

ARREST WARRANT

2021A1010200244

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

THE STATE

against

Kenneth Bernard Brown

Address:

Phone: [redacted] SSN: [redacted] Sex: [redacted] Race: [redacted] Height: [redacted] Weight: [redacted] DL State: SC DL #: [redacted] DOB: [redacted] Agency ORI #: SC0100100

Prosecuting Agency: Charleston City Police Department

Prosecuting Officer: Benjamin L Hartung - S00216

Offense: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

Offense Code: 3014 Code/Ordinance Sec: 44-53-0375(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant Kenneth Bernard Brown on 1/15/2021

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Bond Court 3831 Leeds Avenue, Suite 200 North Charleston, SC 29405

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

Personally appeared before me the affiant Benjamin L Hartung who being duly sworn deposes and says that defendant Kenneth Bernard Brown did within this county and state on or about 10/20/2020 violate the criminal laws of the State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Charleston) in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

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

See Attached Affidavit

Signature of Affiant

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

Affiant's Address 180 Lockwood Blvd.

Charleston, SC 29403-

Affiant's Telephone

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 that

on or about 10/20/2020 defendant Kenneth Bernard Brown

did violate the criminal laws of the State of South Carolina (or ordinance of

[X] County/ [ ] Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

Having found probable cause and the above affiant having sworn before me, 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 Sworn to and subscribed before me

on 1/13/2021

Signature of Issuing Judge

James Benjamin Gosnell Jr.

Judge Code: 5904

(L.S.)

Judge's Address 3831 Leeds Avenue, Ste 100

North Charleston, SC 29405-

Judge's Telephone (843)745-2390

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL

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ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

ORIGINAL

JAN 15 16:23

OFFICER INITIALS

NOIC INITIALS

RECEIVED

OCT 04 2021

SC Court of Appeals

BAIL set by

Judge

Kennedy

on

1/16/21

Type and Amount:

\$25,000<sup>00</sup>/5

Name of Surety:

**PRELIMINARY HEARING held by**

Judge

on

Defendant Attorney:

Decision:

**DISPOSITION before**

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

**JURORS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WITNESSES**

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

**CODEFENDANTS**

\_\_\_\_\_  
\_\_\_\_\_



FILED  
2021 JAN 20 AM 11:08  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, B. Hartung, who first being duly sworn deposed and says that, Kenneth Bernard Brown, did within this county and state on the October 20, 2020 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Distribution of Cocaine Base
44-53-375

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

That on October 20th 2020 at approximately 1415 hours, while in the area of [redacted] 29403, which is located in the City and County of Charleston, the above named defendant, (Kenneth Bernard Brown), did knowingly, willingly, and unlawfully violate South Carolina Statute (44-53-375), Distribution of Cocaine Base, in the following manner:

That on the above date, time, and location, the Defendant did conspire and distribute approximately .20 grams of a white in color substance consistent with that of cocaine base to a confidential informant (19N28) working under the direction and control of the Charleston Police Department Narcotics Unit in exchange for a sum of pre-recorded US Currency taken from the Official Narcotics Fund. The CI was equipped with an audio / video recording device and the entire transaction was recorded. The substance tested positive for Cocaine base by the CPD Forensic Lab on October 26th 2020. The defendant was positively identified by Det. August due to a clear picture of his face on surveillance footage during the buy. Det. August is familiar with the defendant due to previous interactions on the East Side area of Charleston.

The above information is true and believable based on the observation and investigation of Det. Hartung of the City of Charleston Police Department.

JAN 15 16:23
OFFICER INITIALS
NCIC INITIALS

ORIGINAL

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 12 DAY OF January 2021

[Signature]

AFFIANT
180 Lockwood Blvd.
Charleston, SC 29403
843-577-7434

[Signature] (L.S.)
SIGNATURE OF JUDGE

RECEIVED
OCT 04 2021
SC Court of Appeals

COMPLAINT # 20-13186
WARRANT # 2021A1010200244
INVESTIGATING OFFICER: B. Hartung

SBL/0375451  
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2020-13186

ARREST WARRANT NUMBER

2021A1010200244

DATE OF ARREST

01/16/2021

ACTION OF GRAND JURY

*Foreperson of Grand Jury*  
Date:

VERDICT

DOCKET NO. 2021-GS-10-04137

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

SEPTEMBER 2021 TERM

THE STATE

VS.

KENNETH BERNARD BROWN

~~W. 203 01/26/21~~

Indictment for

DISTRIBUTION COCAINE BASE

SC Code: § 44-53-0375(B)(3)

CDR Code: 3039

RECEIVED

OCT 04 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened September 2021, the Grand Jurors of Charleston County present upon their oath:

**DISTRIBUTION OF CRACK COCAINE**

The defendant, Kenneth Bernard Brown, did on or about October 20, 2020, in Charleston County, South Carolina, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase Cocaine Base. All in violation of 44-53-0375(B)(3) of the South Carolina Code of Laws (1976) as amended.

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

  
STEPHANIE B. LINDER  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
STATE

**FILED**

2021 SEP 27 PM 2:55

JULIE J. ARMSTRONG  
CLERK OF COURT

BY RE

IN THE COURT OF GENERAL SESSIONS

KENNETH BERNARD BROWN  
AKA: Keneth B Brown, Numsey Nickname  
Race: Black/African Sex: [ ] Age: [ ]  
DOB: [ ] SS#: [ ]  
Address: [ ]  
City, State, Zip: [ ]  
DL#\* [ ] SID# [ ]

INDICTMENT/CASE#: 2021-GS-10-04137

A/W#: 2021A1010200244

Date of Offense: 10/20/2020

S.C. Code §: 44-53-0375(B)(1)

CDR Code #: 3014

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the above indictment comes now the Defendant who was  CONVICTED OF  PLEADS

TO: Distribution Cocaine Base-3<sup>rd</sup> (10-30 yrs)

In violation of § 44-53-0375(B)(3) of the S.C. Code of Laws, bearing CDR Code # 3039

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory  App 9A-545  
(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

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

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence, 15 YEARS  Recommendation by the State.

ATTEST:

Stephanie B. Linder 72656  
Stephanie B. Linder, Assistant SC Bar #  
Solicitor

[Signature]  
Defendant

[Signature] 104415  
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Correction  County Detention Center,

for a determinate term of 15 days/months/years/Time Served  Youthful Offender Act not to exceed \_\_\_ years

and/or to pay a fine of \$ \_\_\_; provided that upon the service of \_\_\_ days/months/years/Time Served 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 sentence shall run  CONCURRENT or  CONSECUTIVE to sentence on: 9-23-2021

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

**RECEIVED**  
OCT 04 2021  
SC Court of Appeals

STATE KENNETH  
VS. BERNARD BROWN

INDICTMENT/CASE#: 2021-GS-10-04137

**SPECIAL CONDITIONS:**

PTUP after \_\_\_\_\_ months/years

**And Other Terms Listed Below:**

- Substance Abuse Counseling       Completion of GED       Random Drug/Alcohol Testing  
 Attend Voc. Rehab. Or Job Corp       No Contact with Victim       Domestic Violence Intervention Program  
 Mental Health Counseling       May serve W/E beginning: \_\_\_\_\_  
 Sex Offender Registry pursuant to S.C. Code § 23-3-430       Public Service Employment \_\_\_\_\_ days/hours  
 Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: Will report at 12 pm on 10-6-2021 to Al Cannon Detention Center. Judge to report will vacate sentence and a bench warrant issued. Will wear an ankle monitor until he reports to Al Cannon Detention Center.

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered

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

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

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

*Fine:		\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning _____
§14-1-206 (Assessments 107.5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ 8.25
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
<b>TOTAL</b>		\$ 283.25

Clerk of Court/Deputy Clerk: J. Gibson  
Court Reporter: Natalie Williams

Presiding Judge: [Signature]  
Judge Code: 2112  
Sentence Date: 9-23-2021

ARREST WARRANT

2019A1010204903

STATE OF SOUTH CAROLINA

County/  Municipality of

Charleston

THE STATE

against

Kenneth Bernard Brown

Address:

Phone: SSN:

Sex: Race: Height: Weight:

DL State: SC DL #:

DOB: Agency ORI #: SC0100800

Prosecuting Agency: North Charleston Police Department

Prosecuting Officer: Kevin R Whitfield - S00580

Offense: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

Offense Code: 3014

Code/Ordinance Sec: 44-53-0375(B)(1)

This warrant is CERTIFIED FOR SERVICE in the

County/  Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: 6/11/2020

RETURN

A copy of this arrest warrant was delivered to

defendant Kenneth Bernard Brown on June 11, 2020

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions  
Charleston County Judicial Center  
100 Broad Street, Suite 106  
Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/  Municipality of

Charleston

Personally appeared before me the affiant Kevin R Whitfield

being duly sworn deposes and says that defendant Kenneth Bernard Brown

did within this county and state on or about 7/18/2019

violate the criminal laws of the

State of South Carolina (or ordinance of  County/  Municipality of Charleston

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

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

Signature of Affiant

STATE OF SOUTH CAROLINA

County/  Municipality of

Charleston

Affiant's Address 2500 City Hall Lane

North Charleston, SC 29406-

Affiant's Telephone

RECEIVED

OCT 04 2021

SC Court of Appeals

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 that

on or about 7/18/2019

defendant Kenneth Bernard Brown

did violate the criminal laws of the State of South Carolina (or ordinance of

County/  Municipality of Charleston

) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

Having found probable cause and the above affiant having sworn before me, 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

Sworn to and subscribed before me

on 9/12/2019

Judge's Address

North Charleston, SC 29405-

Judge's Telephone (843)746-9822

Signature of Issuing Judge

John C. Whitney

Judge Code: 7391

Issuing Court

Magistrate

Municipal

Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

Judge Lawrence D. Becker  
on 6/11/2020  
Type and Amount: \$10,000/S  
Name of Surety: \_\_\_\_\_

PRELIMINARY HEARING held by

Judge \_\_\_\_\_  
on \_\_\_\_\_  
Defendant Attorney: \_\_\_\_\_  
Decision: \_\_\_\_\_

DISPOSITION before

Judge \_\_\_\_\_  
on \_\_\_\_\_  
by \_\_\_\_\_  
(indicate jury trial, bench trial, plea, nol. pros., etc.)  
Disposition: \_\_\_\_\_  
Sentence: \_\_\_\_\_

JURORS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WITNESSES

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Name: \_\_\_\_\_  
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Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

CODEFENDANTS

\_\_\_\_\_  
\_\_\_\_\_



FILED  
2020 JUN 15 PM 2:28  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON  
CITY OF NORTH CHARLESTON

AFFIDAVIT  
OCA: 2019021243  
INV:K. Whitfield

Personally appeared before me, a magistrate of this County, one \_\_\_\_\_ who first being duly sworn, deposes and says that (name of the defendant)

**KENNETH B BROWN**

did within this County and State on the 18<sup>th</sup>, day of July 2019, violate the criminal laws of the State of South Carolina in the following particulars:

**DESCRIPTION OF OFFENSE**  
**DISTRIBUTION OF COCAINE BASE "CRACK"**  
**44-53-375**

The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

That on July 18<sup>th</sup>, 2019, at approximately 7:42 PM, while at \_\_\_\_\_, located in the City of North Charleston, County of Charleston, and State of South Carolina. The defendant, one **KENNETH B BROWN** did commit the offense of **Distribution of Cocaine Base "Crack"** in violation of section 44-53-375 of the South Carolina Code of Laws of 1976, as amended.

Facts to establish the aforesaid are that the defendant did deliver and distribute approximately .3 grams of a off white rock like substance to a confidential informant in exchange for pre-recorded U.S currency under controlled conditions, which were monitored by both undercover detectives and recorded by audio/video equipment. The substance field tested positive for cocaine content. Detectives K. Whitfield and J. Kutski are witnesses to prove the same. All against the form of the State Statute and against the peace and dignity of the State of South Carolina.

Sworn to and Subscribed before me  
this 17 day of Sept.  
2019.

\_\_\_\_\_  
Signature of Judge 

  
\_\_\_\_\_  
(AFFIANT)

Address: 2500 City Hall Lane  
North Charleston, SC 29406  
Phone: 843-554-5700

**RECEIVED**

OCT 04 2021

**SC Court of Appeals**

SBL/0368888  
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2019-021243

ARREST WARRANT NUMBER

2019A1010204903

DATE OF ARREST

06/11/2020

ACTION OF GRAND JURY

*Foreperson of Grand Jury*  
Date:

VERDICT

DOCKET NO. 2021-GS-10-04138

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

SEPTEMBER 2021 TERM

THE STATE

VS.

KENNETH BERNARD BROWN

~~2019-021243~~

Indictment for

DISTRIBUTION COCAINE BASE

SC Code: § 44-53-0375(B)(3)

CDR Code: 3039

RECEIVED

OCT 04 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened September 2021, the Grand Jurors of Charleston County present upon their oath:

**DISTRIBUTION OF CRACK COCAINE**

The defendant, Kenneth Bernard Brown, did on or about July 18, 2019, in Charleston County, South Carolina, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase Cocaine Base. All in violation of 44-53-0375(B)(3) of the South Carolina Code of Laws (1976) as amended.

