

ORIGINAL

FILED

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON) JUN -6 PM 12:19

State of South Carolina,

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON, SC

-vs-

[REDACTED]

Defendant.

ORDER REGARDING DISCOVERY AND
ISSUING PROCEDURAL DIRECTIVES

Case Numbers:

- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Drugs)
- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Proximity)
- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Drugs)
- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Proximity)
- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Drugs)
- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Proximity)
- No Indictment # / 2012A3221100 [REDACTED] (Conspiracy)
- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Drugs)
- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Proximity)
- No Indictment # / 2012A3221100 [REDACTED] (Conspiracy)
- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Drugs)
- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Proximity)
- No Indictment # / 2012A3221100 [REDACTED] (Conspiracy)
- No Indictment # / 2012A3221100 [REDACTED] (Poss. Weapon by Violent Felon)
- No Indictment # / 2012A3221100 [REDACTED] (Drug possession)
- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Drugs)
- 2013GS320 [REDACTED] / 2012A3221100 [REDACTED] (Proximity)
- 2013GS320 [REDACTED] / 2013GS320 [REDACTED] (Drug attempt or conspiracy)

WPC
#1

The defendant has filed several motions: (1) to reveal the name and address of the confidential informant (C.I.); (2) to disclose the informant's medical records; (3) to reveal any deals – monetary or grant of immunity – with the C.I.; and, (4) to reveal any deals – monetary or grant of immunity – with the co-defendant, [REDACTED]

These motions were set for hearing on March 18, 2014, along with a status conference.¹

The rulings are set forth below.

Mr. [REDACTED] is represented by the Public Defender's office. On January 4, 2013, an attorney in the Public Defender's who was previously assigned to these cases filed discovery requests under Rule 5, SCRCrimP, and *Brady*. On June 26, 2013, the attorney with the Public Defender's office who is currently assigned to these cases filed a motion to reveal the identity of the confidential informant. The State alleges that there were multiple controlled drug buys involving the defendant on some of these cases; that a search warrant was eventually obtained; and, that the defendant was arrested with a small amount of crack cocaine. The State suggests that it is not sure when the cases will come up for trial or if they will go to trial, and that a charge of possession with intent to distribute may be tried that will not involve the confidential informant. However, the State also indicated that it would try to present evidence of the other distributions in the non-C.I. case. The confidential informant was a direct participant in most of the alleged buys.

The State objects to disclosing the name of the confidential informant at this time. The court agrees that the name of the C.I. must be disclosed a reasonable time before a trial is held. Further, if the State intends to use evidence about the other alleged distributions as evidence in the non-C.I. case, it must disclose the name and address of the C.I. at least 45 days in advance of any trial. The C.I.'s identity is relevant and helpful

¹ Michael D. Ross was the Assistant Solicitor handling these cases when the hearing was held in March. He has since left that office to work with the Attorney General's office. There is an indication that Mr. Ross may be prosecuting these cases, despite his departure from the Solicitor's office. If that is incorrect, the Solicitor's office is to forward this order to the proper attorney handling these cases.

to the defense; the informant actively and openly participated in most of the alleged drug transactions; and, the C.I. would be a material witness to most of the cases (and other crimes, wrongs, or acts – *Lyle* evidence) against this defendant. Therefore, the court directs the following things.

- 1) The attorneys are to discuss their schedules with each other and refer to the court schedule. They are to submit to the Chief Judge for Administrative Purposes a proposed day-certain date for the first trial that involves the C.I.
- 2) The Solicitor's office is directed to determine, within 20 days from the date of this order, which case(s) he proposes to call for trial first and to provide notice to the defense attorney and the court.
- 3) A status conference will then be held. At that time, the court will set a day-certain and set a date by which the C.I. must be disclosed to the defense.
- 4) The State must indicate at the status conference and put in writing to be filed with the Clerk of Court whether it intends to pursue *Lyle* evidence that in any way relates to an alleged transaction in which the C.I. was involved. If so, then the name and address of the C.I. must be disclosed at least 45 days in advance of trial.

WPM
#3

- 5) The State has provided the defense with redacted video that conceals the identity of the C.I. The State will have to provide a copy of the full video, once the name of the C.I. is ordered to be given.
- 6) The State must provide the defense with a copy of the C.I.'s criminal record, once her name is disclosed. The State will also have to provide the defense with the same types of information discussed in paragraph 7 below.
- 7) The State must provide the defense, within 30 days from the date of this order, all of the requested information related to the co-defendant, [REDACTED] and any other State's witness, as detailed in the motion of defense counsel filed June 26, 2013.
- 8) The State has indicated that the C.I. has a medical history that may be relevant to the case. She has been diagnosed with multiple sclerosis, which causes diplopia. She has notes in her medical and mental health history that deal with bi-polar disorder, obsessive-compulsive disorder, post-traumatic stress disorder, and a history of drug use. The State must take immediate steps to secure the complete medical and

WMA
#4

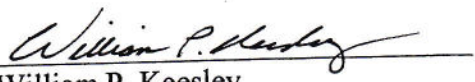
mental health records of the defendant. Once the C.I.'s name is to be disclosed, the State will surrender those records for an *in camera* review by the Chief Judge for Administrative Purposes or the Chief Judge's designee.

- 9) There is expected to be an objection under Rule 6, SCRCrimP, regarding chemical analysis and chain of custody. That issue is to be raised by the attorneys at the status conference ordered above. The Chief Judge can then set a date for hearing or determine that the issue should be raised to the trial judge.

#5
THE PARTIES ARE ADVISED THAT THE DUTIES OF CHIEF JUDGE FOR ADMINISTRATIVE PURPOSES FOR GENERAL SESSIONS WILL PASS TO JUDGE RUSSO ON JULY 1.

AND IT IS SO ORDERED.

June 4, 2014


William P. Keesley
Chief Judge for Administrative Purposes