

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Richland County

Honorable L. Casey Manning, Circuit Court Judge

KENNETH DARRELL RIVERA,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-000654

APPENDIX

VICTOR R SEEGER
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

MICHAEL D. DAVIDSON
Assistant Attorney General
1000 Assembly Street
Columbia, SC 29201
(803)734-3737

ATTORNEYS FOR RESPONDENT

RECEIVED

Aug 19 2021

S.C. SUPREME COURT

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JEANETTE W. McBRIDE
Clerk of Court

VIRGINIA F. BELCHER
Chief Deputy Clerk of Court



MAILING ADDRESS:
POST OFFICE BOX 2766
COLUMBIA, SC 29202-2766

TELEPHONE:
Phone: 803.576.1934
Fax: 803.576.1785
TDD: 803.748.4999

RICHLAND COUNTY CLERK OF COURT

Richland County Judicial Center
1701 Main Street, Room 205
Columbia, South Carolina 29201

February 10, 2020

Lindsey McCallister
Attorney at Law
South Carolina Attorney General Office
Post Office Box 11549
Columbia South Carolina 29211

Re: Kenneth Rivera #318979

Dear Ms. McCallister

I am enclosing a copy of an Application for Post-Conviction Relief that has been filed in the Office of the Clerk of Court and assigned a civil action number 2020CP4000791.

Also, I have enclosed a copy of his/her criminal records.

Sincerely,

Dominque McDaniel
Civil Records Clerk

Enclosures

STATE OF SOUTH CAROLINA
 IN THE COURT OF COMMON PLEAS
 County of Richland

IN THE COURT OF COMMON PLEAS

Kenneth Rivera #318979

Full name and prison number (if any) of Applicant

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention South Carolina Department of Corrections
Broad River Correctional Institution
2. Name and location of Court which imposed sentence Richland County
Judicial Center 1701 Main Street Columbia, SC 29201
3. Name(s) of co-defendant(s) (if any) none
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 (a) 2019 GS40-07909

2020 FEB 10 PM 2:05
 JEANETTE W. MCARD
 C.C.P. & C.S.
 RICHLAND COUNTY
 FILED

5. Check whether a finding of guilty was made
- (a) after a plea of guilty ✓
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
6. Did you appeal from the judgment of conviction or the imposition of sentence?
NO
7. If you answered "yes" to (6), list
- (a) the name of each Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. _____
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. _____
 - iii. _____
8. If you answered "no" to (6), state your reasons for not so appealing:
- (a) Pled Guilty
 - (b) _____
 - (c) _____
9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) I was convicted in SDC prison DHO and Court of law
 - (b) _____
 - (c) _____
10. State concisely and in the same order the facts which support each of the grounds set out in (9):
- (a) I was convicted for the same offense twice
 - (b) _____
 - (c) _____

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law? NO

(b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO

(d) any other petitions, motions or applications in this or any other Court?

NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

(a) This is my first time challenging the conviction of this crime.

(b) _____

(c) _____

16. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes

(b) your trial, if any? NO

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

i. Jonathan Cornish, Public Defenders Office
Richland County Judicial Center 1701 Main Street Columbia, SC
29201

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

i. Guilty Plea

ii. _____

iii. _____

18. State clearly the relief you seek in filing this application.

The Contraband conviction taken off my record

19. Are you now under sentence from any other court that you have not challenged?

NO

ARREST WARRANT
2019A4010500071
STATE OF SOUTH CAROLINA
[X] County/ [] Municipality of
Richland / Dutch Fork Magistrate
THE STATE 37-2019-025
against
Kenneth Darrell Rivera
Address: [REDACTED]
Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 5 7 Weight: 183
DL State: [REDACTED] DL #: [REDACTED]
DOB: [REDACTED] Agency ORI #: SC040095C
Prosecuting Agency: S C Department Of Corrections Division
Prosecuting Officer: Christopher D Long - S00021
Offense: Prisoners / Carrying or concealing weapon by inmates
Offense Code: 0441
Code/Ordinance Sec: 24-13-0440
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 Darrell Rivera
on 4-16-19
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
Richland County General Sessions
1701 Main Street
P O Box 192
Columbia, SC 29202

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA)
[X] County/ [] Municipality of)
Richland / Dutch Fork Magistrate)
AFFIDAVIT
Personally appeared before me the affiant Christopher D Long
being duly sworn deposes and says that defendant Kenneth Darrell Rivera
did within this county and state on or about 2/28/2019 violate the criminal laws of the
State of South Carolina (or ordinance of [X] County/ [] Municipality of Richland / Dutch Fork Magistrate
in the following particulars:
DESCRIPTION OF OFFENSE: Prisoners / Carrying or concealing weapon by inmates

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:

Agent Christopher Long states that the defendant did, in the County of Richland, South Carolina, on or about February 28, 2019,
commit the offense of Possession of a Weapon by an Inmate to wit: that during a search of the cell occupied by Kenneth Darrell
Rivera, an inmate lawfully incarcerated in the South Carolina Department of Corrections, a homemade weapon approximately 10
inches long was recovered. The weapon was recovered from the person of the defendant. The defendant claimed ownership of the
weapon. This offense occurred at Broad River Correctional Institution in Columbia, SC. Probable cause is based on Police
investigation, statement of witness, recovery of evidence, and admission of the defendant.

Signature of Affiant
STATE OF SOUTH CAROLINA)
[X] County/ [] Municipality of)
Richland / Dutch Fork Magistrate)
Affiant's Address P.O. Box 21787
Columbia, SC 29221-1787
Affiant's Telephone (803)896-5214

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 2/28/2019 defendant Kenneth Darrell Rivera
did violate the criminal laws of the State of South Carolina (or ordinance of
[X] County/ [] Municipality of Richland / Dutch Fork Magistrate) as set forth below.
DESCRIPTION OF OFFENSE: Prisoners / Carrying or concealing weapon by inmates

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 3/12/2019

Signature of Judge (L.S.)
Judge's Address 1019 Beatty Road
Columbia, SC 29210-4630
Judge's Telephone (803)576-2540
Issuing Court: [X] Magistrate [] Municipal [] Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL
CERTIFIED TRUE COPY
OF OFFICIAL FILED
JAN 21, 2020
C.C. P.G.S., & C.C.
RICHLAND COUNTY
SOUTH CAROLINA
9

BAIL set by

WITNESSES

Judge Mal Maurer
on 4-16-19
Type and Amount: 5,000 /s
Name of Surety: _____

Name: _____
Address: _____
Telephone: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Name: _____
Address: _____
Telephone: _____

Decision: _____

Name: _____
Address: _____
Telephone: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Name: _____
Address: _____
Telephone: _____

Disposition: _____

Name: _____
Address: _____
Telephone: _____

Sentence: _____

Name: _____
Address: _____
Telephone: _____

JURORS

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____
Telephone: _____

CODEFENDANTS



CERTIFIED TRUE COPY
OF ORIGINAL FILED
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA

WITNESSES

(S) Christopher D Long
- S C Dept Of Corrections /OIG

ARREST WARRANT NUMBER

2019A4010500071

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2019GS4007909

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2019

18

THE STATE
vs.

Kenneth Darrell Rivera

Indictment for
PRISONERS / CONTRABAND,
POSSESSION BY PRISONER, FURNISHING
OR ATTEMPT TO FURNISH PRISONER
WITH

SC Code: 24-03-0950
CDR Code: 0074

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

Kenneth Rivera
Defendant

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

Defendant

Witness:

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

CERTIFIED TRUE COPY
OF ORIGINAL FILED
JAN 20 2019
C.C.C.P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA 8

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on December 3, 2019,
 the Grand Jurors of Richland County present upon their oath:

POSSESSION OF CONTRABAND

That Kenneth Darrell Rivera, a prisoner of the South Carolina Department of Corrections, did in Richland County on or about February 28, 2019, possess a homemade weapon, such items being declared as contraband by the Commissioner of the South Carolina Department of Corrections, in violation of Section 24-3-950, S. C. 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.


 BYRON E. GIPSON, SOLICITOR

CERTIFIED TRUE COPY
 OF ORIGINAL FILED,
James H. W. Wade
 C.O.C.S.G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

Kenneth Darrell Rivera

AKA:

Race: BLACK Sex: M Age: 33

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Prisoners / Contraband, possession by prisoner, furnishing or attempt to furnish prisoner with

in violation of § 24-03-0950 of the S.C. Code of Laws, bearing CDR Code # 0074

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. YKE (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Grayson Hill
Solicitor103642 Kenneth Rivera
SC Bar# Defendant101700
Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 1 ~~44 months~~ years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 14652305139 74652310896
14652310897
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5%) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ _____

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ _____

TOTAL \$ 128.75Clerk of Court/ Deputy Clerk Jeanette McBride BCourt Reporter: Harris

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS4007909

A/W#: 2019A4010500071

Date of Offense: 2/28/2019

S.C. Code § : 24-03-0950

CDR Code #: 0074

RECOMMENDED
SENTENCE SHEET
NEGOTIATED☐ CONVICTED OF or ☒ PLEADS

in violation of § 24-03-0950 of the S.C. Code of Laws, bearing CDR Code # 0074

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. YKE (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTEST:
Grayson Hill Solicitor
103642 Kenneth Rivera SC Bar# Defendant
101700 Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 1 ~~44 months~~ years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 14652305139 74652310896
14652310897
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the SCDoc.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge Ke HoodJudge Code: 12164Sentence Date: 12/31/19

SOUTH CAROLINA

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Kenneth Rivera, #318979,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2020-CP-40-0791

**RETURN AND MOTION TO DISMISS
(COUNSEL NOT REQUESTED)**

2020 AUG 13 AM 8:37
FILED
RICHLAND COUNTY
JEANETTE W. MCBRIDE
C.C.P. & G.S.

In response to Kenneth Rivera's (Applicant) action for post-conviction relief (PCR) commenced February 10, 2020, the State makes this return and motion to dismiss for failure to state a cognizable claim for which an application for post-conviction relief can remedy.