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

  
for **STEPHANIE B. LINDER**  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE

VS.

FILED

2021 SEP 27 PM 2:56

JULIE J. ARMSTRONG  
CLERK OF COURT

INDICTMENT/CASE#: 2021-GS-10-04138

AKA: Keneth B Brown, Numsey Nickname

Race: Black/African Sex: [redacted] Age: [redacted]

DOB: [redacted] SS#: [redacted]

Address: [redacted]  
City, State, Zip: [redacted]

DL#\* [redacted] SID# [redacted]

AW#: 2019A1010204903

Date of Offense: 07/18/2019

S.C. Code §: 44-53-0375(B)(1)

CDR Code #: 3014

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the above indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Distribution Cocaine Base-3<sup>rd</sup>

In violation of § 44-53-0375(B)(3) of the S.C. Code of Laws, bearing CDR Code # 3039

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  § 17-25-45  
(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

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

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence, 15 YEARS  Recommendation by the State.

ATTEST:  
Stephanie B. Linder 72656 SC Bar # 104415  
Solicitor Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Correction  County Detention Center,

for a determinate term of 15 days/months/years/Time Served  Youthful Offender Act not to exceed \_\_\_ years.

and/or to pay a fine of \$\_\_\_; provided that upon the service of \_\_\_ days/months/years/Time Served 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 sentence shall run  CONCURRENT or  CONSECUTIVE to sentence on: 9-23-21

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. 25 days/months

To include time spent on monitored house arrest prior to trial and sentencing.  
 The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

RECEIVED

OCT 04 2021

SC Court of Appeals

STATE KENNETH  
VS. BERNARD BROWN

INDICTMENT/CASE#: 2021-GS-10-04138

**SPECIAL CONDITIONS:**

PTUP after \_\_\_\_\_ months/years

**And Other Terms Listed Below:**

- Substance Abuse Counseling     Completion of GED     Random Drug/Alcohol Testing  
 Attend Voc. Rehab. Or Job Corp     No Contact with Victim     Domestic Violence Intervention Program  
 Mental Health Counseling     May serve W/E beginning: \_\_\_\_\_  
 Sex Offender Registry pursuant to S.C. Code § 23-3-430     Public Service Employment \_\_\_\_\_ days/hours  
 Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: Must wear ankle monitor until 12 pm on Oct 6, 2021 when he will report to Al Cannon Detention Center. If he fails to report, the Court's sentence will be vacated and a bench warrant issued.

RESTITUTION:     Deferred     Def. Waives Hearing     Ordered

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

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

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

*Fine:	\$	Beginning	\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$		
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150		\$ 150.00
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114 (BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$
3% to County (if paid in installments)	TBD		\$ 8.25
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$
<b>TOTAL</b>			<b>\$ 283.25</b>

Presiding Judge: *Diana Hodake*  
Judge Code: 2112  
Sentence Date: 9-23-2021

Clerk of Court/Deputy Clerk: *J. Gibson*  
Court Reporter: *Natalie Williams*

ARREST WARRANT

2019A1010900409

STATE OF SOUTH CAROLINA

County/  Municipality of

Charleston

THE STATE  
against

Kenneth Bernard Brown

Address: [REDACTED]

[REDACTED]

Phone: [REDACTED] SSN: [REDACTED]

Sex: [REDACTED] Race: [REDACTED] Height: [REDACTED] Weight: [REDACTED]

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0100100

Prosecuting Agency: Charleston City Police Department

Prosecuting Officer: Louis A Stewart - S00573

Offense: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

Offense Code: 3014

Code/Ordinance Sec: 44-53-0375(B)(1)

This warrant is CERTIFIED FOR SERVICE in the  County/  Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: \_\_\_\_\_

RETURN

A copy of this arrest warrant was delivered to defendant Kenneth Bernard Brown on 9/7, 3, 2020.

[Signature] Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions  
Charleston County Judicial Center  
100 Broad Street, Suite 106  
Charleston, SC 29401

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

County/  Municipality of

Charleston

Personally appeared before me the affiant Louis A Stewart who

being duly sworn deposes and says that defendant Kenneth Bernard Brown

did within this county and state on or about 12/12/2018 violate the criminal laws of the

State of South Carolina (or ordinance of  County/  Municipality of Charleston )

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

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

See Attached Affidavit

Signature of Affiant

[Signature]

STATE OF SOUTH CAROLINA

County/  Municipality of

Charleston

Affiant's Address 180 Lockwood Blvd.

Charleston, SC 29403

Affiant's Telephone \_\_\_\_\_

RECEIVED

OCT 04 2021

SC Court of Appeals

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 that

on or about 12/12/2018 defendant Kenneth Bernard Brown

did violate the criminal laws of the State of South Carolina (or ordinance of

County/  Municipality of Charleston ) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

Having found probable cause and the above affiant having sworn before me, 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

Sworn to and subscribed before me

on 12/31/2019

[Signature] (L.S.)

Signature of Issuing Judge  
Ellen Soffar Steinberg

Judge Code: 7280

Judge's Address 1720 Sam Rittenberg Blvd, Unit 11

Charleston, SC 29417-

Judge's Telephone (843)-76-6-65 x 31

Issuing Court:  Magistrate  Municipal  Circuit

ORIGINAL

ORIGINAL

ORIGINAL

BAIL set by

Judge Kennedy  
on 1/4/20  
Type and Amount: \$ 25,000 = / S  
Name of Surety: \_\_\_\_\_

**PRELIMINARY HEARING held by**

Judge \_\_\_\_\_  
on \_\_\_\_\_  
Defendant Attorney: \_\_\_\_\_  
Decision: \_\_\_\_\_

**DISPOSITION before**

Judge \_\_\_\_\_  
on \_\_\_\_\_  
by \_\_\_\_\_  
(indicate jury trial, bench trial, plea, nol. pros., etc.)  
Disposition: \_\_\_\_\_  
Sentence: \_\_\_\_\_

**JURORS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WITNESSES**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

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Telephone: \_\_\_\_\_

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Telephone: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**CODEFENDANTS**

\_\_\_\_\_  
\_\_\_\_\_



RY \_\_\_\_\_  
JULIE J. ARMSTRONG  
CLERK OF COURT  
2020 JAN -9 AM 11:32

**FILED**

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, Det. Stewart, who first being duly sworn deposed and says that, KENNETH BERNARD BROWN, did within this county and state on the 12 DEC 2018 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Distribution of Cocaine Base (44-53-375)

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

That on 12 DEC 2018 at approximately 1245 hours, while in the area of [REDACTED] SC 29403, which is located in the City and County of Charleston, the above named defendant, (KENNETH BERNARD BROWN), did knowingly, willingly, and unlawfully violate South Carolina Statute (44-53-375), Distribution of Cocaine Base, in the following manner:

That on the above date, time, and location, the Defendant did conspire and distribute approximately .12 grams of a white in color rock like substance consistent with that of cocaine base to a confidential informant (CI# 18N41). This CI was working under the direction and control of the Charleston Police Department Narcotics Unit. The defendant sold the cocaine base in exchange for a sum of pre-recorded US Currency taken from the Official Narcotics Fund. The CI was equipped with an audio / video recording device and the entire transaction was recorded. The substance was confirmed to be cocaine base by the CPD Forensic Lab. The defendant was positively identified due to a clear picture of him during the controlled transaction.

The above information is true and believable based on the observation and investigation of Det. Stewart of the City of Charleston Police Department.

RECEIVED

OCT 04 2021

SC Court of Appeals

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 31 DAY OF December 2019

*Det. Stewart*

AFFIANT

180 Lockwood Blvd. Charleston, SC 29403 843-577-7434

*Ellen S. Stevely* (L.S.)  
SIGNATURE OF JUDGE

COMPLAINT # 18-18496

WARRANT # 2019A1010900409

INVESTIGATING OFFICER: Det. Stewart

CPD Form OT3

SBL/0363829  
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2018-18496

ARREST WARRANT NUMBER

2019A1010900409

DATE OF ARREST

01/04/2020

ACTION OF GRAND JURY

*Foreperson of Grand Jury*  
Date:

VERDICT

DOCKET NO. 2021-GS-10-04139

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

SEPTEMBER 2021 TERM

THE STATE

VS.

KENNETH BERNARD BROWN  
~~XXXXXXXXXXXXXXXXXXXX~~

Indictment for

DISTRIBUTION COCAINE BASE

SC Code: § 44-53-0375(B)(3)

CDR Code: 3039

RECEIVED

OCT 04 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF CHARLESTON

At a Court of General Sessions, convened September 2021, the Grand Jurors of Charleston County present upon their oath:

**DISTRIBUTION OF CRACK COCAINE**

The defendant, Kenneth Bernard Brown, did on or about December 12, 2018, in Charleston County, South Carolina, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase Cocaine Base. All in violation of 44-53-0375(B)(3) of the South Carolina Code of Laws (1976) as amended.

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

  
**STEPHANIE B. LINDER**  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE

VS.

KENNETH BERNARD BROWN

AKA: Keneth B Brown, Nurnsey Nickname

Race: Black/African

Sex: [redacted]

Age: [redacted]

DOB: [redacted]

SS#: [redacted]

Address: [redacted]

City, State, Zip: [redacted]

DL#\* [redacted]

SID# [redacted]

**FILED**

2021 SEP 27 PM 2:56

JULIE J. ARMSTRONG  
CLERK OF COURT

BY [signature]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021-GS-10-04139

A/W#: 2019A1010900409

Date of Offense: 12/12/2018

S.C. Code §: 44-53-0375(B)(1)

CDR Code #: 3014

**SENTENCE SHEET**

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the above indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Distribution Cocaine Base-3rd

In violation of § 44-53-0375(B)(3) of the S.C. Code of Laws, bearing CDR Code # 3039

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  § 17-25-45  
(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

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

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence, 15 YEARS  Recommendation by the State.

ATTEST:

[signature]  
Stephanie B. Linder, Assistant Solicitor  
72656 SC Bar #

[signature]  
Defendant

[signature]  
Attorney for Defendant  
104415 SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Correction  County Detention Center,

for a determinate term of 15 days/months/years/Time Served  Youthful Offender Act not to exceed \_\_\_ years

and/or to pay a fine of \$\_\_\_; provided that upon the service of \_\_\_ days/months/years/Time Served 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.

**RECEIVED**

OCT 04 2021

9-23-2021

**SC Court of Appeals**

The sentence shall run  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 SCDOC. 25 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE KENNETH  
VS. BERNARD BROWN

INDICTMENT/CASE#: 2021-GS-10-04139

**SPECIAL CONDITIONS:**

PTUP after \_\_\_\_\_ months/years

**And Other Terms Listed Below:**

- Substance Abuse Counseling       Completion of GED       Random Drug/Alcohol Testing  
 Attend Voc. Rehab. Or Job Corp       No Contact with Victim       Domestic Violence Intervention Program  
 Mental Health Counseling       May serve W/E beginning: \_\_\_\_\_  
 Sex Offender Registry pursuant to S.C. Code § 23-3-430       Public Service Employment \_\_\_\_\_ days/hours  
 Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: Must wear ankle monitor until 12 pm on October 6, 2021 when he will report to Al Cannon Detention Center. If he fails to report, the courts sentence will be vacated and a bench warrant issued.

RESTITUTION:     Deferred     Def. Waives Hearing     Ordered

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

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

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

*Fine:	\$	Beginning	\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$		
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100		\$
§56-5-2995 (DUI Assessment)	\$12		\$
§56-1-286 (DUI Breath Test)	\$25		\$
§14-1-212 (Law Enforce. Funding)	\$25		\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150		\$ 150.00
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41		\$
§50-21-114 (BUI Breath Test Fee)	\$50		\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea		\$
3% to County (if paid in installments)	TBD		\$ 8.25
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500		\$
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD		\$
<b>TOTAL-</b>			<b>\$283.25</b>

Clerk of Court/Deputy Clerk: F. Gibson  
Court Reporter: Natalie Williams

Presiding Judge: [Signature]  
Judge Code: 2112  
Sentence Date: 9-23-2021

ARREST WARRANT

2018A1010900449

STATE OF SOUTH CAROLINA

County/  Municipality of

Charleston

THE STATE  
against

Kenneth Bernard Brown

Address: [REDACTED]

Phone: [REDACTED] SSN: [REDACTED]  
Sex: [REDACTED] Race: [REDACTED] Height: [REDACTED] Weight: [REDACTED]

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0100100

Prosecuting Agency: Charleston City Police Department

Prosecuting Officer: Joshua Z Razumich - S00574

Offense: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

Offense Code: 3014

Code/Ordinance Sec: 44-53-0375(B)(1)

This warrant is CERTIFIED FOR SERVICE in the  
 County/  Municipality of

The accused  
is to be arrested and brought before me to be  
dealt with according to the law.

(L.S.)

