentence). It is further ordered that the Clerk of Court file this order in his office and that he forthwith forward a certified copy to the County Office of the Department.

his 22nd Day of SEPTEMBER, 1998
(month) (year)
YORK, S.C.

Presiding Judge John Hayes, III
SIXTEENTH Judicial Circuit

You are hereby advised that under the law, the Court may at any time revoke or modify any condition of this probation or impose any special conditions it deems proper; or it may extend your period of probation not to exceed five (5) years.

You shall be subject to arrest, upon order of the Court, or upon a warrant issued by the Probation Agent. At any time within the period of your probation, the Court may, upon proof of a violation, resentence you and impose any sentence it may have imposed in the first instance.

This is to certify that I have read or have had read to me this Order of Probation and the Conditions set out herein. I agree to comply with these conditions during the period of my probation. I have received a copy of this court order.

his 22nd Day of SEPTEMBER, 1998
(month) (year)
YORK, S.C.

Probationer's Signature Eric Spratt
Witnessed by Beverly F. Spratt

CONDITIONS ORDERED BY THE COURT:

- ☐ Complete 160 (hours) Public Service Employment.
- ☐ Intensive Supervision for an indeterminate period not to exceed 6 months, as determined by the Department.
- ☐ Home Detention for an indeterminate period not to exceed 6 months, as determined by the Department.
- ☐ Electronically Monitored Home Detention for an indeterminate period not to exceed 90 days, as determined by the Department.
- ☐ Participate and successfully complete an evaluation/referral for alcohol/drug abuse as determined by the Department.
- ☒ Fine/Costs and Assessments payable to the Clerk of Court as directed by the Court (3% collection fee charged if paid in installments).
- ☐ \$ _____ Restitution (including the Public Defender Fund) and a statutory collection fee payable to the Department of Probation, Parole and Pardon Services as directed by Agents of the Department (20% collection fee charged).
- ☐ Restitution shall be paid at the rate of \$ _____ per month.
- ☐ Restitution Center not to exceed 6 months.
- ☐ Community Control Center.
- ☐ Case to end upon Certification by the Clerk of Court that all monies have been paid (Sec. 24-21-550).
- ☒ Other: Pay \$100 surcharge per indictment to York County Clerk of Court, PO Box 649, York, SC

ADDITIONAL CONDITIONS OF PROBATION ON THE REVERSE SIDE

1. I shall report in person to the South Carolina Department of Probation, Parole and Pardon Services' office on the sentencing or release, and as instructed by the Department; and I shall make complete and truthful reports to the A
2. I shall not change my residence or employment without the consent of my Agent. Further, I shall allow my Agent to in my home, at my place of employment, or elsewhere, at any time.
3. I shall not use controlled substances, except when properly prescribed by a licensed physician, nor consume beverages to excess, nor enter establishments whose primary business is the sale and drinking of alcoholic beverages. Further, I shall submit to a urinalysis or blood test when instructed by Agents of the Department, and I agree that these test results may be used as evidence in any hearing for the violation of the conditions of my supervision.
4. I shall not possess or purchase any firearms or other dangerous weapons, and I shall not associate with any person who has a criminal record, or any other person whom my Agent has instructed me to avoid.
5. I shall work diligently at a lawful occupation. Further, I shall notify my Agent if I become unemployed.
6. I shall not violate any Federal, State, or Local Law, and I shall immediately contact my Agent if I am ever arrested or questioned by a law enforcement official for any reason whatsoever.
7. I shall pay a supervision fee as determined by the Department.
8. I shall not leave the State without permission from my Agent. Further, if I am ever arrested in another state for these conditions, I hereby irrevocably waive all extradition rights I may otherwise have been entitled to and agree to South Carolina when directed by my Agent, the Court or by a warrant.
9. I shall obey all conditions of supervision set forth in this order including the payment of fines, restitution, or other penalties and the service of any period of incarceration.
10. I shall follow the advice and instructions of my Agent and I agree to comply with any further conditions imposed by the Department or its Agents.

Other Conditions Continued:

Perform public service employment as directed by coordinator.

Obtain G. E. D.

Substance abuse counseling and random testing.

Mass. 01 Crack Local
Name of Offense
DOB [REDACTED]
SCDC# or DOB

-VS-
Eric Antonio Spratt
DEFENDANT

SID# 1236344

Whereas the above named defendant has been charged with violating the conditions of probation ordered on 9-22, 1998 in the Court of General Sessions of York County as set forth in the warrant or citation filed herein.