I. Procedural History

Applicant is confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted at the December 2019 term of the Richland County Grand Jury for possession of a weapon by an inmate (2019-GS-40-7909). Applicant was represented by Jonathan Cornish, Esquire. Assistant Solicitor Grayson Hill prosecuted the case.

On December 3, 2019, Applicant pleaded guilty as indicted before the Honorable Robert E. Hood. Judge Hood sentenced Applicant as recommended, to a term of one year. Applicant did not appeal.

II. Current Application

Applicant timely commenced this PCR action on February 10, 2020. Applicant asserts he is being held in custody unlawfully, alleging:

1. I was convicted in SCDC prison, DHO, and court of law
 - a. I was convicted for the same offense twice.

Applicant requests relief in the form of “the contraband conviction taken off [his] record.” Attached to this return and incorporated herein are the Richland County Clerk of Court records for the underlying conviction, Applicant’s SCDC records, and the records of this PCR action. The State reserves the right to amend this return upon receipt of any relevant materials.

III. Motion to Dismiss

The State moves for summary dismissal pursuant to section 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing. Because there is no question of law or fact to necessitate a hearing, the State requests the issue a conditional order of dismissal indicating the Court’s intent to dismiss the application and its reasons for so doing.¹ See S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); *Leamon v. State*, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (summary disposition appropriate when there is no need to develop facts and the applicant is not entitled to relief); Re: Appointment of Counsel in Post-Conviction Relief Cases Before the Circuit Court, S.C. Sup. Ct. Order filed October 6, 2008; Rule 71.1(d), SCRCP (providing for appointment of counsel only where there is a question of law or fact which necessitates a hearing). The State moves for summary dismissal for the following reason:

i. **Failure to State a Claim**

Applicant’s allegation should be summarily dismissed for failure to state a claim. See Rule 12(b)(6), SCRCP (stating a defending party may move for summary judgement based on the plaintiff’s failure to “state facts sufficient to constitute a cause of action”). Applicant argues that

¹ A proposed Conditional Order of Dismissal consistent with this return and motion to dismiss is concurrently submitted for the Court’s consideration.

the punishment he received following an administrative hearing bars additional prosecution of the same offense in a court of law; however, an inmate disciplinary hearing is not a criminal trial; it is an administrative proceeding which takes place in a closed, tightly controlled environment peopled by those who have chosen to violate the criminal law and who have been lawfully incarcerated for doing so. *See Superintendent Mass. Corr. Inst., Walpole v. Hill*, 472 U.S. 445, 454 (1985). Generally, “a prison disciplinary sanction will not bar subsequent criminal prosecution.” *State v. Blick*, 325 S.C. 636, 642, 481 S.E.2d 452, 456-457 (1997). Furthermore, prison disciplinary proceedings do not constitute a double jeopardy bar to subsequent criminal prosecution based on the same acts. *Id.*

Here, Applicant’s Double Jeopardy claim is without merit. Any punishment he received following his administrative hearing with regards to the offense of the underlying conviction does not preclude prosecution in a court of law. *Id.* Accordingly, the action should be summarily dismissed pursuant to Rule 12(b)(6), SCRCPP, for failure to state a claim.

IV. General Denial

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

V. Conclusion

WHEREFORE, Respondent moves to summarily dismiss the application because it fails to state a claim for which PCR is an applicable remedy.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

MICHAEL D. DAVIDSON
Assistant Attorney General

By: s/ Michael D. Davidson
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

August 5, 2020

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTH JUDICIAL CIRCUIT
)
)

Kenneth Rivera, #318979,

) Case No.: 2020-CP-40-0791
)
)

Applicant,

)

v.

)

State of South Carolina,

)

Respondent.

)
)

CONDITIONAL ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2020 AUG 12 PM 2:58
CLERK OF COURT

This matter is before the Court by way of an application for post-conviction relief (PCR) filed by Kenneth Rivera (Applicant) on February 10, 2020. In its return and motion to dismiss, the State requested the action be summarily dismissed for failure to state a cognizable claim for which an application for post-conviction relief can remedy.

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted at the December 2019 term of the Richland County Grand Jury for possession of a weapon by an inmate (2019-GS-40-7909). Applicant was represented by Jonathan Cornish, Esquire. Assistant Solicitor Grayson Hill prosecuted the case.

On December 3, 2019, Applicant pleaded guilty as indicted before the Honorable Robert E. Hood. Judge Hood sentenced Applicant, as recommended by the State, to a term of one year. Applicant did not appeal.

II. CURRENT APPLICATION

Applicant timely commenced this PCR action on February 10, 2020. Applicant asserts he is being held in custody unlawfully, alleging:

1. I was convicted in SCDC prison, DHO, and court of law
 - a. I was convicted for the same offense twice.

Applicant requests relief in the form of "the contraband conviction taken off [his] record."

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the pleadings and all relevant supporting documents. Pursuant to subsection 17-27-70(b) of the South Carolina Code (2014), this Court makes the following findings of fact and conclusions of law:

Failure to State a Claim

This Court finds the current application for post-conviction relief must be summarily dismissed because Applicant has failed to state a cognizable claim for relief. *See* Rule 12(b)(6), SCRPC (stating a defending party may move for summary judgement based on the plaintiff's failure to "state facts sufficient to constitute a cause of action"). Applicant argues that the punishment he received following an administrative hearing bars additional prosecution of the same offense in a court of law and constitutes Double Jeopardy. However, an inmate disciplinary hearing is not a criminal trial. The double jeopardy clause protects against a second prosecution for the same offense after acquittal; a second prosecution for the same offense after conviction; and multiple punishments for the same offense. *State v. Blick*, 325 S.C. 636, 640, 481 S.E.2d 452, 454 (1997). Generally, "a prison disciplinary sanction will not bar subsequent criminal prosecution." *Id.* at 642. Additionally, prison disciplinary proceedings do not constitute a double jeopardy bar to subsequent criminal prosecution based on the same acts. *Id.* at 640.

This Court finds Applicant's Double Jeopardy claim is without merit because any punishment he received following his administrative hearing with regards to the offense of the underlying conviction does not preclude prosecution in a court of law. *Id.* Accordingly, this action must be summarily dismissed pursuant to Rule 12(b)(6), SCRPC, for failure to state a claim.

IV. CONCLUSION

Pursuant to subsection 17-27-70(b) of the South Carolina Code, this Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed in its entirety. Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. Applicant shall file any reasons he may have, factual or legal, with the Richland County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Michael D. Davidson, Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

AND IT IS SO ORDERED this 11th day of August, 2020.



ALISON RENEE LEE
Chief Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2020CP4000791Kenneth Rivera, #318979State Of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge _____

Judge Code _____

Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 12 August 2020 to attorneys of record or to parties (when appearing pro se) as follows:

Kenneth Rivera, #318979

Lindsey Ann McCallister

Kenneth Rivera, #318979

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____



STATE OF SOUTH CAROLINA	}	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND		FIFTH JUDICIAL CIRCUIT
Kenneth Rivera, #318979,	}	Case No. 2020-CP-40-0791
Applicant,		
v.	}	Response To Conditional
State Of South Carolina,		Order OF Dismissal
Respondent.	}	

Here comes the Applicant Kenneth Rivera in the above-named case hereby move the Court of Common Pleas of South Carolina for an Motion to Respond Respondent Motion to Dismiss because

2020 SEP - 9 AM 10:48
 FILED
 RICHLAND COUNTY
 JEANNETTE M. MCBRIDE
 C.C.P. & PS.

1. Applicant has stated a claim where relief can be granted.

I. Procedural History

Applicant is confined to the Broad River Correctional Institution (BRCI) an institution within the South Carolina Department of Corrections (SCDC), pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted for possession of weapon by a prisoner but the charge was changed to a contraband charge.

Indictment number (2019-GS-40-07909) pursuant to S.C. Code of Laws, 1976 section 24-3-950.

On February 28, 2019 Police Services of SCDC searched Applicant cell due to an investigation of known "Blood" gang members (see preliminary hearing recording). During this search Police Services Confiscated 2 cell phones; 112 grams of Tobacco; and a 10 inch home made shank. On March 19, 2019 Applicant was convicted by the Prison Disciplinary Hearing Officer (DHO) of possession of a weapon.