Signature of Judge

Date: \_\_\_\_\_

RETURN

A copy of this arrest warrant was delivered to  
defendant Kenneth Brown  
on \_\_\_\_\_

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions  
Charleston County Judicial Center  
100 Broad Street, Suite 106  
Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA )

County/  Municipality of )

Charleston )

Personally appeared before me the affiant Joshua Z Razumich who

being duly sworn deposes and says that defendant Kenneth Bernard Brown

did within this county and state on or about 11/14/2018 violate the criminal laws of the

State of South Carolina (or ordinance of  County/  Municipality of Charleston)

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

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

See Attached Affidavit

Signature of Affiant

STATE OF SOUTH CAROLINA )

County/  Municipality of )

Charleston )

Affiant's Address 180 Lockwood Blvd.

Charleston, SC 29403-

Affiant's Telephone \_\_\_\_\_

ORIGINAL  
RECEIVED  
OCT 04 2021  
SC Court of Appeals

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 that

on or about 11/14/2018 defendant Kenneth Bernard Brown

did violate the criminal laws of the State of South Carolina (or ordinance of

County/  Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Manufacture, distribution, etc. of cocaine base, 1st

Having found probable cause and the above affiant having sworn before me, 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  
Sworn to and subscribed before me

on 12/17/2018

Signature of Issuing Judge Ellen S. Steinberg (L.S.) )  
Judge's Address 1720 Sam Rittenberg Blvd, Unit 11  
Charleston, SC 29417-

Judge's Telephone (843)-76-6-65 x 31

Issuing Court:  Magistrate  Municipal  Circuit

Judge Code: 7280

ORIGINAL

ORIGINAL

ORIGINAL

Form Approved by  
S.C. Attorney General  
April 21, 2003  
SCCA 518

BAIL set by  
Priscilla B. Baldwin

Judge \_\_\_\_\_  
on 1-11-19  
Type and Amount: \$50,000  
Name of Surety: \_\_\_\_\_

**PRELIMINARY HEARING held by**

Judge \_\_\_\_\_  
on \_\_\_\_\_  
Defendant Attorney: \_\_\_\_\_  
Decision: \_\_\_\_\_

**DISPOSITION before**

Judge \_\_\_\_\_  
on \_\_\_\_\_  
by \_\_\_\_\_  
(indicate jury trial, bench trial, plea, noi. pros., etc.)  
Disposition: \_\_\_\_\_  
Sentence: \_\_\_\_\_

**JURORS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**WITNESSES**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Name: \_\_\_\_\_  
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Telephone: \_\_\_\_\_  
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Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**CODEFENDANTS**

\_\_\_\_\_  
\_\_\_\_\_



FILED  
2019 JAN 16 PM 12:21  
CLERK OF COURT

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON



Personally appear before me, a magistrate of this county one, Razumich, who first being duly sworn deposed and says that, Kenneth Bernard Brown, did within this county and state on the November 14, 2018 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Distribution of Cocaine Base  
44-53-375

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

That on November 14, 2018 at approximately 1441 hours, while in the area of [redacted] Charleston SC 29403, which is located in the City and County of Charleston, the above named defendant, (Kenneth Bernard Brown), did knowingly, willingly, and unlawfully violate South Carolina Statute (44-53-375), Distribution of Cocaine Base, in the following manner:

That on the above date, time, and location, the Defendant did conspire and distribute approximately .37 grams of an white in color substance consistent with that of cocaine base to an undercover officer working under the direction and control of the Charleston Police Department Narcotics Unit in exchange for a sum of pre-recorded US Currency taken from the Official Narcotics Fund. The UC was equipped with an audio / video recording device and the entire transaction was recorded. The substance field tested presumptive for Cocaine base by, Det. Razumich and the CPD Forensic Lab. Det. Razumich was able to positively identify the defendant through a DMV photograph. The undercover officer was also able to identify the defendant through the DMV photograph.

The above information is true and believable based on the observation and investigation of Det. Razumich of the City of Charleston Police Department..

JAN 10 1:53 PM

NCIC INITIALS BS

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 17 DAY OF December 2018

[Signature] OFFICER INITIALS  
AFFIANT

180 Lockwood Blvd.  
Charleston, SC 29403  
843-577-7434

RECEIVED

OCT 04 2021

SC Court of Appeals

[Signature] (L.S.)  
SIGNATURE OF JUDGE

COMPLAINT # 18-17032

WARRANT #

INVESTIGATING OFFICER: Razumich

CPD Form OT3

SBL/0351617  
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2018-17032

ARREST WARRANT NUMBER

2018A1010900449

DATE OF ARREST

01/10/2019

ACTION OF GRAND JURY

**TRUE BILL**

*[Signature]*  
Foreperson of Grand Jury  
Date: APR 01 2019

VERDICT

DOCKET NO. 2019-GS-10-01945

The State of South Carolina  
County of Charleston

COURT OF GENERAL SESSIONS  
APRIL TERM 2019

THE STATE

VS.

KENNETH BERNARD BROWN  
~~01/10/2019~~

Indictment for

DISTRIBUTION COCAINE BASE

SC Code: § 44-53-0375(B)(3)  
CDR Code: 3039

**FILED**

4/18/2019 9:49:00 AM  
JULIE J. ARMSTRONG  
CLERK OF COURT

**RECEIVED**

OCT 04 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

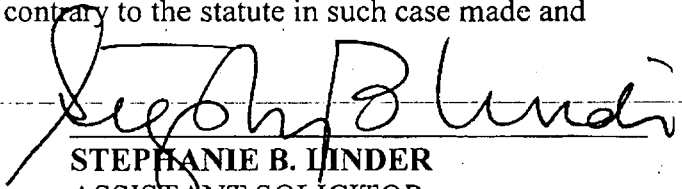
INDICTMENT

At a Court of General Sessions, convened April 2019, the Grand Jurors of Charleston County present upon their oath:

**DISTRIBUTION COCAINE BASE CRACK**

The defendant, Kenneth Bernard Brown, did on or about November 14, 2018, in Charleston County, South Carolina, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase Crack Cocaine, a cocaine base,. All in violation of 44-53-0375(B)(3) of the South Carolina Code of Laws (1976) as amended.

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

  
**STEPHANIE B. LINDER**  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE

VS.

KENNETH BERNARD BROWN

AKA: Keneth B Brown, Numsey Nickname

Race: Black/African

Sex: [redacted]

Age: [redacted]

DOB: [redacted]

SS#: [redacted]

Address: [redacted]

City, State, Zip: [redacted]

DL#\* [redacted]

SID# [redacted]

**FILED**

2021 SEP 27 PM 2:54

JULIE J. ARMSTRONG  
CLERK OF COURT

BY TC

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019-GS-10-01945

AW#: 2018A1010900449

Date of Offense: 11/14/2018

S.C. Code §: 44-53-0375(B)(1)

CDR Code #: 3014

**SENTENCE SHEET**

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the above indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Distribution cocaine base-3rd

In violation of § 44-53-0375(B)(2) of the S.C. Code of Laws, bearing CDR Code # 3015

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  § 17-25-45  
(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

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

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence, 15 YEARS  Recommendation by the State.

ATTEST:

Stephanie B. Linder 72656  
Stephanie B. Linder, Assistant Solibitor SC Bar #

K B  
Defendant

Angela Rae Hamka 104415  
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Correction  County Detention Center,

for a determinate term of 15 days/months/years/Time Served  Youthful Offender Act not to exceed \_\_\_ years

and/or to pay a fine of \$\_\_\_; provided that upon the service of \_\_\_ days/months/years/Time Served 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.

**RECEIVED**

OCT 04 2021

**SC Court of Appeals**

The sentence shall run  CONCURRENT or  CONSECUTIVE to sentence on: 9-23-2021

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.

25 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE KENNETH  
VS. BERNARD BROWN

INDICTMENT/CASE#: 2019-GS-10-01945

**SPECIAL CONDITIONS:**

PTUP after \_\_\_\_\_ months/years

**And Other Terms Listed Below:**

- Substance Abuse Counseling
- Completion of GED
- Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp
- No Contact with Victim
- Domestic Violence Intervention Program
- Mental Health Counseling
- May serve W/E beginning: \_\_\_\_\_
- Sex Offender Registry pursuant to S.C. Code § 23-3-430
- Public Service Employment \_\_\_\_\_ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: must wear ankle monitor until 12 pm on Oct. 6, 2021 when he will report to all Cannon Detention Center. If he fails to report the court's sentence will be violated and a bench warrant issued.

RESTITUTION:  Deferred  Def. Waives Hearing  Ordered

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

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

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

*Fine:		\$ _____
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	Beginning _____
§14-1-206 (Assessments 107.5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ <u>150.00</u>
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ <u>8.25</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
	<b>TOTAL</b>	\$ <u>283.25</u>

Presiding Judge: Doire [Signature]  
Judge Code: 2112  
Sentence Date: 9.23.2021

Clerk of Court/Deputy Clerk: E. Gibson  
Court Reporter: Natalie Williams

ARREST WARRANT

2018A1011300030

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

THE STATE against

Kenneth Bernard Brown

Address: [REDACTED]

Phone: [REDACTED] SSN: [REDACTED]

Sex: [REDACTED] Race: [REDACTED] Height: [REDACTED] Weight: [REDACTED]

DL State: [REDACTED] DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0100100

Prosecuting Agency: Charleston City Police Department

Prosecuting Officer: S L Williams - 1612

Offense: Drugs / Trafficking in ice, crank or crack - 10 g or more, but less than 28 g - 1st offense

Offense Code: 0450

Code/Ordinance Sec: 44-53-0375(C)(1)

This warrant is CERTIFIED FOR SERVICE in the

[ ] County/ [ ] Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date: \_\_\_\_\_

RETURN

A copy of this arrest warrant was delivered to defendant Kenneth Brown on 08/17/2018

[Signature] Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions Charleston County Judicial Center 100 Broad Street, Suite 106 Charleston, SC 29401

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

Personally appeared before me the affiant S L Williams who

being duly sworn deposes and says that defendant Kenneth Bernard Brown

did within this county and state on or about 5/23/2018 violate the criminal laws of the

State of South Carolina (or ordinance of [X] County/ [ ] Municipality of Charleston)

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crank or crack - 10 g or more, but less than 28 g - 1st offense

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

See attached affidavit

Signature of Affiant

STATE OF SOUTH CAROLINA

[X] County/ [ ] Municipality of

Charleston

Affiant's Address 180 Lockwood Blvd.

Charleston, SC 29403-

Affiant's Telephone (843)577-7434

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 that

on or about 5/23/2018 defendant Kenneth Bernard Brown

did violate the criminal laws of the State of South Carolina (or ordinance of

[X] County/ [ ] Municipality of Charleston) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in ice, crank or crack - 10 g or more, but less than 28 g - 1st offense

Having found probable cause and the above affiant having sworn before me, 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 Sworn to and subscribed before me

on 8/9/2018

[Signature] Signature of Issuing Judge

Francis X McCann

Judge Code: 7369

Judge's Address 615 Riverland Drive

James Island, SC 29422-226

Judge's Telephone (843)795-1140

Issuing Court: [X] Magistrate [ ] Municipal [ ] Circuit

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by S.C. Attorney General April 21, 2003 SCCA 518

ORIGINAL

AUG 11:22AM

NCIC INITIALS

OFFICER INITIALS

RECEIVED

OCT 04 2018

SC Court of Appeals

BAIL set by

Judge

*Morris*

on

*8/18/2008*

Type and Amount:

*\$60,000.00*

Name of Surety:

**PRELIMINARY HEARING held by**

Judge

on

Defendant Attorney:

Decision:

**DISPOSITION before**

Judge

on

by

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition:

Sentence:

**JURORS**

**WITNESSES**

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

Name:

Address:

Telephone:

**CODEFENDANTS.**



108 AUG 28 AM 9:21  
CLERK OF COURT  
ASTORONG  
LLFD

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
CITY OF CHARLESTON

AFFIDAVIT  
OCA# 1811757  
Det. S. Lamarte Williams

Personally appeared before me, a magistrate of this County, one, Det. S. Lamarte Williams, who, first being duly sworn, deposes and says that:

**KENNETH BERNARD BROWN**

Did within this County and State on the 23rd day of May 2018, did violate the criminal laws of the State of South Carolina in the following particulars:

DESCRIPTION OF OFFENSE  
**TRAFFICKING COCAINE BASE**  
VIOLATION OF SECTION  
44-53-375 (C)(1)

ORIGINAL


The affiant states there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

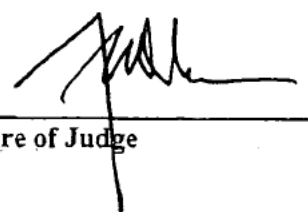
That on May 23, 2018, while at the [REDACTED] located at [REDACTED] in the City of Charleston, County of Charleston, State of South Carolina, the defendant, **KENNETH BERNARD BROWN**, did commit the offense of **Trafficking Cocaine Base**, in violation of section 44-53-375 (C)(1) of the South Carolina Code of Laws of 1976, as amended. In that the defendant did willfully and unlawfully distribute approximately 14.11 grams of a white rock like substance, which field tested presumptive for containing cocaine base.