After hearing the evidence and being duly advised, I find the defendant has violated one or more of the conditions of supervision as set forth in the affidavit filed herein and dated 12-10, 1998 a copy of which is incorporated by reference.
4-7 49

☐ IT IS ORDERED that the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the _____ months/years sentence identified above, and/or pay \$ _____; the defendant is not to be reinstated on probation. This action is taken in the (presence/absence) of the defendant.

☒ IT IS ORDERED that the suspended sentence be revoked and the above named defendant be required to serve Six (6) months/years of the original 5 months/years sentence (and/or) pay \$ _____; thereupon to be reinstated on probation as provided in the sentence identified above and subject to the conditions set forth therein and not inconsistent with this order. This action is taken in the (presence/absence) of the defendant.

☐ IT IS ORDERED that the suspended sentence be revoked and the above named defendant be required to serve _____ months/years (and/or) pay \$ _____; the defendant is not to be reinstated on probation. This action is taken in the (presence/absence) of the defendant.

☐ The defendant has previously served _____ months/years on this sentence.

☐ IT IS ORDERED that the above named defendant is continued on probation as provided for in the sentence identified above and subject to the conditions set forth therein and no inconsistent with this order. This action is taken in the (presence/absence) of the defendant.

☒ Additional Conditions ordered by the Court:
Full Probation while incarcerated, reinstate on Probation after release from active time received this date on Indictment 99-6546-1028. Six month part revocation is to run concurrently with time 99-65-46-1028.

This 26 day of April, 1999
York, SC

DEFENDANT'S EXHIBIT Sm
2
5/25/07

Theresa W. [Signature]
16th, Presiding Judge
Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful special conditions it deems proper; or it may extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may, if it sees fit, impose any judgment and sentence it might have imposed in the first instance.

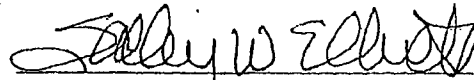
This is to certify that I have read or have had read to me the Order and the Conditions set out therein. I agree to comply with such conditions and the conditions of my probation order identified above during the period of my probation. I have received a copy of this court order and my sentence identified above.

Witnessed by: [Signature] Signed: Eric Spratt
Probationer

Signed this 26 day of April, 1999, at York, SC.

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.



SALLEY W. ELLIOTT
Assistant Deputy Attorney General
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3655

ATTORNEY FOR APPELLANT

June 25, 2008

RECEIVED

JUN 25 2008

SC Court of Appeals

RECEIVED

JUN 25 2008

SC Court of Appeals

RECEIVED

JUN 25 2008

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From York County
Honorable Clifton Newman, Circuit Court Judge

THE STATE,

Appellant,

vs.

ERIC SPRATT,

Respondent.

PROOF OF SERVICE

I, KATHY W. SCOTT, certify that I have served the within Record on Appeal on Respondent by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Wanda H. Carter, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
Post Office Box 11589
Columbia, South Carolina 29211

I further certify that all parties required by Rule to be served have been served.

This 25th day of June, 2008.



KATHY W. SCOTT
Administrative Assistant
Office of Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Appellant,

v.

Eric Spratt, Respondent.

Appeal From York County
Clifton Newman, Circuit Court Judge

Opinion No. 4534
Heard March 18, 2009 – Filed April 21, 2009

REVERSED AND REMANDED

Attorney General Henry Dargan McMaster,
Chief Deputy Attorney General John W.
McIntosh, Assistant Deputy Attorney General
Salley W. Elliott, all of Columbia, for
Appellant.

Deputy Chief Appellate Defender Wanda H.
Carter, of Columbia; and Solicitor Kevin Scott
Brackett, of York, for Respondent.

GOOLSBY, A.J.: The State appeals concurrent sentences imposed by the trial court on Eric Spratt following his convictions for trafficking in crack cocaine and for possession of marijuana. The State contends the trial court erred in not permitting an uncounseled 1998 guilty plea to possession of cocaine to be used for sentence enhancement without first determining whether Spratt waived his right to counsel at that time. We agree and remand.

The Sixth and Fourteenth Amendments to the United States Constitution prohibit a prior uncounseled conviction resulting in a sentence of imprisonment from being used to enhance the punishment for a subsequent conviction.[1] In State v. Payne, this court concluded the defendant bears the burden of proof when collaterally attacking a prior conviction the State seeks to use for sentence enhancement.[2] This court based its

decision, at least in part, on the presumption of regularity given to final judgments.[3] Once the State has proven the prior conviction, the defendant must prove it is constitutionally defective or otherwise invalid by a preponderance of the evidence.[4]

A prior uncounseled conviction is not constitutionally defective or invalid when the defendant knowingly, voluntarily, and intelligently waived his right to counsel.[5] Further, courts in other jurisdictions have held the trial court may consider prior uncounseled convictions as a basis for sentence enhancement when the defendant validly waived his right to counsel.[6]

Here, the trial court did not consider evidence concerning whether Spratt waived his right to counsel during his prior uncounseled guilty plea hearing. In fact, the trial court stated "the issue [is not] whether or not [Spratt waived] his right to counsel. . . . The question is whether or not an uncounseled guilty plea can be used for sentence enhancement purposes."