Applicant was sanctioned and lost a total of 3 days of good time credit towards his sentence of 15 years. On April 16, 2019 Applicant was served a Warrant for Prisoner/Carrying or Concealing Weapon by inmates Arrest Warrant No. 2019A4010500071; and was giving a \$5,000 bond.

On December 3, 2019, Applicant pleaded guilty to Contraband before the Honorable Robert E. Hood.

II. Current Facts

Applicant timely commenced his PCR action on February 10, 2020. Applicant asserts he is being held in custody unlawfully, alleging:

He was convicted in a prison DHO and sentenced to a year in a court of law. Applicant requests relief in the form of "the contraband conviction overturned and taken off his record."

III. Response To Failure To State A Claim

Applicant on March 19, 2019 was convicted in the prison "DHO" and was sentenced to 30 days Detention time and 3 days loss of liberty. On December 3, 2019 he was convicted by Judge Hood for possession of Contraband and sentenced to 1 year. Applicant argues that the punishment he received following the prison conviction is a violation of his Fifth Amendment right to be free from double jeopardy.

It is Double Jeopardy when Applicant was convicted in a prison DHO with a loss of 3 days liberty and sentenced to 30 days detention (RHO) and convicted in a courtroom with a sentence of a year. In Sellers v. State, 259 S.C. 564, 193 S.E. 2d 513 (1972) held:

"From the outset we note our adherence to the traditional "hands off" doctrine regarding judicial involvement in prison disciplinary procedures..."

Furthermore, prison disciplinary proceedings does constitute a double jeopardy bar to subsequent criminal prosecution when Applicant loses Liberty twice for the same offense. In U.S. V. Ayala, 601 F.3d 256 (2010) the Court held:

"In the context of a single criminal prosecution, the Double Jeopardy Clause protects against multiple punishment for the same offense..."

Respondent's finds Applicant Double Jeopardy claim without merit however, fail to acknowledge that Applicant was convicted twice for the same offense, loss liberty twice for the same offense. Accordingly, Respondent's Motion shall be dismissed and relief granted to Applicant.

IV. Conclusion

Pursuant to U.S.C.A Amend. 5 this Court should grant Applicant relief and dismiss Respondent's Motion. see attach Exhibits.

Kenneth Rivera
Kenneth Rivera #318979
BREI-Waterce B #225
4460 Broad River Rd.
Columbia, SC 29210

TO: 37-2019-025
FROM: CHRISTOPHE LONG
RE: POSSESSION OF A WEAPON BY INMATE (OTHER THAN FIREARM)
KIRK, DENNIS (INMATE), 00322181, (S)
WHEELER, JAMES (INMATE), 00177099, (S)
HINDMAN II, DARREL STEPHEN (INMATE), 00317714, (S)
RIVERA, KENNETH DARRELL (INMATE), 00318979, (S)

LOCATION: BROAD RIVER

INCIDENT DATE: 02/28/2019

Introduction

On February 28, 2019, the South Carolina Department of Corrections (SCDC) Police Services (POL) assisted Broad River Correctional Institution (BRCI) contraband officers with targeted cell searches. According to BRCI Incident Reports (**Attachment 1**), four weapons were recovered from the following inmates: Dennis Kirk (SCDC ID 322181), James Wheeler (SCDC ID 177099), Darrel Hindman (SCDC ID 317714), and Kenneth Rivera (SCDC ID 318979). The reports indicated four homemade weapons were recovered from these inmates during the searches. SCDC Assistant Chief Jeff Scott assigned SCDC Agent Chris Long to investigate.

Summary

On February 28, 2019, Agent Long and SCDC Agents Anne Bradley, Joshua Hardin, and Robert Clay, along with BRCI Contraband Officers, conducted targeted cell searches. The following weapons were recovered: One homemade weapon approximately six inches long, one homemade weapon approximately 11.5 inches long, one homemade weapon approximately nine and a half inches long, and one homemade weapon approximately 10 inches long (**Attachment 2**).

On February 28, 2019, the BRCI Contraband Officers took possession of the weapons.

On March 4, 2019, Agent Long interviewed Correctional Officer (CO) Christine Titus (EMPL ID 061021) at BRCI and obtained a voluntary written statement (**Attachment 3**). CO Titus provided the following information: While searching cell 128, a single

man cell, assigned to inmate Kirk - a homemade weapon that was approximately six inches long was recovered from under his bed. The weapon consisted of two triangular pieces of metal held together with what appeared to be wire. Inmate Kirk did not claim ownership of the weapon. While searching cell 135, a single man cell assigned to inmate Wheeler - a homemade weapon approximately 11.5 inches long was recovered hanging from the air vent inside the room. This weapon resembled a hatchet and had a piece of cloth wrapped around the handle. Inmate Wheeler did not claim ownership of the weapon. While searching cell 143, a single man cell, assigned to inmate Hindman, a homemade weapon approximately nine and a half inches long was recovered from under his mattress. The weapon was white-in-color and shaped like a knife. Inmate Hindman did not claim ownership of the weapon.

On March 4, 2019, Agent Long interviewed CO Jorge Romero (EMPL ID 036170) at BRCI and ~~obtained a voluntary written statement (Attachment 4).~~ CO Romero provided the following information: While conducting a strip search of inmate Rivera, a homemade weapon approximately 10 inches long was recovered. The weapon was inside the waist area of his pants. Inmate Rivera claimed ownership of the weapon.

On March 5, 2019, Agent Long submitted the weapons into Central Evidence for safekeeping (Attachment 5).

On March 12, 2019, Agent Long obtained arrest warrants (Attachment 6) for inmates Kirk, Wheeler, Hindman, and Rivera, for Carry or Concealing of a Weapon by an Inmate.

The following documents obtained are pertinent to this investigation:

- Disciplinary History of Dennis Kirk (Attachment 7)
- Disciplinary History of Kenneth Rivera (Attachment 8)
- Disciplinary History of Darrel Hindman II (Attachment 9)
- Disciplinary History of James Wheeler (Attachment 10)

This investigative report will be submitted to the proper authority for review and any necessary action.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

Page 1 of 1

Institution/Center: BRCI					Date of Report: 2/28/19	
Reporting Official (Full Name): Ofc. Romero					Time of Report: Approx. 4:20 pm	
Employee ID #: 036170					Date of Incident: 2/28/19	
Location of Incident: Monticello 187					Time of Incident: Approx. 1:30 pm	
Inmate(s)/Resident:	SCDC #	Age:	Sex:	Race:	Employee(s)/Witnesses Involved:	
1. Kenneth Rivera	318979	32	m	b	1. Ofc. Henley	
2.					2. Ofc. Titus	
3.					3. Police Services	
4.					4.	
5.					5.	
On the above date and approximate time:						
Ofc. Romero along with Ofc. Titus, Ofc. Henley and Police Services conducted a routine shake down on inmate Kenneth Rivera SCDC 318979 who is housed in Monticello 187. During the search 1 phone charger and 1 homemade knife approximately 10 inches was found - the knife was found on Inmate Rivera person. Inmate Rivera was present for the search and stated that whatever is found belongs to him.						
Signature: <i>[Signature]</i>					Title: ofc.	
Evidence: homemade knife approximately 10 inches						
Disposition of Evidence: turned over to contraband						
Supervisor's Comments: <i>Inmate Rivera, Kenneth</i>					STG Related - Refer to STG Committee	
<i># 318979 will be charged with 811.</i>					☐ Yes ☐ No ☒ Unknown	
<i>Forward to the Major</i>					This incident is DRUG related	
Printed Name: <i>L. Chestnut</i>					☐ Yes ☐ No ☒ Unknown	
Signature: <i>[Signature]</i> Title: <i>Sgt</i> Date/Time: <i>2-28-19 4:40</i>						
Major/Responsible Authority:					Responsible Authority	
					Action Taken	
					☐ Informal Resolution ☐ Administrative Resolution ☐ Refer to Disciplinary Hearing	
Printed Name:						
Signature:					Title: Date/Time:	

Voluntary Written Statement of Jorge Romero



South Carolina Department of Corrections
Police Services

Page 1 of 1
Case No: _____

VOLUNTARY STATEMENT

I, Jorge Romero, ID Number 036170, do hereby voluntarily provide this statement to Agent C. L. L..., who has identified him/herself as an Agent with the South Carolina Department of Corrections Police Services.