Facts to establish the aforesaid are that the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) utilizing an undercover ATF Special Agent, conducted an undercover purchase of cocaine base in the area of [REDACTED] in the City of Charleston. Upon the undercover agent arriving at a predetermined location, the undercover agent was met by the defendant. The undercover agent gave the defendant a pre-recorded quantity of cash in exchange for approximately 14.11 grams of a white rock like substance, which field tested presumptive for cocaine base. The transaction was audio and video recorded.

This is based on an investigation by ATF and witnesses to be named in court on a later date. All against the peace and dignity of the State of South Carolina.

Sworn to and Subscribed before me  
this 9<sup>th</sup> day of August  
2018.

  
(AFFIANT)

  
\_\_\_\_\_  
Signature of Judge

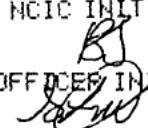
Address: 180 Lockwood Blvd.,  
Charleston, SC 29403  
Phone: (843) 577-7434

**RECEIVED**

OCT 04 2021

SC Court of Appeals

AUG 9 11:22AM

NCIC INITIALS  
  
OFFICER INITIALS

SBL/0346715  
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2018-11757

ARREST WARRANT NUMBER

2018A1011300030

DATE OF ARREST

08/17/2018

ACTION OF GRAND JURY

**TRUE BILL**

*Jennifer Lucias*  
Foreperson of Grand Jury  
Date: DEC 10 2018

VERDICT

DOCKET NO. 2018-GS-10-06788

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

DECEMBER TERM 2018

THE STATE

VS.

KENNETH BERNARD BROWN

~~20180808 0726/1979~~

Indictment for

**TRAFFICKING COCAINE BASE CRACK**

SC Code: § 44-53-0375(C)(1)(c)

CDR Code: 0452

**FILED**

12/12/2018 4:42:28 PM  
JULIE J. ARMSTRONG  
CLERK OF COURT

**RECEIVED**

OCT 04 2021

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened December 2018, the Grand Jurors of Charleston County present upon their oath:

**TRAFFICKING IN CRACK COCAINE**

The defendant, Kenneth Bernard Brown, did on or about May 23, 2018, in Charleston County, South Carolina, 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 ten (10) grams or more of Crack Cocaine, a cocaine base, as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2). All in violation of 44-53-0375(C)(1)(c) of the South Carolina Code of Laws (1976) as amended.

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

  
STEPHANIE B. LINDER  
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

**FILED**  
2021 SEP 27 PM 2:55  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY RL

STATE

VS.

INDICTMENT/CASE#: 2018-GS-10-06788

KENNETH BERNARD BROWN

AKA: Keneth B Brown, Numsey Nickname

Race: Black/African

Sex: [redacted] Age: [redacted]

DOB: [redacted] SS#: [redacted]

Address: [redacted]

City, State, Zip: [redacted]

DL#\* [redacted] SID# [redacted]

A/W#: 2018A1011300030

Date of Offense: 05/23/2018

S.C. Code §: 44-53-0375(C)(1)(a)

CDR Code #: 0450

**SENTENCE SHEET**

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the above indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Trafficking Crack 10g but <28g-2nd

In violation of § 44-53-0375(C)(1)(b) of the S.C. Code of Laws, bearing CDR Code # 0451

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  § 17-25-45  
(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

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

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence, 15 YEARS  Recommendation by the State.

ATTEST:

Stephanie B. Linder 72656  
Solicitor SC Bar #

KB  
Defendant

Jyssa Rae Hamke 104415  
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Correction  County Detention Center,

for a determinate term of 15 days/months/years/Time Served  Youthful Offender Act not to exceed \_\_\_ years

and/or to pay a fine of \$\_\_\_; provided that upon the service of \_\_\_ days/months/years/Time Served 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 sentence shall run  CONCURRENT or  CONSECUTIVE to sentence on: 9-23-2021

**RECEIVED**

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. 25 days/months

**OCT 04 2021**

To include time spent on monitored house arrest prior to trial and sentencing

The Defendant Shall be Released from County Detention Center.

**SC Court of Appeals**

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE KENNETH  
VS. BERNARD BROWN

INDICTMENT/CASE#: 2018-GS-10-06788

**SPECIAL CONDITIONS:**

PTUP after \_\_\_\_\_ months/years

**And Other Terms Listed Below:**

- Substance Abuse Counseling       Completion of GED       Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp       No Contact with Victim       Domestic Violence Intervention Program
- Mental Health Counseling       May serve WE beginning: \_\_\_\_\_
- Sex Offender Registry pursuant to S.C. Code § 23-3-430       Public Service Employment \_\_\_\_\_ days/hours

Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Other: Must wear an ankle monitor until 12 pm on Oct. 6, 2021 when he will report to Al Cannon Detention Center. If he fails to report, the court's sentence will be vacated and a bench warrant issued.

RESTITUTION:     Deferred     Def. Waives Hearing     Ordered

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

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

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

*Fine:		\$ _____
Fine may be pd. in equal consecutive weekly/monthly prmts. of	\$ _____	Beginning _____
§14-1-206 (Assessments 107.5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ <u>150.00</u>
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ <u>8.25</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
<b>TOTAL</b>		\$ <u>283.25</u>

Clerk of Court/Deputy Clerk: J. Gibson  
Court Reporter: Natalie Williams

Presiding Judge: Diane D. Foster  
Judge Code: 2112  
Sentence Date: 9-23-2021

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

) IN THE COURT OF GENERAL SESSIONS  
) FOR THE NINTH JUDICIAL CIRCUIT

) Warrant No(s): 2018A1010900449;  
) 2018A1011300030; 2017A1010900207;  
) Charges: Distribution of Cocaine Base x 2;  
) Trafficking Cocaine Base

**RECEIVED**

OCT 04 2021

**SC Court of Appeals**

SENTENCING MEMORANDUM

STATE OF SOUTH CAROLINA

vs.

KENNETH BERNARD BROWN,

Defendant

FILED  
2019 APR 10 AM 9:52  
JULIE J. ARHSTRONG  
CLERK OF COURT

The Defendant in the above-captioned matter respectfully requests that the Court find that his prior convictions for possession with intent to distribute crack cocaine, along with his prior conviction for conspiracy to intent to distribute crack cocaine, all constitute one offense for sentencing purposes under S.C. Code § 17-25-50.

**BACKGROUND**

On April 21<sup>st</sup>, 2010, three warrants were issued in Charleston County for this defendant, alleging three counts of distribution of cocaine base all occurring on Hanover Street on December 4<sup>th</sup>, December 9<sup>th</sup>, and December 16<sup>th</sup> 2009 (Exhibit 1). The affidavits accompanying these warrants are completely identical except for the dates, exact addresses (77 vs. 88 Hanover St), and amounts (.06 grams vs. .12 grams).

On or around August 8<sup>th</sup>, 2011, Mr. Brown was indicted federally for the December 2009 incidents. He, along with fifteen other individuals, became the subject of a 45-count federal indictment alleging distribution of narcotics in the Charleston area (Exhibit 2). Most of the defendants were indicted for a broad conspiracy “beginning at least in 2003, and continuing thereafter,” up the date of the indictment, to conspire, among other things, to distribute narcotics in the Charleston area. Additionally, each defendant was indicted on separate counts alleging approximate dates and specific narcotics that they “did

possess with intent to distribute and did distribute.” For Mr. Brown, those dates were “[o]n or about” December 4<sup>th</sup>, 9<sup>th</sup>, and 16<sup>th</sup> of 2009. Mr. Brown pled guilty to these counts on October 17<sup>th</sup>, 2012 and was sentenced to 60 months’ imprisonment (Exhibit 3). The Defendant was subsequently charged with the above-captioned matters.

## DISCUSSION

S.C. Code § 17-25-50 reads:

In determining the number of offenses for the purpose of imposition of sentence, the court shall treat as one offense any number of offenses which have been committed at times so closely connected in point of time that they may be considered as one offense, notwithstanding under the law they constitute separate and distinct offenses.

S.C. Code § 17-25-50 is used in determining life without parole (LWOP) eligibility as well as enhancement liability for violations of narcotics statutes. *See Legare v. State*, 333 S.C. 275 (1998).

The State Supreme Court has addressed this issue on several occasions, noting specifically that “section 17-25-50 does not lend itself to a bright line rule.” *Bryant v. State*, 384 S.C. 525, 533 (2009). While the Court in *Bryant* found that three separate armed robberies on three separate, consecutive days were different offenses for the purposes of § 17-25-50, they emphasized how “[w]hen a genuine ambiguity exists as a result of the proposed application of section 17-25-50 to a given situation, the rule of lenity requires that the doubt must be resolved in the defendant’s favor.” *Id.* (emphasis added).

The central holding in *Bryant* was that there was no ambiguity in the specific factual scenario before that Court:

We find no ambiguity concerning the application of section 17-25-50 to Bryant's multiple armed robberies over several days. Bryant committed the three separate armed robberies on different days, at different locations, and the robberies

involved different victims. These separate and distinct crimes over a several day period were not inextricably connected and did not share an immediate temporal proximity. Thus, Bryant's multiple armed robberies may not, as a matter of law, be considered "one offense" under section 17-25-50.

*Bryant*, at 533.

Here, there is neither the specificity nor a similar set of facts that led the majority<sup>1</sup> in *Bryant* to set aside the ambiguity test it endorsed as proper in other scenarios.

Whereas *Bryant* addressed three different armed robberies on three separate days against three separate victims in three separate counties, the facts of the instant case are vague and approximate. Here, the defendant pled guilty to conspiring to traffick at some undefined point over a nine-year span, along with distributing "on or about" three different days all during a two-week span in December of 2009. The indictment is silent as to the exact dates, the exact locations, or the individual to whom which the narcotics were distributed.

Additionally, while the affidavits supporting the Defendant's 2010 warrants for arrest were not part of the federal court's factual findings in 2012, even if this Court were to accept them as true, we would still be left with a vastly different scenario than the one addressed by the *Bryant* Court. As stated above, *Bryant* dealt with three separate counties, victims, and incidents. Here, those affidavits alleged separate incidents but practically the same location—with two of the incidents being at the exact same address on Hanover Street, and the other being the house directly across the street, some fourteen yards away. Further, there is no indication that the distribution was to anyone but the exact same individual.

---

<sup>1</sup> Justice Beatty dissented in *Bryant*, arguing that the majority's view of § 17-25-50 was in conflict with the legislative intent of the statute. He wrote "[t]he Legislature's focus is recidivism, and flexibility in interpreting 'close in time' is necessary to give effect to legislative intent. In *Gordon*, the multiple offenses took place over a period of seven days." *Id.*, at 536 (citing *State v. Gordon*, 356 S.C. 143 (2003), overruled in part by *Bryant*)

*Gordon* held that two drug offenses occurring four days apart from one another were not separate offenses for the purposes of § 17-25-50. The *Bryant* Court overruled *Gordon*, but noted specifically that it overruled its analysis of legislative intent in the context of the interplay between § 17-25-45(F) (LWOP) and § 17-25-50.

CONCLUSION

The Defendant respectfully requests that the Court make a pre-trial ruling that the Defendant be sentenced as a second-time offender if convicted of a violation of S.C. Code § 44-53-370(b)(1) or § 44-53-370(e)(2)(a).

Respectfully Submitted:



Daniel Summa  
Attorney for Kenneth Brown

Charleston, South Carolina

Dated: 4/9, 2019.

FILED  
2019 APR 10 AM 9:52  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY \_\_\_\_\_

# **EXHIBIT 1**

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, TFO C. Grill, who first being duly sworn deposed and says that, Kenneth Bernard Brown, did within this county and state on the December 04, 2009 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Distribution of Cocaine Base  
44-53-375

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

That on December 04, 2009 at approximately 1217 hours while located at [redacted] which is located in the City and County of Charleston, SC 29403 the above named defendant (Kenneth Bernard Brown) did knowingly, willingly, and unlawfully violated SC State Statute# 44-53-375 for Distribution of Cocaine Base in the following manner:

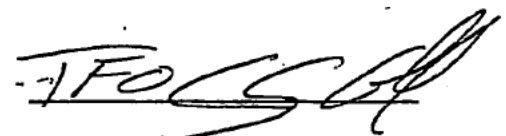
That on the above date, time, and location, the above named defendant did distribute a quantity of an off white rock-like substance to a confidential informant working under the direction and control of the CPD Narcotics Unit in exchange for a sum of prerecorded U.S. Currency taken from the Official CPD Narcotics Fund. The CI was equipped with an audio/video recording/monitoring device, and the transaction between the CI and the defendant was recorded. The cocaine base that the defendant distributed to the CI was tested by the City of Charleston Forensic Division and tested to be 0.06 grams of cocaine base.