Accordingly, we reverse and remand this case to the trial court and direct the trial court to reevaluate Spratt's sentence after considering evidence regarding whether Spratt waived his right to counsel during his prior uncounseled guilty plea hearing.

REVERSED AND REMANDED.

PIEPER and LOCKEMY, JJ., concur.

[1] State v. Payne, 332 S.C. 266, 269, 504 S.E.2d 335, 336 (Ct. App. 1998) (citing Nichols v. U.S., 511 U.S. 738 (1994)).

[2] 332 S.C. at 272, 504 S.E.2d at 338.

[3] Id.

[4] Id.

[5] See State v. Brewer, 328 S.C. 117, 119, 492 S.E.2d 97, 98 (1997) ("It is well-established that an accused may waive the right to counsel and proceed pro se."); Faretta v. California, 422 U.S. 806, 818-21 (1975) (holding a defendant has a constitutional right to waive his right to counsel).

[6] See State v. Jackson, 57 F.3d 1012, 1019 (11th Cir. 1995) (stating convictions obtained after a defendant knowingly, intelligently, and voluntarily waived his right to counsel are not presumptively void and holding the district court did not err in considering Jackson's prior uncounseled conviction as a basis for sentence enhancement because Jackson knowingly, intelligently, and voluntarily waived his right to counsel); State v. Windle, 74 F.3d 997, 1001 (10th Cir. 1996) (holding the district court properly included three prior uncounseled misdemeanor convictions resulting in imprisonment in its sentencing determination when evidence established the defendant waived his right to counsel for each of the prior convictions); Garcia v. State, 909 S.W.2d 563, 566 (TX App.

1995) (upholding Garcia's felony DWI conviction enhanced by four prior misdemeanor DWI convictions when Garcia failed to meet his burden of proving he did not waive his right to counsel for each of the prior convictions).

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

The State, Respondent,

v.

Eric Spratt, Petitioner.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal From York County
Clifton Newman, Circuit Court Judge

Memorandum Opinion No. 2011-MO-005
Heard January 19, 2011 – Filed January 31, 2011

DISMISSED AS IMPROVIDENTLY GRANTED

Deputy Chief Appellate Defender Wanda H. Carter, South Carolina Commission on Indigent Defense, of Columbia, for Petitioner.

Attorney General Alan Wilson; Chief Deputy Attorney General John W. McIntosh; Assistant Deputy Attorney General Salley W. Elliott, Office of the Attorney General, of Columbia, Kevin Scott Brackett, 16th Circuit Solicitor's Office, of York, for Respondent.

PER CURIAM: We granted a writ of certiorari to review the decision of the court of appeals reversing the order of the circuit court and remanding for further proceedings. We now dismiss the writ as improvidently granted.

DISMISSED AS IMPROVIDENTLY GRANTED

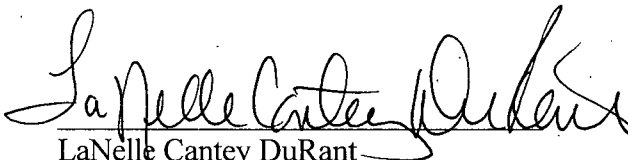
TOAL, C.J., PLEICONES, BEATTY, KITTREDGE and HEARN, JJ., concur.

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CERTIFICATE OF COUNSEL FOR APPELLANT

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

September 14th, 2012



LaNelle Cantey DuRant
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

 ORIGINAL

Appeal from York County

Lee S. Alford, Circuit Court Judge

THE STATE,

RESPONDENT,

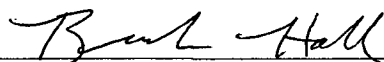
V.

ERIC SPRATT,

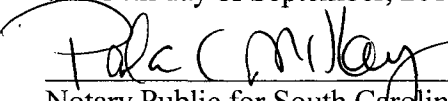
APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 14th day of September, 2012.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 14th day of September, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: July 24, 2022.

RECEIVED

SEP 14 2012

SC Court of Appeals