JR I OFC. ROMERO ALONG WITH OFC. TITUS, OFC. HENLEY AND POLICE SERVICES AGENT WAS CONDUCTING A TARGET ROUTINE SEARCH ON INMATE KENNETH RIVERA #318979 WHERE HOUSED ON MONTICELLO ROOM #187. DURING THE SEARCH THE FOLLOWING ITEMS WAS FOUND ON THE PERSON (1) HOME MADE WEAPON (KNIFE) SILVER APPROXIMATELY 10" INCHES LONG ON INMATE RIVERA #318979 PANTS WAIST AREA. INMATE RIVERA #318979 TOOK OWNERSHIP OF THE CONTRABAND ITEMS. JR

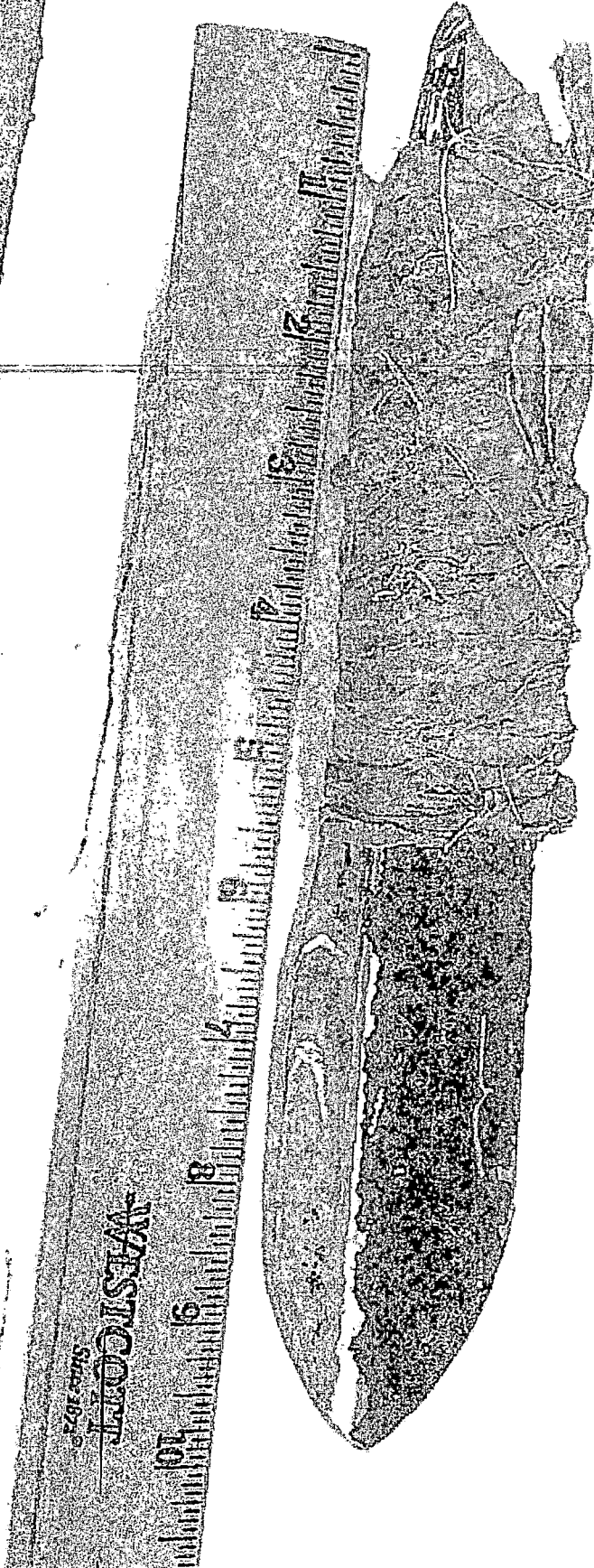
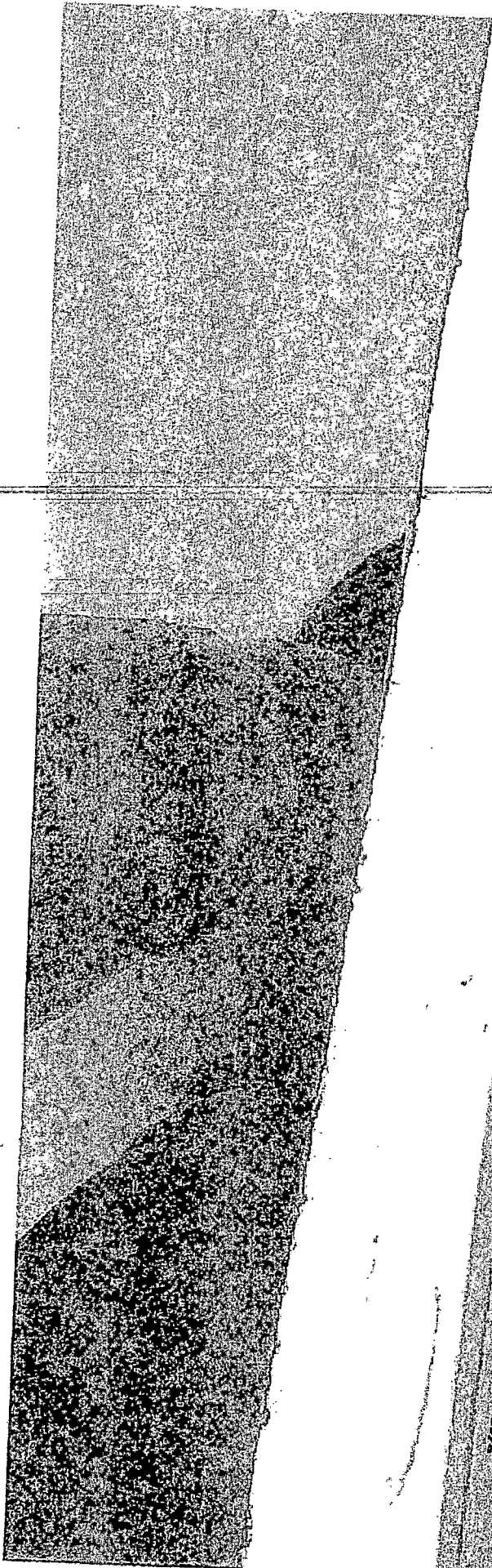
I have read this statement consisting of 1 pages, or have had it read to me. It is true and correct to the best of my knowledge. I have provided this statement freely and voluntarily without threats, coercion, or promises. I have been advised that I will be provided a copy of this statement.

Signature: Jorge Romero

Date: 3-4-19 Time: 3:41pm

Witness: [Signature]

Witness: _____



#65 811

int 5/17
exp 3/27SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

MO187/ME3/AMH

Page 1 of 1

Institution/Center: BRCI					Date of Report: 2/28/19
Reporting Official (Full Name): Ofc. Romero					Time of Report: Approx. 4:20 pm
Employee ID #: 036170					Date of Incident: 2/28/19
Location of Incident: Monticello 187					Time of Incident: Approx. 1:30 pm
Inmate(s)/Resident:	SCDC #	Age:	Sex:	Race:	Employee(s)/Witnesses Involved:
1. Kenneth Rivera	318979	32	m	b	1. Ofc. Henley
2.					2. Ofc. Titus
3.					3. Police Services
4.					4.
5.					5.

On the above date and approximate time:

1 Ofc. Romero along with Ofc. Titus, Ofc. Henley and Police Services conducted a routine shake down on inmate Kenneth Rivera SCDC 318979 who is housed in Monticello 187. During the search 1 phone charger and 1 homemade knife approximately 10 inches was found. The knife was found on Inmate Rivera person. Inmate Rivera was present for the search and stated that whatever is found belongs to him.

RECEIVED

MAR 04 2019

BRCI MAJOR'S OFFICE

Signature: *J. Romero* Title: ofc.

Evidence: homemade knife approximately 10 inches

Disposition of Evidence: turned over to contraband

Supervisor's Comments: *Inmate Rivera, Kenneth #318979**will be charged with 811. Forward to the Major.*Printed Name: *L. Chestnut*Signature: *L. Chestnut* Title: *Sgt.* Date/Time: *2-28-19 5:19pm*

Major/Responsible Authority:

STG Related - Refer to STG Committee

☐ Yes ☐ No ☒ Unknown

This incident is DRUG related

☐ Yes ☐ No ☒ Unknown

Responsible Authority

Action Taken

☐ Informal Resolution
☐ Administrative Resolution
☒ Refer to Disciplinary Hearing
Printed Name: *James J. Marshall*Signature: *James J. Marshall* Title: *Major* Date/Time: *3-4-19*

3:46 PM

RECEIVED

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

MAR 21 2019

STEP 1

INMATE NAME: <u>Kenneth Rivera</u>	Grievance No. <u>BCCI D252.19</u>
SCDC NUMBER: <u>318979</u>	Code: General
INSTITUTION: <u>Broad River C.I.</u>	Policy
HOUSING UNIT: <u>Monticello B# 187</u>	Disc. Hear. <u>DK/IS</u>
WORK ASSIGNMENT: <u>Ward Keeper</u>	Class. <u>(811) # 65</u>
	PREA <u>3/18/19</u>
	Date Received <u>3/25/19</u>
	IGC Initials <u>CV</u>

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

I, Kenneth Rivera, #318979 is the grievant of this DHO Appeal. On the Date of March 19, 2019 at 2:15 PM I did DHO Ernest Rowe Guilty Verdict. Grievant did not receive Due Process because Counsel substitute did not have all the evidence pertaining to my hearing. Grievant was caught with two cell phones, tobacco, a charger and a knife. However, on Officer Romero incident report only a charger and a knife. Per SCDC Procedure OP. 22.35 § 4.3 every institution is to have a contraband log book for documentation of all contraband. Inmates are entitled to impartial disciplinary hearing officer who does not prejudice or preclude evidence.