It should be noted that [redacted] is located less than a half mile from the area of [redacted]

The above is true and believable based on the observations and investigations of Sgt. Robertson, Inv. Piecuch, Inv. Shealy, Inv. Habbestad, and TFO C. Grill of the City of Charleston Police Department.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 21<sup>st</sup> DAY OF April 2010,



AFFIANT  
180 Lockwood Blvd.  
Charleston, SC 29403  
843-577-7434

 (L.S.)  
SIGNATURE OF JUDGE

COMPLAINT #: 0922099  
WARRANT#  
CPD Form OT3

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, TFO C. Grill, who first being duly sworn deposed and says that, Kenneth Bernard Brown, did within this county and state on the December 09, 2009 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Distribution of Cocaine Base  
44-53-375

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

That on December 09, 2009 at approximately 1348 hours while located at [redacted] which is located in the City and County of Charleston, SC 29403 the above named defendant (Kenneth Bernard Brown) did knowingly, willingly, and unlawfully violated SC State Statute# 44-53-375 for Distribution of Cocaine Base in the following manner:

That on the above date, time, and location, the above named defendant did distribute a quantity of an off white rock-like substance to a confidential informant working under the direction and control of the CPD Narcotics Unit in exchange for a sum of prerecorded U.S. Currency taken from the Official CPD Narcotics Fund. The CI was equipped with an audio/video recording/monitoring device, and the transaction between the CI and the defendant was recorded. The cocaine base that the defendant distributed to the CI was tested by the City of Charleston Forensic Division and tested to be 0.12 grams of cocaine base.

It should be noted that [redacted] located at [redacted] is located less than a half mile from the area of [redacted]

The above is true and believable based on the observations and investigations of Sgt. Robertson, Inv. Piecuch, Inv. Shealy, Inv. Habbestad, and TFO C. Grill of the City of Charleston Police Department.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 21<sup>st</sup> DAY OF April 2010,

AFFIANT  
180 Lockwood Blvd.  
Charleston, SC 29403  
843-577-7434

SIGNATURE OF JUDGE (L.S.)

COMPLAINT #: 0922395  
WARRANT#  
CPD Form OT3

Charleston Police Department

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

AFFIDAVIT

Personally appear before me, a magistrate of this county one, TFO C. Grill, who first being duly sworn deposed and says that, Kenneth Bernard Brown, did within this county and state on the December 16, 2009 violate the criminal laws of the State of South Carolina in the following particular:

DESCRIPTION OF OFFENSE

Distribution of Cocaine Base  
44-53-375

The affiant states there is probable cause to believe that the defendant named did commit the crime set forth and that such probable cause is based on the following facts:

That on December 16, 2009 at approximately 1420 hours while located at [redacted] which is located in the City and County of Charleston, SC 29403 the above named defendant (Kenneth Bernard Brown) did knowingly, willingly, and unlawfully violated SC State Statute# 44-53-375 for Distribution of Cocaine Base in the following manner:

That on the above date, time, and location, the above named defendant did distribute a quantity of an off white rock-like substance to a confidential informant working under the direction and control of the CPD Narcotics Unit in exchange for a sum of prerecorded U.S. Currency taken from the Official CPD Narcotics Fund. The CI was equipped with an audio/video recording/monitoring device, and the transaction between the CI and the defendant was recorded. The cocaine base that the defendant distributed to the CI was tested by the City of Charleston Forensic Division and tested to be 0.06 grams of cocaine base.

It should be noted that [redacted] is located less than a half mile from the area of [redacted]

The above is true and believable based on the observations and investigations of Sgt. Robertson, Inv. Piecuch, Inv. Shealy, Inv. Habbestad, and TFO C. Grill of the City of Charleston Police Department.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 21st DAY OF April 2010

*TFO C. Grill*  
AFFLIANT

180 Lockwood Blvd.  
Charleston, SC 29403  
843-577-7434

*Bonnie L. Kort* (L.S.)  
SIGNATURE OF JUDGE

COMPLAINT #: 0922832  
WARRANT#  
CPD Form OT3

# **EXHIBIT 2**

---

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

UNITED STATES OF AMERICA	)	CRIMINAL NO.: 2:10-277
	)	18 USC §2
-versus-	)	18 USC §521
	)	18 USC §922(g)(1)
CALVIN LEVAR DIXON,	)	18 USC §922(a)(6)
a/k/a "Booga",	)	18 USC §922(d)
a/k/a Calvin Dion;	)	18 USC §924(a)(1)
MICHAEL ANGELO HAYES,	)	18 USC §924(a)(2)
a/k/a "Little Mike",	)	18 USC §924(c)(1)
a/k/a "Mikey",	)	18 USC §924(c)(1)(a)(i)
a/k/a Ricky Lamont Hayes;	)	18 USC §924(e)
ARNOLD TERRELL BELLINGER,	)	21 USC §841(a)(1)
a/k/a "A-1";	)	21 USC §841(b)(1)(A)
JAMILE RAYNOD HARLEY,	)	21 USC §841(b)(1)(B)
a/k/a "Miles",	)	21 USC §841(b)(1)(C)
a/k/a "Mile",	)	21 USC §841(b)(1)(D)
a/k/a "Tall Mile";	)	21 USC §846
GEORGE AVERY BELLINGER,	)	21 USC §856(a)(1)
a/k/a "Lil George",	)	
a/k/a "Lil G",	)	
a/k/a "G";	)	
KEVIN LEMORT COAXUM,	)	
a/k/a "Blizz";	)	
IMAN GANTT,	)	
a/k/a "I",	)	
a/k/a Imam Gantt,	)	<b><u>THIRD</u></b>
a/k/a Imen Gantt;	)	
KADRIN CHRISTOPHER SIMMONS,	)	<b><u>SUPERSEDING INDICTMENT</u></b>
a/k/a "Little Black";	)	
LAQUELL TAKEEM DIXON,	)	
a/k/a "Quelly",	)	
a/k/a "Q-Nuts",	)	
a/k/a "Q";	)	
KENNETH BERNARD BROWN,	)	
a/k/a "Numsey";	)	
SHABAZZ ROMELL WISE,	)	
a/k/a "Little Bazz";	)	
MONTRELL SHARIFE WISE,	)	
a/k/a "Trell";	)	
TONY BROWN;	)	
WALTER DEMEATRUS BROWN,	)	
a/k/a "Cook-a-Rooka";	)	

CHARLES FABERS, )  
 a/k/a Charles Fabers, Jr., )  
 a/k/a Junior Fabers, )  
 a/k/a Charles Fabes, )  
 a/k/a Charles Favors; )  
 CLINQUE SAVONN GREEN )

COUNT 1

THE GRAND JURY CHARGES:

That beginning at a time unknown to the grand jury, but beginning at least in 2003, and continuing thereafter, up to and including the date of this third superseding indictment, in the District of South Carolina, the defendants, CALVIN LEVARD DIXON, a/k/a "Booga", a/k/a Calvin Dion; MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes; ARNOLD TERRELL BELLINGER, a/k/a "A-1"; JAMILE RAYNOD HARLEY, a/k/a "Miles", a/k/a "Mile", a/k/a "Tall Mile"; GEORGE AVERY BELLINGER, a/k/a "Lil George", a/k/a "Lil G", a/k/a "G"; KEVIN LEMORT COAXUM, a/k/a "Blizz"; IMAN GANTT, a/k/a "I", a/k/a Imam Gantt, a/k/a Imen Gantt; KADRIN CHRISTOPHER SIMMONS, a/k/a "Little Black"; LAQUELL TAKEEM DIXON, a/k/a "Quelly", a/k/a "Q-Nuts", a/k/a "Q"; KENNETH BERNARD BROWN, a/k/a "Numsey"; SHABAZZ ROMELL WISE, a/k/a "Little Bazz"; MONTRELL SHARIFE WISE, a/k/a "Trell"; TONY BROWN; WALTER DEMEATRUS BROWN, a/k/a "Cook-a-Rooka"; and CHARLES FABERS, a/k/a Charles Fabers, Jr., a/k/a Junior Fabers, a/k/a Charles Fabes, a/k/a Charles Favors; CLINQUE SAVONN GREEN, knowingly and intentionally did combine, conspire, agree and have tacit understanding with each other and with others, both known and unknown to the grand jury, to:

1) knowingly, intentionally and unlawfully possess with intent to distribute and distribute cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance, said conspiracy involving 280 grams or more of "crack" cocaine, in violation of Title 21, United States Code, Sections 841(a)(1), and 841(b)(1)(A);

2) knowingly, intentionally and unlawfully possess with intent to distribute and distribute heroin, said conspiracy involving a kilogram or more of heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), and 841(b)(1)(A);

3) knowingly, intentionally and unlawfully possess with intent to distribute and distribute cocaine, said conspiracy involving 500 grams or more of cocaine, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), and 841(b)(1)(B);

4) knowingly, intentionally and unlawfully possess with intent to distribute and distribute marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), and 841(b)(1)(D); and

5) open, lease, rent, use, and maintain various places on the East Side of Charleston (including residences or stores located at [REDACTED] [REDACTED]) for the purpose of manufacturing and distributing various Schedule I and II controlled substances, in violation of Title 21, United States Code, Section 856(a)(1);

All In violation of Title 21, United States Code, Section 846.

**COUNT 2**

**THE GRAND JURY FURTHER CHARGES:**

That beginning at a time unknown to the grand jury, but beginning at least in 2003, and continuing thereafter, up to and including the date of this third superseding indictment, in the District of South Carolina and elsewhere, the defendants, **CALVIN LEVAR DIXON, a/k/a "Booga", a/k/a Calvin Dion; MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes; ARNOLD TERRELL BELLINGER, a/k/a "A-1"; JAMILE RAYNOD HARLEY, a/k/a "Miles", a/k/a "Mile", a/k/a "Tall Mile"; GEORGE AVERY BELLINGER, a/k/a "Lil George", a/k/a "Lil G", a/k/a "G"; KEVIN LEMORT COAXUM, a/k/a "Blizz"; IMAN GANTT, a/k/a "I", a/k/a Imam Gantt, a/k/a Imen Gantt; KADRIN CHRISTOPHER SIMMONS, a/k/a "Little Black"; KENNETH BERNARD BROWN, a/k/a "Numsey"; ; MONTRELL SHARIFE WISE, a/k/a "Trell"; CLINQUE SAVONN GREEN**, did knowingly and willfully combine, conspire, confederate and agree together, and have tacit understanding with each other, to knowingly use and carry firearms, during and in relation to, and to possess firearms in furtherance of, drug trafficking crimes and crimes of violence which are prosecutable in a court of the United States.

In violation of Title 18, United States Code, Section 924(o).

**COUNT 3**

**THE GRAND JURY FURTHER CHARGES:**

On or about September 15, 2007, in the District of South Carolina, the defendant, **CLINQUE SAVONN GREEN**, aided and abetted by the defendant, **CALVIN LEVAR DIXON**, a/k/a "Booga", a/k/a Calvin Dion, knowingly did make false statements, in connection with the acquisition acquisition of a CZ Brand, 9mm semi-automatic pistol from Lowcountry Pawn and Jewelry Store, a federally licensed dealer, which were intended and likely to deceive the said dealer with respect to a fact material to the lawfulness of the sale and disposition of the firearm under the provision of Chapter 44 of Title 18, United States Code, in that the defendant, **CLINQUE SAVONN GREEN**, did execute a Department of Justice, Bureau of Alcohol, Tobacco, and Firearms Form 4473, Firearms Transaction Record, to the effect that **CLINQUE SAVONN GREEN** was the true purchaser of the firearm, when in truth as the defendant then knew, she was not the true purchaser;

In violation of Title 18, United States Code, Sections 922(a)(6), 924(a)(2), and 2.

**COUNT 4**

**THE GRAND JURY FURTHER CHARGES:**

On or about May 22, 2009, in the District of South Carolina, the defendants, **KADRIN CHRISTOPHER SIMMONS**, a/k/a "Little Black" and **IMAN GANTT**, a/k/a "I", a/k/a Imam Gantt; a/k/a Imen Gantt, knowingly, intentionally, and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance, and did aid and abet each other in the commission of the aforesaid offense;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT 5**

**THE GRAND JURY FURTHER CHARGES:**

On or about May 29, 2009, within the District of South Carolina, the defendant, **MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes; KEVIN LEMORT COAXUM, a/k/a "Blizz"; and IMAN GANTT, a/k/a "I", a/k/a Imam Gantt, a/k/a Imen Gantt**, having been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess in and affecting commerce, a firearm and ammunition, that is, a Hi-Point 9mm semi-automatic pistol, 9mm ammunition, .357 caliber ammunition, all of which had been shipped and transported in interstate and foreign commerce;

In violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 924(e).

**COUNT 6**

**THE GRAND JURY FURTHER CHARGES:**

On or about May 29, 2009, in the District of South Carolina, the defendants, **MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes; KEVIN LEMORT COAXUM, a/k/a "Blizz" and IMAN GANTT, a/k/a "I", a/k/a Imam Gantt, a/k/a Imen Gantt**, knowingly used and carried a firearm during and in relation to, and did possess the firearm in furtherance of, a drug trafficking crime, which is prosecutable in a court of the United States, and did aid and abet each other in the commission of the aforesaid offense;

In violation of Title 18, United States Code, Section 924(c)(1)(A)(i) and Title 18, United States Code, Section 2.