ACTION REQUESTED: I request that case number 65 be dismissed due to all the evidence wasn't present

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

D.H.O Appeal

11 11 11 11 11 11 11 11 11 11

WARDEN'S DECISION AND REASON:

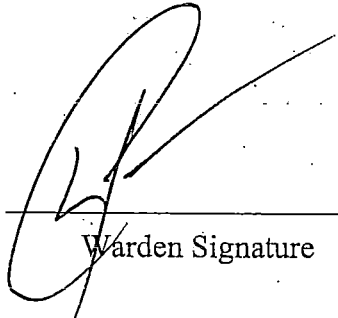
Rivera, Kenneth - 318979

BRCI-0252-19

Your grievance has been reviewed. You have appealed the results of your 03/19/19 Disciplinary Hearing where you were found guilty on the charge of (811) Possession of A Weapon. The issues you stated do not warrant a reversal of the charge. Pertinent documentation has been reviewed and an investigation of the hearing was conducted. No technicalities, procedural errors, or misinterpretations of evidence was noted, and the decision of the Disciplinary Hearing Officer was based on credible evidence. The sanctions imposed were within the guidelines for the offense.

Therefore, your grievance is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing SCDC Inmate Grievance Form 10-5A, provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this Decision.



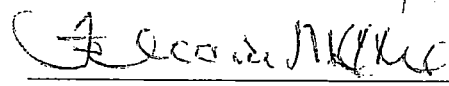
Warden Signature

 10.14.19
Date

- ☐ I accept the Warden's decision and consider the matter closed.
- ☐ I do not accept the Warden's decision and wish to appeal.

Grievant Signature

Date



IGC Signature

Date

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing in the Grievance Box within five (5) days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision.

ARREST WARRANT

2019A4010500071

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Dutch Fork Magistrate

THE STATE

37-2019--025

against

Kenneth Darrell Rivera

Address: 4460 Broad River Rd

Columbia, SC 29210-

Phone: SSN: [REDACTED]

Sex: M Race: B Height: 5 7 Weight: 183

DL State: DL #:

DOB: [REDACTED] Agency ORI #: SC040095C

Prosecuting Agency: S C Department Of Corrections Division

Prosecuting Officer: Christopher D Long - S00021

Offense: Prisoners / Carrying or concealing weapon by inmates

Offense Code: 0441

Code/Ordinance Sec: 24-13-0440

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 on

Kenneth Darrell Rivera
4-16-19

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Richland County General Sessions
1701 Main Street
P O Box 192
Columbia, SC 29202

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Dutch Fork Magistrate

Personally appeared before me the affiant Christopher D Long

being duly sworn deposes and says that defendant Kenneth Darrell Rivera

did within this county and state on or about 2/28/2019

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Richland / Dutch Fork Magistrate

in the following particulars:

DESCRIPTION OF OFFENSE: Prisoners / Carrying or concealing weapon by inmates

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:

Agent Christopher Long states that the defendant did, in the County of Richland, South Carolina, on or about February 28, 2019, commit the offense of Possession of a Weapon by an Inmate to wit: that during a search of the cell occupied by Kenneth Darrell Rivera, an inmate lawfully incarcerated in the South Carolina Department of Corrections, a homemade weapon approximately 10 inches long was recovered. The weapon was recovered from the person of the defendant. The defendant claimed ownership of the weapon. This offense occurred at Broad River Correctional Institution in Columbia, SC. Probable cause is based on Police investigation, statement of witness, recovery of evidence, and admission of the defendant.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Dutch Fork Magistrate

Affiant's Address P.O. Box 21787

Columbia, SC 29221-1787

Affiant's Telephone (803)896-5214

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 2/28/2019

defendant Kenneth Darrell Rivera

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

☒ County/ ☐ Municipality of Richland / Dutch Fork Magistrate

) as set forth below:

DESCRIPTION OF OFFENSE: Prisoners / Carrying or concealing weapon by inmates

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 3/12/2019

Signature of Judge
Melvin Wayne Maurer

Judge Code: 5463

(L.S.)

Judge's Address 1019 Beatty Road

Columbia, SC 29210-4630

Judge's Telephone (803)576-2540

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY DEFENDANT COPY

DEFENDANT
COPYForm Approved by
S.C. Attorney General
April 21, 2003
SCCA 51832
who

BAIL set by

Judge

on

Type and Amount:

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



Case Number/Charge: 2019A4010500071/Prisoners/Carrying or concealing weapon by inmates	Trial Court: Richland County General Sessions
---	--

CHECKLIST FOR MAGISTRATES AND MUNICIPAL JUDGES

Directions: Magistrates and municipal court judges must use this checklist for ALL GENERAL SESSIONS and for ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND IS SET BY A JUDGE. Magistrates and municipal judges must also use the Checklist on those offenses, for which bond cannot be set by a summary court judge ("non-bailable"), that are GENERAL SESSIONS OFFENSES IN WHICH THEY ARE CONDUCTING FIRST APPEARANCES. The judge shall attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections. **Defendant must initial where indicated, sign, and be provided a completed copy of this form.**

☐ BAIL PROCEEDING / ☐ FIRST APPEARANCE BEFORE A MAGISTRATE OR MUNICIPAL JUDGE
OFFENSES THAT ARE NON-BAILABLE BY A SUMMARY COURT JUDGE)

1. Form used at bail proceeding ☐ Bond Form I (personal recognizance) ☐ Bond Form II (surety, cash, percentage)
☐ None (Non-Bailable Offense) because ☐ charge carries penalty of life or death; or
☐ defendant charged with violent offense while bonded out on violent offense

2. KR (Def. Initials) For cases in which bond was set, defendant was informed:

- ☒ a. Warrant for arrest may be issued for violation of any condition of bail bond order.
☒ b. His right and obligation to be present at trial and that trial may proceed in his absence if he fails to attend.
☒ c. Failure to appear in court as required may result in institution of additional criminal charges. S.C. Code Ann. § 17-15-90 (2014). Failure to appear in connection with a felony, or while awaiting sentence after conviction, carries an additional penalty of not more than \$5,000 or imprisonment for not more than 5 years, or both. Failure to appear in connection with a charge for a misdemeanor for which the maximum possible sentence is at least one year, carries an additional penalty of not more than \$1,000 or imprisonment for not more than one year, or both. Failure to appear in court as required on any charge not specified above may result in the issuance of a warrant for defendant's arrest, as well as loss of any posted bond.

3. KR (Def. Initials) For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:

☒ Orally ☒ In writing {NOTE: Defendant must be informed of right both orally and in writing.}

☒ 4. KR (Def. Initials) Defendant was informed of the right to trial by jury.

5. KR (Def. Initials) In all general sessions cases, in all domestic violence cases, and in all magistrate or municipal cases in which the defendant is subject to a prison sentence, defendant was informed of the following:

- ☒ a. Charges against defendant and nature of the charges.
☒ b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel.

- ☒ c. Defendant was informed orally and provided a copy of this form advising him of his right to obtain court-appointed counsel if indigent (must meet guidelines set forth in Rule 602(b), SCACR) and instructions on how to obtain court-appointed counsel. In order to apply for court-appointed counsel, defendant is required to appear before Bond Court located at 201 John Mark Dial Drive Columbia SC 29209 (803) 576-3281 for indigency screening. Defendant is responsible for a statutory fee of \$40.00 for indigency screening unless that fee is waived or reduced pursuant to §17-3-30(B).

- ☐ 6. YCL (Def. Initials) In all domestic violence cases and any case where defendant is subject to an Order of Protection or Restraining Order, defendant signed and was provided a document explaining that entering the grounds or property of a domestic violence shelter in which the person's household member resides constitutes an additional misdemeanor charge and, if in possession of a dangerous weapon, an additional felony charge.
- ☒ 7. If the charges that have been brought against you are discharged, dismissed, or nolle prossed or if you are found not guilty, you may have your record expunged.
- ☒ 8. Defendant is required to keep court notified of any change of address until final disposition of charge(s).

First

Appearance or May 20, 2019
 Bond Hearing 9:00 AM
 Date

Mel Maurer

Judge's Signature



Defendant's Signature

April 16, 2019

- ☐ Defendant refused to sign.

19-01217056

April 16, 2019

INFORMATION REGARDING YOUR RIGHTS

You have been charged with a criminal offense and if you are found guilty, you are facing serious consequences which may include payment of a fine, loss of your driver's license, and the possibility of a jail sentence. In addition, you may face increased penalties for later convictions, the loss of your right to possess firearms and/or ammunition, and your immigration status will be affected. You have important constitutional rights, including the right to representation by an attorney, but you may lose these rights or waive them if you do not act to protect these rights.

You have the right to hire an attorney to represent you in every case. If you cannot afford an attorney, you may be eligible for a free attorney. If you want a determination made as to whether you are qualified for a free lawyer, then it is your obligation to be screened at the location identified in Paragraph 5(c) of the Bond Checklist Form that you received after your Bond Hearing. If you do not hire an attorney or go to be screened, then you may be found to have waived your right to an attorney at your trial.