**COUNT 7**

**THE GRAND JURY FURTHER CHARGES:**

On or about May 29, 2009, in the District of South Carolina, the defendants, **MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes; KEVIN LEMORT COAXUM, a/k/a "Blizz" and IMAN GANTT, a/k/a "I", a/k/a Imam Gantt, a/k/a Imen Gantt**, knowingly, intentionally and unlawfully did possess with intent to distribute 28 grams or more of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance, and a quantity of marijuana, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B) and 841(b)(1)(D).

**COUNT 8**

**THE GRAND JURY FURTHER CHARGES:**

On or about July 31, 2009, in the District of South Carolina, the defendant, **ARNOLD TERRELL BELLINGER, a/k/a "A-1"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 9**

**THE GRAND JURY FURTHER CHARGES:**

On or about August 5, 2009, in the District of South Carolina, the defendant, **ARNOLD TERRELL BELLINGER, a/k/a "A-1"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 10**

**THE GRAND JURY FURTHER CHARGES:**

On or about August 11, 2009, within the District of South Carolina, the defendant, **MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes**, having been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess in and affecting commerce, firearms and ammunition, that is, a Hi-Point 9mm semi-automatic pistol, a Hi-Point .380 caliber semi-automatic pistol, a Norinco SKS 7.62 X 39 caliber assault rifle, .357 caliber ammunition, 7.62 caliber ammunition, 380 caliber ammunition, 9mm ammunition, all of which had been shipped and transported in interstate and foreign commerce;

In violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 924(e).

**COUNT 11**

**THE GRAND JURY FURTHER CHARGES:**

On or about August 11, 2009, in the District of South Carolina, the defendants, **MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes**, knowingly used and carried a firearm during and in relation to, and did possess the firearm in furtherance of, a drug trafficking crime, which is prosecutable in a court of the United States;

In violation of Title 18, United States Code, Section 924(c)(1)(A)(I).

**COUNT 12**

**THE GRAND JURY FURTHER CHARGES:**

On or about August 11, 2009, in the District of South Carolina, the defendant, **MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes**, knowingly, intentionally and unlawfully did possess with intent to distribute a quantity of heroin, and a quantity of marijuana, both Schedule I controlled substances;

In violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C) and 841(b)(1)(D).

**COUNT 13**

**THE GRAND JURY FURTHER CHARGES:**

On or about August 25, 2009, in the District of South Carolina, the defendant, **ARNOLD TERRELL BELLINGER, a/k/a "A-1"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 14**

**THE GRAND JURY FURTHER CHARGES:**

On or about October 13, 2009, in the District of South Carolina, the defendant, **WALTER DEMEATRUS BROWN, a/k/a "Cook-a-Rooka"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 15**

**THE GRAND JURY FURTHER CHARGES:**

On or about October 16, 2009, in the District of South Carolina, the defendant, **WALTER DEMEATRUS BROWN, a/k/a "Cook-a-Rooka"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 16**

**THE GRAND JURY FURTHER CHARGES:**

On or about October 20, 2009, in the District of South Carolina, the defendants, **CALVIN LEVAR DIXON, a/k/a "Booga", a/k/a Calvin Dion** and **WALTER DEMEATRUS BROWN, a/k/a "Cook-a-Rooka"**, knowingly, intentionally, and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance, and did aid and abet each other in the commission of the aforesaid offense;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C), and Title 18, United States Code, Section 2.

**COUNT 17**

**THE GRAND JURY FURTHER CHARGES:**

On or about October 22, 2009, in the District of South Carolina, the defendant, **CALVIN LEVAR DIXON, a/k/a "Booga", a/k/a Calvin Dion**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 18**

**THE GRAND JURY FURTHER CHARGES:**

On or about November 5, 2009, in the District of South Carolina, the defendant, **CHARLES FABERS, a/k/a Charles Fabers, Jr., a/k/a Junior Fabers, a/k/a Charles Fabes, a/k/a Charles Favors,** knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 19**

**THE GRAND JURY FURTHER CHARGES:**

On or about November 10, 2009, in the District of South Carolina, the defendant, **TONY BROWN,** knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 20**

**THE GRAND JURY FURTHER CHARGES:**

On or about November 12, 2009, in the District of South Carolina, the defendant, **MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes,** knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 21**

**THE GRAND JURY FURTHER CHARGES:**

On or about November 12, 2009, in the District of South Carolina, the defendant, **CALVIN LEVAR DIXON, a/k/a Calvin Dixon, a/k/a "Booga", a/k/a Calvin Dion**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 22**

**THE GRAND JURY FURTHER CHARGES:**

On or about November 18, 2009, in the District of South Carolina, the defendant, **JAMILE RAYNOD HARLEY, a/k/a "Miles", a/k/a "Mile", a/k/a "Tall Mile"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 23**

**THE GRAND JURY FURTHER CHARGES:**

On or about November 18, 2009, in the District of South Carolina, the defendant, **TONY BROWN**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance,

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 24**

**THE GRAND JURY FURTHER CHARGES:**

On or about November 24, 2009, in the District of South Carolina, the defendant, **MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 25**

**THE GRAND JURY FURTHER CHARGES:**

On or about November 24, 2009, in the District of South Carolina, the defendant, **LAQUELL TAKEEM DIXON, a/k/a "Quelly", a/k/a "Q-Nuts", a/k/a "Q"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 26**

**THE GRAND JURY FURTHER CHARGES:**

On or about December 4, 2009, in the District of South Carolina, the defendants, **KENNETH BERNARD BROWN, a/k/a "Numsey"**, knowingly, intentionally, and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 27**

**THE GRAND JURY FURTHER CHARGES:**

On or about December 9, 2009, in the District of South Carolina, the defendant, **KENNETH BERNARD BROWN, a/k/a "Numsey"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 28**

**THE GRAND JURY FURTHER CHARGES:**

On or about December 16, 2009, in the District of South Carolina, the defendant, **KENNETH BERNARD BROWN, a/k/a "Numsey"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 29**

**THE GRAND JURY FURTHER CHARGES:**

On or about December 17, 2009, in the District of South Carolina, the defendant, **LAQUELL TAKEEM DIXON, a/k/a "Quelly", a/k/a "Q-Nuts", a/k/a "Q"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 30**

**THE GRAND JURY FURTHER CHARGES:**

On or about December 30, 2009, in the District of South Carolina, the defendant, **GEORGE AVERY BELLINGER, a/k/a "Lil George", a/k/a "Lil G", a/k/a "G"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 31**

**THE GRAND JURY FURTHER CHARGES:**

On or about January 5, 2010, in the District of South Carolina, the defendant, **JAMILE RAYNOD HARLEY, a/k/a "Miles", a/k/a "Mile", a/k/a "Tall Mile"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 32**

**THE GRAND JURY FURTHER CHARGES:**

On or about January 8, 2010, in the District of South Carolina, the defendant, **GEORGE AVERY BELLINGER, a/k/a "Lil George", a/k/a "Lil G", a/k/a "G"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 33**

**THE GRAND JURY FURTHER CHARGES:**

On or about January 15, 2010, in the District of South Carolina, the defendant, **GEORGE AVERY BELLINGER, a/k/a "Lil George", a/k/a "Lil G", a/k/a "G"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 34**

**THE GRAND JURY FURTHER CHARGES:**

On or about February 11, 2010, in the District of South Carolina, the defendant, **SHABAZZ ROMELL WISE, a/k/a "Little Bazz"**, knowingly, intentionally, and unlawfully did possess with intent to distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 35**

**THE GRAND JURY FURTHER CHARGES:**

On or about February 18, 2010, in the District of South Carolina, the defendant, **MONTRELL SHARIFE WISE, a/k/a "Trell"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 36**

**THE GRAND JURY FURTHER CHARGES:**

On or about March 26, 2010, in the District of South Carolina, the defendant, **ARNOLD TERRELL BELLINGER, a/k/a "A-1"**, knowingly, intentionally and unlawfully did possess with intent to distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance, and a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 37**

**THE GRAND JURY FURTHER CHARGES:**

On or about March 31, 2010, in the District of South Carolina, the defendant, **CALVIN LEVAR DIXON, a/k/a "Booga", a/k/a Calvin Dion**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

All In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 38**

**THE GRAND JURY FURTHER CHARGES:**

On or about April 1, 2010, in the District of South Carolina, the defendant, **MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 39**

THE GRAND JURY FURTHER CHARGES:

Between on or about April 19, 2010 and on or about April 22, 2010, in the District of South Carolina, the defendant, **CLINQUE SAVONN GREEN**, knowingly transferred a firearm, that is, a CZ Brand, 9mm semi-automatic pistol, to **CALVIN LEVAR DIXON, a/k/a "Booga", a/k/a Calvin Dion**, knowing and having reasonable cause to believe that **CALVIN LEVAR DIXON, a/k/a "Booga", a/k/a Calvin Dion** had been convicted of a crime punishable by imprisonment for a term exceeding one year;

In violation of Title 18, United States Code, Sections 922(d) and 924(a)(2).

**COUNT 40**

THE GRAND JURY FURTHER CHARGES:

On or about April 22, 2010, within the District of South Carolina, the defendant, **CALVIN LEVAR DIXON, a/k/a "Booga", a/k/a Calvin Dion**, having been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess in and affecting commerce, firearms and ammunition, that is, a CZ Brand, 9mm semi-automatic pistol; a North American Arms .22 caliber revolver; 9mm ammunition, and .22 caliber ammunition, all of which had been shipped and transported in interstate and foreign commerce, and that between on or about September 15, 2007 and on or about April 22, 2010, the defendant, **CLINQUE SAVONN GREEN**, did aid and abet **CALVIN LEVAR DIXON, a/k/a "Booga", a/k/a Calvin Dion** in the commission of the aforesaid offense with regard to the CZ Brand, 9mm semi-automatic pistol;

In violation of Title 18, United States Code, Sections 2, 922(g)(1), 924(a)(2) and 924(e).

**COUNT 41**

**THE GRAND JURY FURTHER CHARGES:**

On or about April 22, 2010, in the District of South Carolina, the defendant, **CHARLES FABERS, a/k/a Charles Fabers, Jr., a/k/a Junior Fabers, a/k/a Charles Fabes, a/k/a Charles Favors**, knowingly, intentionally and unlawfully did possess with intent to distribute a quantity of heroin, a Schedule I controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 42**

**THE GRAND JURY FURTHER CHARGES:**

On or about May 5, 2010, in the District of South Carolina, the defendant, **KADRIN CHRISTOPHER SIMMONS, a/k/a "Little Black"**, knowingly, intentionally, and unlawfully did possess with intent to distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 43**

**THE GRAND JURY FURTHER CHARGES:**

On or about June 16, 2010, within the District of South Carolina, the defendant, **MONTRELL SHARIFE WISE, a/k/a "Trell"**, having been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess in and affecting commerce, a firearm and ammunition, that is, a Hi-Point 380 semi-automatic pistol and 9mm ammunition, all of which had been shipped and transported in interstate and foreign commerce;

In violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 924(e).

**COUNT 44**

**THE GRAND JURY FURTHER CHARGES:**

On or about November 6, 2010, in the District of South Carolina, the defendant, **GEORGE AVERY BELLINGER, a/k/a "Lil George", a/k/a "Lil G", a/k/a "G"**, knowingly, intentionally, and unlawfully did possess with intent to distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**COUNT 45**

**THE GRAND JURY FURTHER CHARGES:**

On or about December 17, 2010, in the District of South Carolina, the defendant, **SHABAZZ ROMELL WISE, a/k/a "Little Bazz"**, knowingly, intentionally and unlawfully did possess with intent to distribute and did distribute a quantity of cocaine base (commonly known as "crack" cocaine), a Schedule II controlled substance;

In violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

**NOTICE OF ENHANCEMENT**

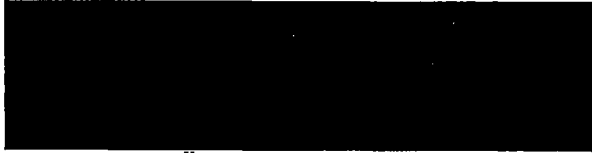
Pursuant to Title 18, United States Code, Section 521, notice is given to the defendants, **CALVIN LEVAR DIXON, a/k/a "Booga", a/k/a Calvin Dion; MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes; ARNOLD TERRELL BELLINGER, a/k/a "A-1"; JAMILE RAYNOD HARLEY, a/k/a "Miles", a/k/a "Mile", a/k/a "Tall Mile"; KEVIN LEMORT COAXUM, a/k/a "Blizz"; IMAN GANTT, a/k/a "I", a/k/a Imam Gantt, a/k/a Imen Gantt; KADRIN CHRISTOPHER SIMMONS, a/k/a "Little Black"; LAQUELL TAKEEM DIXON, a/k/a "Quelly", a/k/a "Q-Nuts", a/k/a "Q"; KENNETH BERNARD BROWN, a/k/a "Numsey"; SHABAZZ ROMELL WISE, a/k/a "Little Bazz"; MONTRELL SHARIFE WISE, a/k/a "Trell"; TONY BROWN; WALTER DEMEATRUS BROWN, a/k/a "Cook-a-Rooka"; and CHARLES FABERS, a/k/a Charles Fabers, Jr., a/k/a Junior Fabers, a/k/a Charles Fabes, a/k/a Charles Favors, that the Government intends to present evidence of the following:**