You also have the right to represent yourself. However, you should be aware that self-representation can be dangerous. For example, there may be certain factual or legal defenses to your charge that you are not aware of or legal issues related to the conduct of your trial or guilty plea that an attorney would know how to preserve for an appeal. If you exercise your right to proceed without a lawyer, then you are responsible for complying with all applicable rules of court, including rules of evidence, procedural rules, and proper behavior before the Judge and/or Jury.

If convicted on the charge(s) filed against you and ordered to pay a fine, you may request a reasonable scheduled payment plan to pay the fine.

It is your obligation to keep up with your trial date and to obtain an attorney, either by hiring one or by being screened and found eligible for a court-appointed attorney prior to your trial date. If you do not appear at your trial with your attorney, you may be deemed to have waived your right to have an attorney represent you.

You are required to keep the court notified of any change of address until the completion of the case.

Signature of Defendant

☐ Defendant Refused to Sign

NOTICE OF RIGHT TO PRELIMINARY HEARING

STATE OF SOUTH CAROLINA)

IN THE SUMMARY COURT

COUNTY OF RICHLAND)

WARRANT/TICKET NUMBERSOFFENSES

2019A4010500071

Prisoners / Carrying or concealing weapon by inmates

Kenneth Darrell Rivera, you are charged with the above named offense(s) and you may be entitled to a Preliminary Hearing. You must request a Preliminary Hearing within ten (10) days of this Notice or lose your right to such a Hearing. You may request a Preliminary Hearing by completing the lower left section of this notice and returning it to the Court listed below, either in person or by mailing it to the following address:

Richland County Preliminary Hearing Court**2500 Decker Boulevard****Columbia, SC 29206****Phone: 803-576-2312**

I request a Preliminary Hearing:

THIS NOTICE GIVEN BY:**Bond Court**

Signature of Defendant:

Kenneth Darrell Rivera

Address:

4460 Broad River Rd

Columbia, SC 29210

April 16, 2019

My Attorney is:

FOR COURT USE ONLY:

Date Request Received: _____

Clerk: _____

1701 MAIN STREET
POST OFFICE BOX 192
COLUMBIA, SC 29201

RICHLAND COUNTY PUBLIC DEFENDER
RICHLAND COUNTY JUDICIAL CENTER

PHONE (803) 765-2592
FAX (803) 748-5018

June 4, 2019

Mr. Kenneth Darrell Rivera
Inmate Number: 318979
None listed Dorm
Alvin S. Glenn Detention Center
201 John Mark Dial Drive
Columbia, South Carolina 29209

Dear Mr. Rivera;

~~Please be advised that Jonathan Comish has been appointed to represent you on your pending~~
charge. He will come to meet with you at the jail to discuss your case as soon as the Court schedule allows. Please have a list of any witnesses in your case ready to give to your attorney when they come to the jail. Mr. Comish will need the full names, addresses and phone numbers of all witnesses, along with any information about the case that each witness can provide.

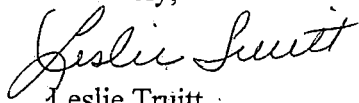
In the meantime do not talk to anyone about your case. Do not make any statements to the police. Do not participate in any identification line-ups or other identity procedures without your attorney's permission or presence. Do not submit to the taking of any samples of blood, urine or hair unless your attorney expressly tells you that you may do so. If the police ask you to do any of these things tell them that you want your attorney present. Furthermore, do not talk to other people at the detention center.

*****WARNING: DO NOT IGNORE*****

The phone lines and the video visits that you will have access to in the detention center record every single conversation you have from the time of your arrest until the day you are released. These calls and videos are recorded and stored on a remote server that is directly linked to the Fifth Circuit Solicitor's Office-the office that is prosecuting you. What that means is that every call you make goes straight to the desk and computer of the Assistant Solicitor who is prosecuting you. EVERY single call. Do not discuss your case on the phone or during a visit with anyone. Do not attempt to discuss matters in code on the phones. This never works. Do not use other individual's PIN numbers thinking that will disguise your identity. It doesn't. They will get every single call and they will use them against you in trial.

If you are released from the detention center, please contact this office immediately at (803) 765-2592 to schedule an appointment to meet with your attorney.

Sincerely,



Leslie Truitt
Paralegal

/LT

RECEIVED

AUG 12 2019

GENERAL COUNSEL

The Office of General Counsel
P.O. BOX 25787
Columbia, SC 29221-1787

Re: Chain of Possession of Evidence

August 6, 2019

Dear Sir:

I am writing requesting for the following documents regarding Police Services searching my cell on February 28, 2019. I am in need of the "Chain of Possession of Evidence SCDC Form S-23; SCDC Form 19-10 Shakedown/Search report; and Control substance and disposition Form SCDC-1979. The illegal contraband that was confiscated from me should be documented on those forms. I look forward to hearing from you.

Kenneth Rivera

Kenneth Rivera #318979

BRCI-Monticello A #212

4460 Broad River Road

Columbia, SC 29210

TELETYPE UNIT

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
OFFICE OF GENERAL COUNSEL
RESPONSE TO INMATE CORRESPONDENCE**

TO: Inmate Kenneth Rivera
SCDC #: 318979
INSTITUTION: Broad River Correctional Institution
FROM: P. Williams
DATE: August 14, 2019
RE: Correspondence dated August 6, 2019

Mr. Rivera:

I received your correspondence dated August 6, 2019. The Office of General Counsel does not have the requested documents. You can submit a request on the Kiosk to Police Services using the Investigations workflow.

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS

Kenneth Rivera
AFFIANT

#318979

AFFIDAVIT

I, Kenneth Rivera #318979, is the Affiant of this Affidavit. On the date of September 13, 2019 the following did occur:

1. I was summoned while at the Law Library to operation for an Attorney-Client visit. While there in operation I visited with Attorney Jonathan Cornish.
 2. He gave me his card and we discussed my pending case for Prisoner / Possession or concealing weapon by Inmate.
 3. Jonathan Cornish informed me that the State did not have my Rule 5 ("Motion of Discovery") prepared yet. Mr. Cornish said that he will give it another 60 days before he file a motion.
 4. Jonathan Cornish said that we should wait 6-9 months before we go to court, by doing this my case will die down.
 5. Mr. Cornish also stated that he will work on getting my case ran concurrent with the 7 years that I have left. He also informed me that 30 days consecutive may be the outcome and that SCDC nor I should go to trial on this.
 6. We also discussed the conditions of society and how did I get 15 years for Arm Robbery? He mentioned that he gets people less than 15 years for Arm Robbery.
 7. Jonathan Cornish shook my hand and we went our separate ways.
- I declare under the Penalty of Perjury That The Above Is True.

Sworn To And Subscribe Before Me This

10th Day of September, 2019

K. Rivera
Notary For The Public Of SC

8/5/2024

My Commission Expires

Kenneth Rivera
Kenneth Rivera #318979
BCCI-Monticello A#212
4460 Broad River Rd.
Columbia, SC 29210

RICHLAND COUNTY PUBLIC DEFENDER
RICHLAND COUNTY JUDICIAL CENTER

1701 MAIN STREET
POST OFFICE BOX 192
COLUMBIA, SC 29201

PHONE (803) 765-2592
FAX (803) 748-5018

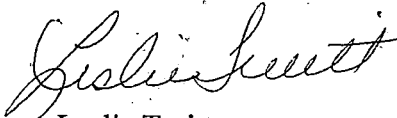
November 4, 2019

Kenneth Rivera – 318979
Broad River Correctional Institution
4460 Broad River Road
Columbia SC 29210

Dear Mr. Rivera:

Jonathan Comish, who is your attorney, is out of the office but will contact you when he returns.

Sincerely,



Leslie Truitt
Paralegal

/lt

Anthony Goldman

From: Cheron Hess (C052640) [REDACTED]
Sent: Thursday, November 7, 2019 11:44 AM
To: Anthony [REDACTED]
Subject: RE: 19-AJ-04-0464-AP, Rivera, #318979

Hey, Anthony!!

His sanction for the Possession of a Cell Phone that was heard on March 18th ~~did not result in any loss of good time.~~

Let me know if you need any further information on this issue.

Cher Hess
Administrative Coordinator for General Counsel
Post Office Box 21787
4444 Broad River Road
Columbia, South Carolina 29221-1787
[REDACTED]

From: Anthony [REDACTED]
Sent: Monday, November 4, 2019 4:36 PM
To: Cheron Hess (C052640) [REDACTED]
Subject: 19-AJ-04-0464-AP, Rivera, #318979

*** This is an EXTERNAL email. Please do not click on a link or open any attachments unless you are confident it is from a trusted source. ***

Cheron,

Kenneth Rivera has filed an appeal regarding the Department's alleged failure to grant his request to listen to the recording from a disciplinary hearing from which he was convicted of Possession or Attempt Possess a Cell Phone. In Appellant's Brief that was filed on October 3, 2019, he states that he lost 3 days of accrued good time credits. Can you confirm whether his conviction resulted in such a sanction?

Thank you!