That the defendants, **CALVIN LEVAR DIXON, a/k/a "Booga", a/k/a Calvin Dion; MICHAEL ANGELO HAYES, a/k/a "Little Mike", a/k/a "Mikey", a/k/a Ricky Lamont Hayes; ARNOLD TERRELL BELLINGER, a/k/a "A-1"; JAMILE RAYNOD HARLEY, a/k/a "Miles", a/k/a "Mile", a/k/a "Tall Mile"; KEVIN LEMORT COAXUM, a/k/a "Blizz"; IMAN GANTT, a/k/a "I", a/k/a Imam Gantt, a/k/a Imen Gantt; KADRIN CHRISTOPHER SIMMONS, a/k/a "Little Black"; LAQUELL TAKEEM DIXON, a/k/a "Quelly", a/k/a "Q-Nuts", a/k/a "Q"; KENNETH BERNARD BROWN, a/k/a "Numsey"; SHABAZZ ROMELL WISE, a/k/a "Little Bazz"; MONTRELL SHARIFE WISE, a/k/a "Trell"; TONY BROWN; WALTER DEMEATRUS BROWN, a/k/a "Cook-a-Rooka"; and CHARLES FABERS, a/k/a Charles Fabers, Jr., a/k/a Junior Fabers, a/k/a Charles Fabes, a/k/a Charles Favors, committed violations of 21 U.S.C. § 846 and 841(a)(1), and are persons who:**

- (1) participated in a criminal street gang as defined in 18 U.S.C. §521(a), with knowledge that its members engage in or, in the past five years, have engaged in a continuing series of criminal activities that constitute
  - (a) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substance Act, 21 U.S.C. §802) for which the maximum penalty is not less than five years' imprisonment; or
  - (b) a Federal felony that has as an element use of violence or the attempted use of violence against another person; or
  - (c) a conspiracy to commit a Federal felony involving a controlled substance for which the maximum penalty is not less than five years' imprisonment; or
  - (d) a conspiracy to commit a Federal felony that has as an element the use of violence or the attempted use of violence against another person; and who
- (2) intend to promote or further the felonious activities of the criminal street gang, or maintain or increase their position in the gang; and who
- (3) have been convicted within the past five years for
  - (a) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substance Act, 21 U.S.C. §802) for which the maximum penalty is not less than five years' imprisonment; or
  - (b) a Federal felony that has as an element use of violence or the attempted use of violence against another person; or
  - (c) a State felony
    - (1) involving a controlled substance (as defined in section 102 of the Controlled substance Act, 21 U.S.C. §802), for which the maximum penalty is not less than five years' imprisonment; or
    - (2) that is a crime of violence that has an element the use or attempted use of physical force against another person; or
  - (d) a Federal or State felony that by its nature involves a substantial risk that physical force may be used against another person in the commission of the offense; or

- (e) a conspiracy to commit the type of offense described above in (3)(a), (3)(b), (3)(c), or (3)(d).

A Tone BILL



FOREPERSON



WILLIAM N. NETTLES (sk)  
UNITED STATES ATTORNEY

# **EXHIBIT 3**

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UNITED STATES DISTRICT COURT
District of South Carolina

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

vs.

Case Number: 2:10-cr-00277-PMD-9

KENNETH BERNARD BROWN

USM Number: 22510-171

Dale Cobb, Jr., CJA
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to a lesser included offense of Count 1 and guilty to Counts 26, 27 and 28.
pleaded nolo contendere to count(s) which was accepted by the court.
was found guilty on count(s) after a plea of not guilty.
The defendant is adjudicated guilty of these offenses:

Table with 4 columns: Title & Section, Nature of Offense, Offense Ended, Count. Rows include 21:841(a)(1), 841(b)(1)(C) Please see third superseding indictment with counts 1 and 26, 27, 28.

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s).
All remaining counts are dismissed on the motion of the United States.
Forfeiture provision is hereby dismissed on motion of the United States Attorney.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of any material changes in economic circumstances.

October 16, 2012

Date of Imposition of Judgment

Handwritten signature of Patrick Michael Duffy

Signature of Judge

Patrick Michael Duffy, Senior U S District Judge

Name and Title of Judge

Oct. 17, 2012

Date

DEFENDANT: KENNETH BERNARD BROWN

CASE NUMBER: 2:10-cr-00277-PMD-9

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of sixty (60) months; said term consists of 60 months as to each of Counts 1, 26, 27 and 28, to run concurrently. The defendant shall pay a \$400.00 special assessment fee, due beginning immediately.

The court makes the following recommendations to the Bureau of Prisons: The defendant shall be designated to the federal correctional institute closest to his home in South Carolina. The defendant shall be screened for the most intensive drug treatment program for which he qualifies.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:  
 at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_  
 as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:  
 before 2 p.m. on \_\_\_\_\_  
 as notified by the United States Marshal.  
 as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this Judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: KENNETH BERNARD BROWN

CASE NUMBER: 2:10-cr-00277-PMD-9

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years, said term consists of three years as to each of Counts 1, 26, 27 and 28, to run concurrently. While on supervised release, the defendant shall comply with the mandatory and standard conditions of supervision as well as the following special conditions: 1. He shall submit to substance abuse testing and/or treatment as approved by the U S Probation Officer until such time as he is released from the program by the probation officer. 2. He shall provide the U S Probation Officer access to any and all requested financial information, including but not limited to income tax returns. 3. He shall enroll in a life skills program, including but not limited to Workforce Development, as deemed necessary by the U S Probation Officer, until such time as his release from the program is approved by the U S Probation Officer.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as any additional conditions on the attached page.

**STANDARD CONDITIONS OF SUPERVISION**

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.



DEFENDANT: KENNETH BERNARD BROWN  
CASE NUMBER: 2:10-cr-00277-PMD-9

**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A  Lump sum payment of \$400.00 special assessment fee, due immediately.
  - not later than \_\_\_\_\_, or
  - in accordance with  C,  D, or  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (30 or 60 days) after the date of this judgment; or
- D  Payment in equal \_\_\_\_\_ (weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

As directed in the Preliminary Order of Forfeiture, filed \_\_\_\_\_ and the said order is incorporated herein as part of this judgment.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

STATE OF SOUTH CAROLINA )

**FILED**

IN THE COURT OF GENERAL SESSIONS

NINTH JUDICIAL CIRCUIT

COUNTY OF CHARLESTON )

2019 APR 10 AM 9:18

JULIE J. ARMSTRONG  
CLERK OF COURT

Warrant Nos: 2018A1010900449;  
2018A1011300030; 2017A1010900207

-vs-

BY )

*MH*

KENNETH BERNARD BROWN, )

**STATE'S RESPONSE TO  
DEFENDANT'S MEMORANDUM**

Defendant )

\_\_\_\_\_ )

**INTRODUCTION**

Kenneth Bernard Brown ('Defendant') is charged with two counts of Distribution of Cocaine Base Crack and one count of Trafficking Cocaine Base Crack. The State and Defendant disagree regarding the question of whether these offenses represent second offenses or third offenses for sentencing purposes. The State's position is that the charges are properly considered thid offenses, which carry a penalty of imprisonment for no less than ten (10) years and no more than 30 years, and for which the minimum sentence may not be suspended (as to the distribution charges) and a penalty of imprisonment for no less than 25 years and no more than 30 years, and for which the minimum sentence may not be suspended (as to the trafficking charge). Defendant's position is that the charges are properly considered second offenses, which carry a penalty of imprisonment for no less than five years and no more than 30 years, and for which the minimum sentence may be completely suspended (as to the distribution charges) and a penalty of imprisonment for no less than five years and no more than 30 years, and for which the minimum sentence may not be suspended (as to the trafficking charge).

### QUESTION PRESENTED

Whether under the Code of Laws of South Carolina § 17-25-50, the prior drug convictions of this Defendant should make the pending charges third or second offenses.

### STATEMENT OF THE CASE

On January 27, 2017, while in the area of [REDACTED] the Defendant sold cocaine base crack to a confidential informant working with the Charleston Police Department.

Defendant was arrested for Distribution Cocaine Base Crack on April 7, 2017.

On May 23, 2018, while in the area of [REDACTED] the Defendant sold trafficking weight of cocaine base crack to an undercover agent from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

Defendant was arrested for Trafficking Cocaine Base Crack on August 17, 2018.

On November 14, 2018, while in the area of [REDACTED] the Defendant sold cocaine base crack to an undercover officer from the Charleston Police Department.

Defendant was arrested for Distribution Cocaine Base Crack on January 10, 2019.

Defendant's prior record of criminal convictions is as follows (drug convictions are in bold):

- 1996: Assault on Police; Resisting Arrest
- 1997: Strong Arm Robbery; Possession of a Weapon (12 years active time)
- 2007: Parole Revocation
- 2008: Trespassing (3 counts)
- 2009: Assault and Battery; Trespassing (2 counts)

2010: Disorderly Conduct; Loitering

**2012: (Federal) Distribution of Crack (3 counts); Conspiracy to distribute drugs/maintain drug house**

### ARGUMENT

The Defendant has four prior drug convictions. It is the State's position that each of his pending drug charges should be classified as third drug offenses. It is important to understand the history of the prior convictions of this specific Defendant.

This Defendant was arrested and charged in the state system on April 21, 2010. He was charged by CPD for six charges, arising from three separate incidents (three drug distributions and their associated proximity charges). The three incidents were shown as such by being designated with separate case numbers from law enforcement. The three incidents occurred on different days, spanning almost two weeks. Furthermore, the incidents did not all occur at the same location. This Defendant pleaded guilty to three crack distributions, with three case numbers, arising on three different dates.

---

A unique consideration in the instant case is the federal court involvement. This Defendant's three separate cases were adopted by the federal government. In candor with this Court, Assistant Solicitor Linder was the acting Special Assistant United States Attorney in the prosecution of this Defendant in these very cases.

As this Court is well aware, the federal system has many similarities and differences with the state system. In the State system, separate indictments are presented – by person and by criminal offense, regardless of the incident dates. In the Federal system, one indictment is presented with multiple counts. In this Defendant's case, there were a total of 16 defendants

and 45 separate counts in one indictment. Furthermore, not every count involved every named defendant. This shows further, that each count should be viewed as a separate incident.

This Defendant's conduct that involved three separate incidents with six warrants in State court translated to one indictment and four counts in federal court. This Defendant pleaded guilty on October 17, 2012 to all four counts in the federal indictment. It is important to note that his three separate acts, that would be considered such in State Court, were pled to in the federal case as separate acts in Counts 26, 27, and 28. These counts arise from the three, separate distributions done on December 4, 9, and 16, 2009.

In *State v Boyd*, 288 S.C. 206 (1986) the Court addresses this very issue. The Court held that:

...where a defendant has been convicted on two or more counts for the violation of the Controlled Substance Act arising out of simultaneous acts committed in the course of a single incident, the convictions will be considered as only one for the purpose of sentencing under a subsequent conviction for a violation of the Controlled Substance Act.

In *Boyd*, the Defendant was arrested and charged with various types of drugs after being pulled over in a vehicle in which the drugs were all found within that vehicle. It was a single incident (the traffic stop) and simultaneous criminal acts (possession of various drugs). This, the Court ruled, shall constitute a single enhancement. This is not the situation in the instant case.

Furthermore, *Boyd* held:


...where multiple convictions are obtained for violations of the Controlled Substance Act where the violations are unrelated to one another and do not arise out of a single incident that there be no prohibition of counting for sentencing purposes each conviction separately."

This is the situation that the Defendant has created for himself. The Defendant was charged for separate incidents. He pleaded guilty to those separate incidents, therefore, they should be counted separately for sentencing purposes.

**CONCLUSION**

Relying on § 17-25-50 and *Boyd*, this Defendant's prior drug convictions should be considered third offenses.

Respectfully submitted:



Stephanie B. Linder  
Assistant Solicitor  
Ninth Judicial Circuit

**FILED**

2019 APR 10 AM 9:18

JULIE J. ARMSTRONG  
CLERK OF COURT

BY ML

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# WESTLAW

Original Image of 341 S.E.2d 144 (PDF)

288 S.C. 206  
Court of Appeals of South Carolina.

**State v. Boyd**  
Court of Appeals of South Carolina. January 27, 1988. **The State, Respondent,** (Approx. 5 pages)

v.  
**Phillip L. BOYD, Appellant.**

No. 0619.  
Heard Oct. 22, 1985.  
Decided Jan. 27, 1986.

### Synopsis

Defendant was convicted in the General Sessions Court, Abbeville County, E.C. Burnett, III, J., of possession of marijuana with intent to distribute, and he appealed. The Court of Appeals held that: (1) trial court did not abuse discretion in refusing defendant's motion to sequester State's witnesses; (2) inventory search of defendant's van did not violate Fourth Amendment; and (3) defendant's two previous convictions under Controlled Substance Act should have been considered as only one for purpose of sentencing.