Anthony [REDACTED]
Judicial Law Clerk to
The Honorable Milton G. Kimpson
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, SC 29201
[REDACTED]

__ CONFIDENTIALITY NOTICE: This email (including any attachments) contains information from the South Carolina Administrative Law Court that may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, you are not authorized to read, copy, retain or

distribute this message. If you have received this email in error, please notify the sender immediately by "reply to sender only" email and destroy all electronic and hard copies of the communication, including attachments.

CONFIDENTIALITY NOTICE: This email (including any attachments) contains information from the South Carolina Administrative Law Court that may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, you are not authorized to read, copy, retain or distribute this message. If you have received this email in error, please notify the sender immediately by "reply to sender only" email and destroy all electronic and hard copies of the communication, including attachments.

JEANETTE W. McBRIDE
CLERK OF COURT

VIRGINIA F. BELCHER
CHIEF DEPUTY CLERK OF COURT



RICHLAND COUNTY JUDICIAL CENTER
1701 Main Street
Columbia, SC 29201

MAILING OFFICES
POST OFFICE BOX 2766
COLUMBIA, SC 29202-2766

PHONE (803) 576-1950
FAX (803) 576-1785
TDD 748-4999

DEFENDANT Kenneth Rivera DATE December 3, 2011
HOME ADDRESS 4460 Broad River Rd. WARRANT # 2011A40105cc571
CITY/STATE Columbia, SC ZIP CODE 29210 IND # 7014 GS40 07909
HOME PHONE _____ WORK PHONE 803/711-1111 CHARGE Preparation of instrument by discovery
PLACE OF EMP _____ JUDGE Meekay Hood
SEX M RACE B EYES B HAIR _____ ATTORNEY _____
SSN [REDACTED] DOB [REDACTED] HEIGHT _____ WEIGHT _____
PROBATION _____

The sentence of the Court is that you shall serve 1 by and/or pay a fine of:

\$ _____

☐	107.5% State Assessment (ALL CASES)	
☒	Law Enforcement Surcharge (ALL CASES)	25.00
☒	Victims Surcharge (NON-WAIVABLE)	100.00
☒	PCC Drug Surcharge (NON-WAIVABLE)	150.00
☒	DUI SC (NON-WAIVABLE)	100.00
☒	DUI Assessment (NON-WAIVABLE)	12.00
☒	Office Indigent Defense (NON-WAIVABLE)	500.00
☒	Other Fees	
☒	3% Service Charge Fee	
	TOTAL	\$ <u>128.75</u>

This amount is payable on cash or in (weekly/monthly) installments of \$ _____
UNTIL PAID IN FULL.

Fine payments are to be made at the office of the Richland County Clerk of Court during normal business hours of 8:30 AM to 5:00 PM, Monday through Friday. CASH, MONEY ORDER OR CERTIFIED CHECK ONLY. **NO PERSONAL CHECKS**

IF YOU DO NOT PAY YOUR FINE ACCORDING TO THE TERMS AND CONDITIONS SET FORTH ABOVE, YOU WILL BECOME SUBJECT TO ARREST AND CONFINEMENT FOR THAT PORTION OF THE SENTENCE NOT SATISFIED BY FINE PAYMENTS. YOU WILL ALSO BE SUBJECT TO ADDITIONAL CONFINEMENT FOR CONTEMPT OF COURT.

I have had the terms of this agreement explained to me and acknowledge receipt of the carbon copy of these instructions.

Witness _____

Kenneth Rivera
Signature of Defendant

DISCIPLINARY REPORT AND HEARING RECORD

Case#: 65 Inmate Name: KENNETH DARRELL RIVERA SCDC#: 318979
 Living Area: MO187 Job: WARDKEEPER Custody: ME3
 Offense Date: 2/28/2019 Offense Time: 01:30 ☐ AM ☒ PM Institution: Broad River Correctional Institution
 Offense Description:

811 Possession of a Weapon: The actual or constructive possession by an inmate of any instrument that could be used to inflict physical injury on any person.

Charging Officer/Employee: J. ROMERO

Title: OFC

INMATE NOTIFICATION: YOU WILL APPEAR BEFORE A HEARING OFFICER 48 HOURS OR MORE AFTER YOUR RECEIPT OF THIS NOTICE. YOU HAVE THE RIGHT TO SUBMIT A WRITTEN STATEMENT AND MAKE A VERBAL STATEMENT.

- ☐ I GIVE UP MY RIGHT TO 48-HOUR NOTICE AND AUTHORIZE THE HEARING OFFICER TO PROCEED WITH THE HEARING
☐ I DO NOT WANT TO BE PRESENT AT MY HEARING
☒ I DO WANT MY ACCUSER PRESENT AT MY HEARING
☐ I DO NOT WANT MY ACCUSER PRESENT AT MY HEARING

RHU/GPH SEGREGATION ONLY

☒ I WANT A COUNSEL SUBSTITUTE

☐ I DO NOT WANT A COUNSEL SUBSTITUTE

Date & Time Notified: 03/13/19 535 AM/PM By (Print): Of Santos

Inmate Signature: *Kenneth Rivera*

SCDC#: 318979

Date: 03/13/19

HEARING INFORMATION:

Hearing Date: 3/19/19 Hearing Time: 920 am/pm Medclass: NMH Reading Level:

DD: Assigned Counsel Substitute:

Ms. Albert

EXPLAIN BELOW BY NUMBER: (1) IF COUNSEL SUBSTITUTE WAS NOT PRESENT DURING PART OF THE HEARING; (2) IF ACCUSED WAS EXCLUDED FROM ANY PART OF THE EVIDENCE STAGE; IF ANY (3) WITNESSES, (4) DOCUMENTATION, OR (5) EVIDENCE WAS EXCLUDED FROM THE HEARING; (6) IF INMATE WAS DENIED CONFRONTATION QUESTIONING AND/OR CROSS EXAMINATION OF A WITNESS AT THE HEARING OR (7) IF HEARING WAS DELAYED.

OFFENSE CODES	811	
INMATE PLEA (G, NG, None)	NG	
FINDINGS (G, NG, DS) (NGMI) (GMI)	G	

IF GUILTY, EVIDENCE PRESENTED CONSIDERED AND REASONS FOR DETERMINATION OF GUILT: (A) ADMISSION OF GUILT, (B) OFFICER'S REPORT, (C) WITNESS TESTIMONY, (D) OTHER. EXPLAIN IN DETAIL: *Off. Romero testified that this report is true and correct. picture of the evidence being with the 5-23 evidence report*

SANCTIONS:

Loss of Privileges (Days): _____ Reprimand: _____ Loss of Good Time (Days): 3
 Property (Days): _____ Extra Duty (Hours): _____ Restitution: \$ **
 Canteen (Days): 120 + 30 = 150 Visit Suspension (Days): 120 + 30 = 150 Cell Restriction (Days): _____
 Disciplinary Detention (Days): 30 Phone (Days): 120 + 30 = 150 Other (Days): _____

SPECIFIC FACTUAL REASON(S) FOR PARTICULAR PUNISHMENT IMPOSED:

Nature of the offense

CREDIT FOR PHD TIME SERVED? YES NO

IF YES, DAYS: _____

DATE INMATE PLACED IN PHD: _____

DATE INMATE RELEASED FROM PHD: _____

INMATE SIGNATURE FOR RECEIPT OF FINAL REPORT: *Kenneth Rivera*

DATE: 3-19-19

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)

Kenneth Rivera, #318979,)

Applicant)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2020-CP-40-0791

FINAL ORDER OF DISMISSAL

RICHLAND COUNTY
 FILED
 2021 JUN 11 AM 11:49
 JEANETTE W. MCGRIDE
 C.C.P., G.S., & F.C.

This matter comes before the Court pursuant to an application for post-conviction relief filed by Applicant Kenneth Rivera on February 10, 2020. Respondent made its Return and Motion to Dismiss on August 5, 2020, requesting the application be summarily dismissed for failure to state a cognizable claim for relief.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal filed August 12, 2020, provisionally denying and dismissing this action, while giving Applicant twenty days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service dated September 4, 2020, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

Applicant filed response on September 9, 2020 titled "Response to Conditional Order of Dismissal." In his response, Applicant reiterates the claims in his application, specifically that his prison conviction after disciplinary action was a violation of his Fifth Amendment right to be free from double jeopardy. Applicant further insists that he was convicted twice for the same offense, and that the occurrence constituted a double jeopardy violation.

An inmate disciplinary hearing is not a criminal trial. The double jeopardy clause protects against a second prosecution for the same offense after acquittal; a second prosecution for the same offense after conviction; and multiple punishments for the same offense. *State v. Blick*, 325 S.C. 636, 639–40, 481 S.E.2d 452, 454 (Ct. App. 1997) (citing *McMullin v. South Carolina Dept. of Rev. and Tax.*, 321 S.C. 475, 469 S.E.2d 600 (1996)). The Court in *Blick* specifically reviewed whether prosecution for an offense after prison disciplinary proceedings for the same conduct constituted “multiple punishment” for double jeopardy purposes, and found the argument was without merit. *Id.* at 636, 481 S.E.2d at 454. Therefore, as a general rule, a prison disciplinary sanction will not bar subsequent criminal prosecution. *Id.* at 643, 481 S.E.2d at 456. (citing *United States v. Newby*, 11 F.3d 1143 (3d Cir. 1993) (“If a prison disciplinary sanction were to bar subsequent criminal prosecution, prison authorities would be forced to choose between instituting a disciplinary proceeding or awaiting a criminal prosecution. The difficulties and delay that may be entailed in a criminal prosecution would hinder prison administration and discipline.”)). Accordingly, this Court has reviewed Applicant’s response to the Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final.

IT IS THEREFORE ORDERED that, for the reasons set forth in this Court’s Conditional Order of Dismissal, the application for post-conviction relief is hereby denied and dismissed with prejudice.

This Court hereby advises Applicant he must file and serve a Notice of Appeal within thirty days of the service of this Order to secure appellate review. *See* Rule 203, SCACR. Applicant’s

attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the notice of appeal.

AND IT IS SO ORDERED this 1 day of June, 2021.



L. CASEY MANNING
Chief Administrative Judge
Fifth Judicial Circuit

Columbia, South Carolina

The Supreme Court of South Carolina

Kenneth Rivera, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2021-000654

ORDER

Petitioner has failed to provide proof of service of the Notice of Appeal, as required by Rules 243(b) and 203(d)(1)(B)(i) of the South Carolina Appellate Court Rules (SCACR), and as requested by the Clerk of Court's letter dated June 24, 2021. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY



DEPUTY CLERK

Columbia, South Carolina
July 9, 2021

cc:

Yasmeen Ebbini Klein, Esquire
Kenneth Rivera, 00318979

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM RICHLAND COUNTY
Court Of Common Pleas

L. Casey Manning, Circuit Court Judge
Case No. 2020-CP-40-00791

Kenneth Rivera, #318979, Appellant,

v.

State Of South Carolina, Respondent.

RECEIVED

JUL 19 2021

S.C. SUPREME COURT

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on
Yasmeen E. Klein by depositing a copy of it in the
United States Mail, postage prepaid, on June 17, 2021,
addressed SC Attorney General Office, PO Box 11549,
Columbia, SC 29211-1549.

June 19, 2021

Kenneth Rivera
Kenneth Rivera #318979
BRCI - Wateree B #225
4460 Broad River Rd.
Columbia, SC 29210

The Supreme Court of South Carolina

Kenneth Rivera, Petitioner,

v.

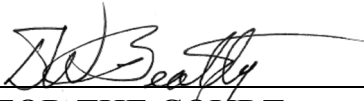
State of South Carolina, Respondent.

Appellate Case No. 2021-000654

ORDER

By order dated July 9, 2021, this post-conviction relief appeal was dismissed because petitioner failed to provide proof of service of the notice of appeal as required by Rules 243(b) and 203(d)(1)(B)(i) of the South Carolina Appellate Court Rules (SCACR). Petitioner has now filed a proof of service of the notice of appeal indicating the notice of appeal was timely served, which is construed as a motion to reinstate.

For good cause having been shown, this matter is reinstated. *See* Rule 260(a), SCACR. Petitioner shall serve and file a petition for a writ of certiorari and appendix that complies with Rule 243, SCACR, within thirty (30) days of the date of this order.



FOR THE COURT C.J.

Columbia, South Carolina
July 20, 2021

cc:
Yasmeen Ebbini Klein, Esquire
Kenneth Rivera, 00318979

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE VS.
Kenneth Darrell Rivera

AKA: _____
Race: BLACK Sex: M Age: 33

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Prisoners / Contraband, possession by prisoner, furnishing or attempt to furnish prisoner with

in violation of § 24-03-0950 of the S.C. Code of Laws, bearing CDR Code # 0074

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

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. KE (defendant's initials)

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

ATTEST:

Crawson Hill 103642 Kenneth Rivera 101700
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 1 year or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 14652305139 74652310896
14652310897
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the SCDOC.

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§ 14-1-206 (Assessments 107.5 %) _____ \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 _____ \$

§ 14-1-211(A)(2) (DUI Surcharge) \$100 _____ \$

§ 56-5-2995 (DUI Assessment) \$12 _____ \$

§ 56-1-286 (DUI Breath Test) \$25 _____ \$

Proviso (Public Def/Probation) \$500 _____ \$

§ 14-1-212 (Law Enforce. Funding) \$25 _____ \$

§ 14-1-213 (Drug Court Surcharge) \$150 _____ \$

§ 50-21-114 (BUI Breath Test Fee) \$50 _____ \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea _____ \$

3% to County (if paid in installments) _____ \$

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Jeanette McBride B

Court Reporter: Harris

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2019GS4007909

A/W#: 2019A4010500071

Date of Offense: 2/28/2019

S.C. Code § : 24-03-0950

CDR Code #: 0074

RECOMMENDED
SENTENCE SHEET
NEGOTIATED

☐ CONVICTED OF or ☒ PLEADS

in violation of § 24-03-0950 of the S.C. Code of Laws, bearing CDR Code # 0074

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

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. KE (defendant's initials)

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

Crawson Hill 103642 Kenneth Rivera 101700
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 1 year or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 14652305139 74652310896
14652310897
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the SCDOC.

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§ 14-1-206 (Assessments 107.5 %) _____ \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 _____ \$

§ 14-1-211(A)(2) (DUI Surcharge) \$100 _____ \$

§ 56-5-2995 (DUI Assessment) \$12 _____ \$

§ 56-1-286 (DUI Breath Test) \$25 _____ \$

Proviso (Public Def/Probation) \$500 _____ \$

§ 14-1-212 (Law Enforce. Funding) \$25 _____ \$

§ 14-1-213 (Drug Court Surcharge) \$150 _____ \$

§ 50-21-114 (BUI Breath Test Fee) \$50 _____ \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea _____ \$

3% to County (if paid in installments) _____ \$

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Jeanette McBride B

Court Reporter: Harris

SCCA/217 (04/2018)

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge Ke Hood

Judge Code: 2164

Sentence Date: 12/3/19

COUNTY OF
STATE

Greenville

VS.

Kenneth Darrel Rivera

AKA:

Race: Sex: M Age: 28

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Possession of a Firearm by a Person Convicted of a Violent Crime

in violation of § 16-23-0500(A)

of the S.C. Code of Laws, bearing CDR Code # 3434

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Moyer, Mark

64155
SC Bar#Kenneth M.
DefendantDorothy L. Mansuet
Attorney for Defendant3615
SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 158 Days T/S☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§ 14-1-206 (Assessments 107.5 %) _____ \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 _____ \$

§ 14-1-211(A)(2) (DUI Surcharge) \$100 _____ \$

§ 56-5-2995 (DUI Assessment) \$12 _____ \$

§ 56-1-286 (DUI Breath Test) \$25 _____ \$

Proviso 47.9 (Public Def/Prob) \$500 _____ \$

§ 14-1-212 (Law Enforce. Funding) \$25 _____ \$

§ 14-1-213 (Drug Court Surcharge) \$150 _____ \$

§ 50-21-114(BUI Breath Test Fee) \$50 _____ \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea _____ \$

Proviso 90.5 (SCCJA Surcharge) \$5 _____ \$

3% to County (if paid in installments) _____ \$

TOTAL _____ \$

INDICTMENT/CASE#: 2014GS2305139

A/W#: 2014A2320600659

Date of Offense: 3/16/2014

S.C. Code § : 16-23-0500(A)

CDR Code #: 3434

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

Clerk of Court/ Deputy Clerk

Court Reporter: Thomas

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2752

Sentence Date: 3-5-2015

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Greenville

VS.

Kenneth Darrel Rivera

AKA:

Race: Sex: M Age: 28

IN THE COURT OF GENERAL SESSIONS

0-2 years
55

INDICTMENT/CASE#: 2014GS2310897

A/W#: 2014A2330208980

Date of Offense: 9/29/2014

S.C. Code § : 16-23-0500(A)

CDR Code #: 3434

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Possession of a Firearm by a Person Convicted of a Violent Crime

in violation of § 16-23-0500(A) of the S.C. Code of Laws, bearing CDR Code # 3434

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.ATTEST: Mark Moyer 64155 SC Bar# 11/10/14 Defendant Joseph G. Mansfield 3615 SC Bar# Attorney for DefendantWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 158 Days TIS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

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

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.Clerk of Court/ Deputy Clerk Paul BellCourt Reporter: Thomas

SCCA/217 (03/2011)

Presiding Judge Paul BellJudge Code: 2752Sentence Date: 3-5-2015

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Greenville

VS.

Kenneth Darrel Rivera

AKA:

Race:

Sex: M

Age: 28

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Armed robbery

in violation of § 16-11-0330(A)

of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)☐ § 17-25-45The charge is: ☐ As Indicted, ☐ Lesser Included Offense,☒ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☒ Recommendation by the State.

ATTEST:

Moyer, Mark

64155 SC Bar#

Defendant

Attorney for Defendant

3615 SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 158 Days T/S☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

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

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

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

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS2310896

A/W#: 2014A2330208978

Date of Offense: 9/29/2014

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

☐ CONVICTED OF or☒ PLEADS

Presiding Judge

Judge Code: 2752

Sentence Date: 3-3-2015