Affirmed in part, reversed in part and remanded.

### West Headnotes (7)

[Change View](#)

- 1 **Criminal Law** Power and duty of court  
Sequestration of witnesses is matter of discretion for trial judge.  
1 Case that cites this headnote
- 2 **Criminal Law** Power and duty of court  
Party is not generally entitled to sequestration as matter of right, though order excluding witnesses is rarely withheld when applied for by either party in good faith.  
1 Case that cites this headnote
- 3 **Criminal Law** Power and duty of court  
Motion for sequestration of witnesses may be refused if trial judge, in exercise of his discretion feels that there are not sufficient grounds to grant motion.  
1 Case that cites this headnote
- 4 **Criminal Law** Power and duty of court  
Trial court did not abuse its discretion in refusing to grant defendant's motion to sequester two highway patrolmen involved in defendant's arrest in connection with his possession of large amount of marijuana.
- 5 **Automobiles** Time and place; impoundment, inventory, or booking  
Inventory search of van did not violate defendant's rights under Fourth Amendment, where defendant was arrested for driving under the influence after being stopped for speeding, license tag on van was issued for another vehicle, and defendant's driver's license was issued under false pretenses. U.S.C.A. Const.Amend. 4.

### SELECTED TOPICS

- Criminal Law
  - Trial Court Enforcement of Witness Sequestration Rule
  - Orderly Presentation of Evidence
- Arrest
  - On Criminal Charges
  - Standard Inventory Search of Defendant Impounded Vehicle

### Secondary Sources

#### APPENDIX II: FAIR LABOR STANDARDS ACT REGULATIONS TITLE 29 CODE OF FEDERAL REGULATIONS

Fair Labor Stds. Hdbk. for States, Local Govs. and Schools Appendix II

...The U.S. Department of Labor published rule changes in October 2013 that will modify the companionship and live-in domestic services exemptions (but not the babysitting exemption) effective on Jan. 1, ...

#### Modern status of rule as to validity of nonconsensual search and seizure made without warrant after lawful arrest as affected by lapse of time between, or difference in places of, arrest and search

19 A.L.R.3d 727 (Originally published in 1968)

...This annotation collects the recent cases dealing with the question of the validity of a nonconsensual search and seizure conducted without a search warrant following a valid arrest, as affected by a d...

#### Exclusion of Witnesses Under Rule 615 of Federal Rules of Evidence

181 A.L.R. Fed. 549 (Originally published in 2002)

...This annotation collects and analyzes those cases in which the federal courts construed and applied Rule 615 of the Federal Rules of Evidence, which deals with the exclusion of witnesses from the court...

[See More Secondary Sources](#)


### Briefs

#### Final Brief for Appellants


2011 WL 8193751  
UNITED STATES OF AMERICA, Appellee, v. Rodney MOORE, Kevin Gray, John Raynor, Calvin Smith, Lionel Nunn, And Timothy Handy, Appellants.  
United States Court of Appeals, District of Columbia Circuit.  
Jan. 21, 2011

...Appellants Rodney Moore, Kevin Gray, John Raynor, Calvin Smith, Lionel Nunn and Timothy Handy were charged along with several other defendants in a superseding indictment that was returned on November ...

**Brief for the States of Arizona, Alabama, Delaware, Florida, Hawaii, Illinois, Indiana, Kansas, Maryland, Michigan, Missouri, Montana, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Vermont, Virginia, and Wyoming as Amici Curiae in Support of Respondent**

- 6 **Sentencing and Punishment**  Scheme, plan or course of conduct Convictions on two or more counts for violation of Controlled Substance Act arising out of simultaneous acts committed in course of single incident will be considered as only one for purpose of sentencing under subsequent conviction for violation of Act; there is no prohibition of counting each conviction separately for sentencing purposes where convictions, obtained for violations of Act, are unrelated to one another and do not arise out of single incident. Code 1976, § 17-25-50.

6 Cases that cite this headnote

- 7 **Sentencing and Punishment**  Scheme, plan or course of conduct Defendant's two prior convictions, arising out of single incident in which he was found in possession of two controlled substances and sentenced separately for each, counted as one conviction for purpose of sentencing defendant for subsequent conviction for possession of marijuana with intent to distribute. Code 1976, § 17-25-50.

6 Cases that cite this headnote

### Attorneys and Law Firms

**\*\*145 \*207** W. Gaston Fairey, and W. Frank Cantrell, Columbia, for appellant.

Atty. Gen. T. Travis Medlock and Asst. Atty. Gen. Harold M. Coombs, Jr., Columbia, and Sol. William T. Jones, Greenwood, for respondent.

### Opinion

PER CURIAM:

Phillip Boyd, who elected to be tried by the judge without a jury, was convicted of possession of marijuana with intent to distribute. Boyd had been previously convicted in 1975 for possession of marijuana, hashish and certain prescription pills, amounts of which were simultaneously in his possession at the time of his arrest; based on the 1975 convictions, Boyd was sentenced as a third offender. We affirm the conviction, but reverse and remand for sentencing as a second offender.

At the time of his arrest, Boyd was driving a large recreational type Ford van vehicle with a Texas license tag on it; but he had no title registration certificate for the van. A highway patrolman stopped him for speeding; there was an odor of alcohol about him and the patrolman then arrested him for DUI. Upon investigation it was found that the license tag was issued for another vehicle and that Boyd's driver's license was issued under false pretenses. After the arresting officer called another patrolman, the van was moved to a safer location and what the officers described as an inventory search of the van was begun which disclosed a large amount of marijuana. Upon discovering the marijuana, the remaining patrolman turned the vehicle over to the Sheriff of Abbeville County who had jurisdiction in this drug related matter.

Boyd moved to sequester the State's witnesses on the grounds that their testimony was interrelated. The solicitor identified the roles of the two highway patrolmen involved in the arrest and the trial judge concluded that while the **\*208** witnesses' testimony might overlap, Boyd would not be benefited by the sequestration and he then denied the motion.

At issue on appeal are whether (1) the trial judge erred in refusing to sequester the witnesses, (2) the inventory search and resulting discovery of the marijuana violated Boyd's Fourth Amendment rights and (3) Boyd was properly sentenced as a third offender.

1 2 3 4 Sequestration of witnesses is a matter of discretion for the trial judge. *State v. Harris*, 275 S.C. 463, 272 S.E.2d 636 (1980). While an order excluding witnesses is rarely withheld when applied for by either party in good faith, a party is not generally entitled to sequestration as a matter of right. A motion for sequestration may be refused if the trial judge, in the exercise of his discretion, feels that there are not sufficient grounds to grant the motion. *State v. Jackson*, 265 S.C. 278, 217 S.E.2d 794 (1975). In the case before us, the trial judge was fully apprised of the circumstances of the case and concluded that there was no prejudice shown by Boyd to support the motion. Under these circumstances we hold there was no error. *State v. Jackson*, *supra*.

2004 WL 177037  
Marcus THORNTON, Petitioner, v. UNITED STATES OF AMERICA, Respondent.  
Supreme Court of the United States  
Jan. 23, 2004

...Thornton's case presents an issue of considerable importance to the undersigned States, whose vehicle search procedures incident to an occupant's arrest reflect this Court's interpretation of the Four...

### Appellee's Brief

2000 WL 35749506  
UNITED STATES OF AMERICA, Plaintiff-Appellee, v. Michael Sevan RHYNES, Defendant-Appellant.  
United States Court of Appeals, Fourth Circuit.  
Mar. 06, 2000

...FN1. On June 3, 1996 the grand jury returned a superseding Bill of Indictment which added an additional charge as to one of the co-defendant's. The charges as they pertained to the defendant herein wer...

See More Briefs

### Trial Court Documents

#### United States of America v. Thomas

2015 WL 10529234  
UNITED STATES OF AMERICA, Plaintiff, v. David Savoy THOMAS, Defendant.  
United States District Court, D. New Mexico.  
Mar. 03, 2015

...THIS MATTER comes before the Court on Defendant's Motion to Suppress Tainted Identifications [Doc. 27], the Government's First and Second Motion[s] in Limine and Request for a Daubert Hearing [Docs. 34...

#### United States of America v. Mayfield

2015 WL 10580288  
UNITED STATES OF AMERICA, Plaintiff, v. Rocky Thomas MAYFIELD, Defendant.  
United States District Court, D. North Dakota, Northwestern Division.  
June 10, 2015

...Before the Court is Defendant Rocky Thomas Mayfield's motion to suppress filed on May 12, 2015. See Docket No. 52. The Government filed a response in opposition to the motion on May 26, 2015. See Docket...

#### United States of America v. Mayfield

2015 WL 10580289  
UNITED STATES OF AMERICA, Plaintiff, v. Rocky Thomas MAYFIELD, and Oscar Gabriel Delgado, Defendants.  
United States District Court, D. North Dakota, Northwestern Division.  
Oct. 29, 2015

...Before the Court is the Government's motion to quash subpoenas filed on October 29, 2015. See Docket No. 116. The motion is made in relation to a number of subpoenas issued by counsel for Oscar Delgado...

See More Trial Court Documents

5 We also conclude that there was not an unconstitutional search of the vehicle. Inventory searches are legal under certain circumstances set forth in **\*\*146** *South Dakota v. Opperman*, 428 U.S. 364, 96 S.Ct. 3092, 49 L.Ed.2d 1000 (1976) and *State v. Lemacks*, 275 S.C. 181, 268 S.E.2d 285 (1980); we think these cases are controlling and reject the contention that the search of the automobile was violative of Boyd's constitutional rights under the Fourth Amendment to the United States Constitution.

We are presented with a novel question by Boyd's argument that in determining the number of offenses for the purpose of imposition of sentence, the trial judge should have treated as one Boyd's two prior convictions because they arose out of a single incident in which he was found in possession of two controlled substances and sentenced separately for each.

The General Assembly adopted in the case of habitual offenders Boyd's thesis that where a conviction on two or more counts arising out of acts committed in the course of a **\*209** single incident has been entered, the conviction should count as only one for the purposes of sentencing in a subsequent and separate conviction. Section 17-25-50, Code of Laws of South Carolina (1976), provides:

In determining the number of offenses for the purpose of imposition of sentence, the court shall treat as one offense any number of offenses which have been committed at times so closely connected in point of time that they may be considered as one offense, notwithstanding under the law they constitute separate and distinct offenses.

The General Assembly adopted the same line of reasoning for multiple traffic offenses. Section 56-1-1020, Code of Laws of South Carolina (1976), as amended in 1984.

We do not think the rule that statutes relating to the same subject are to be construed together and harmonized applies to the situation before us, but we do hold that the same logic and fairness of these two statutes require the adoption of Boyd's thesis that a conviction of two or more counts under the Controlled Substance Act which arose out of acts committed in the course of a single incident should count as one for the purpose of sentencing for conviction of a subsequent and separate violation of the Controlled Substance Act. Furthermore, to our knowledge, no one has ever contended that in the sentencing of a defendant convicted of several counts of violations of the Controlled Substance Act arising out of the same incident, the defendant could be sentenced as a second or third offender. This being true, it would not be logical or fair in a subsequent offense and incident involving another and subsequent trial and conviction to do in the second trial what would not have been done in the prior conviction and sentencing.

6 7 For these reasons we hold that where a defendant has been convicted on two or more counts for the violation of the Controlled Substance Act arising out of simultaneous acts committed in the course of a single incident, the convictions will be considered as only one for the purpose of sentencing under a subsequent conviction for a violation **\*210** of the Controlled Substance Act.<sup>1</sup> We hasten to add that where multiple convictions are obtained for violations of the Controlled Substance Act where the violations are unrelated to one another and do not arise out of a single incident that there be no prohibition of counting for sentencing purposes each conviction separately. And we so hold.<sup>2</sup>

**\*\*147** For the reasons stated, we affirm Boyd's conviction of the crime charged but reverse insofar as he was sentenced as a third offender and remand for resentencing as a second offender.

AFFIRMED IN PART; REVERSED IN PART AND REMANDED.

#### All Citations

288 S.C. 206, 341 S.E.2d 144

#### Footnotes

1 In addition to Sections 17-25-50 and 56-1-1020 discussed above, *cf. State v. Pee Dee News Company, Inc.*, 286 S.C. 562, 336 S.E.2d 8 (1985), where our Supreme Court held that the counts contained in the indictments should be consolidated for purposes of sentencing when there is no evidence that the

pornographic distributions occurred at different times. *See generally*: 39 Am.Jur.2d *Habitual Criminals* § 10 (1968); 24B C.J.S. *Criminal Law* § 1960(5b) (1980); Annot., 24 A.L.R.2d 1234, 1248 (1952).

- 2 This holding is not inconsonant with the decision of *State v. Patterson*. 272 S.C. 1, 2, 249 S.E.2d 771 (1978). There the court rejected the defendant's argument that he could not be sentenced for a second offense until and unless he had actually been convicted of a first offense prior to the occurrence of the second offense. There the defendant committed two separate crimes arising out of two separate transactions. In the case before us, the two offenses were the result of a single incident and occurred simultaneously although two separate sections of the Controlled Substance Act were violated.

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