

No. \_\_\_\_\_

---

In The  
**SUPREME COURT OF THE UNITED STATES**  
OCTOBER TERM, 2023

---

LAQUINCE T. HOGAN, *Petitioner*,

v.

DEXTER PAYNE, DIRECTOR  
ARKANSAS DIVISION OF  
CORRECTION, *Respondent*.

---

**Separately Filed Appendix (Electronic)**

---

JEREMY B. LOWREY  
Arkansas Bar No. 2002153  
Oklahoma Bar No. 15031  
6834 Cantrell Road, PMB 3027  
Little Rock, AR 72207  
(870) 329-4957

ATTORNEY FOR PETITIONER  
LAQUINCE T. HOGAN

---

## **INDEX TO APPENDIX**

### **APPENDIX A**

*Letter Order Denying Petition for Rehearing*  
September 14, 2023 ..... APP 1

### **APPENDIX B**

*Judgment of the Arkansas Supreme Court*  
*Hogan v. Payne*, 23 Ark. 99, 668 S.W.3d 466 (2023)  
June 8, 2023 ..... APP 2

### **APPENDIX C**

*Order of the Circuit Court of Hot Spring County*  
June 27, 2022 ..... APP 9

### **APPENDIX D**

Judgment and Sentence (nunc pro tunc)  
June 20, 2019 ..... APP 13

### **APPENDIX E**

Judgment and Sentence  
June 4, 2009 ..... APP 17

OFFICE OF THE CLERK  
ARKANSAS SUPREME COURT  
625 MARSHALL STREET  
LITTLE ROCK, AR 72201

SEPTEMBER 14, 2023

RE: SUPREME COURT CASE NO. CV-22-662  
LAQUINCE T. HOGAN V. DEXTER PAYNE, DIRECTOR, ARKANSAS DIVISION  
OF CORRECTION

THE ARKANSAS SUPREME COURT ISSUED THE FOLLOWING ORDER TODAY IN THE  
ABOVE STYLED CASE:

“APPELLANT’S PETITION FOR REHEARING IS DENIED.”

SINCERELY,



KYLE E. BURTON, CLERK

CC: JEREMY B. LOWREY  
CHRISTIAN HARRIS, SENIOR ASSISTANT ATTORNEY GENERAL  
HOT SPRING COUNTY CIRCUIT COURT  
(CASE NO. 30CV-21-278)

**SUPREME COURT OF ARKANSAS**  
No. CV-22-662

LAQUINCE T. HOGAN  
APPELLANT  
V.  
DEXTER PAYNE, DIRECTOR,  
ARKANSAS DIVISION OF  
CORRECTION  
APPELLEE

Opinion Delivered: June 8, 2023

APPEAL FROM THE HOT SPRING  
COUNTY CIRCUIT COURT  
[NO. 30CV-21-278]  
HONORABLE CHRIS E WILLIAMS,  
JUDGE

AFFIRMED.

---

COURTNEY RAE HUDSON, Associate Justice

Appellant, Laquince Hogan, appeals the denial of his petition for writ of habeas corpus filed in the county where he is incarcerated pursuant to Arkansas Code Annotated sections 16-112-101 to -123 (Repl. 2016). For reversal, Hogan argues that (1) his 125-year prison sentence is illegal because it is not authorized by the subsection of the habitual-offender statute that the State referenced when it orally amended the information, and (2) to the extent the amendment sought to identify a different subsection of the habitual-offender statute, it was too vague to suffice as an amendment at all. We affirm.

On August 5, 2008, police officers searched a residence on East Cowling Street in Ashdown and found marijuana, cocaine, and scales. Hogan was outside with a group of about eight to ten people who scattered when officers arrived. Police seized more than \$4,000 from Hogan's person. Hogan was charged with possession of crack cocaine with

intent to deliver, in violation of Arkansas Code Annotated section 5-64-401 (Supp. 2007).<sup>1</sup>

At that time, the base sentencing range for that offense was ten to forty years, or life imprisonment. Ark. Code Ann. § 5-64-401(a)(1)(A)(i). Hogan was not initially charged as a habitual offender. However, at a May 26, 2009 hearing, the Little River County Circuit Court allowed the State to orally amend the information to charge Hogan as a “large” habitual offender with four or more prior offenses. Hogan’s attorney said that he had “seen the certified judgments, so we have no objection.” Under Arkansas’s habitual-offender statute, Hogan was therefore subject to a sentencing range of ten years to life in prison. *See* Ark. Code Ann. § 5-4-501(b)(1), (2)(A).

Hogan’s charges were discussed again on the first day of Hogan’s June 3–4, 2009 trial. The court asked if there were any amendments to the charges. The State responded “It’s the big habitual. Class Y. It’s the big habitual, ten to 60 to life.” After the trial, the jury convicted Hogan of possession of cocaine with intent to deliver. At sentencing, the court instructed the jury that Hogan had previously been convicted of eight felonies and was subject to an extended term of imprisonment of not less than ten years nor more than life imprisonment. The jury verdict form provided for a sentencing range of ten years to life imprisonment, in accordance with section 5-4-501(b).

The jury sentenced Hogan as a habitual offender to a total of 125 years’ imprisonment. The court of appeals affirmed on direct appeal. *Hogan v. State*, 2010 Ark.

---

<sup>1</sup>Hogan was also convicted of possession of marijuana. Neither his conviction nor his one-year sentence for that offense are at issue in this appeal.

App. 434. We affirmed the denial of Hogan's petition for postconviction relief pursuant to Ark. R. Crim. P. 37.1. *Hogan v. State*, 2013 Ark. 223. Hogan's federal habeas petition was also denied. *Hogan v. Kelley*, 826 F.3d 1025 (8th Cir. 2016). Additionally, Hogan filed a petition to correct an illegal sentence that the Little River County Circuit Court denied on August 6, 2013. *State v. Hogan*, No. CR-2008-54-1.

On September 22, 2021, Hogan filed a petition for writ of habeas corpus in the Hot Spring County Circuit Court.<sup>2</sup> He argued that the State's oral amendment charged him, at most, as a habitual offender with at least one but less than four prior felonies pursuant to section 5-4-501(a), or that it was too vague to charge him as a habitual offender at all. On June 27, 2022, the circuit court entered an order denying Hogan's petition. Hogan filed a timely appeal.

A writ of habeas corpus is proper when a judgment and commitment order is invalid on its face or when a trial court lacked jurisdiction over the cause. *Fuller/Akbar v. Payne*, 2021 Ark. 155, 628 S.W.3d 366. Jurisdiction is the power of the court to hear and determine the subject matter in controversy. *Osborn v. Payne*, 2021 Ark. 94, 622 S.W.3d 152. When the trial court has personal jurisdiction over the appellant and also has jurisdiction over the subject matter, the court has authority to render the judgment. *Id.*

---

<sup>2</sup>The record also contains a habeas petition that Hogan filed in the Little River County Circuit Court, although in his brief he states his belief that the petition is not within the jurisdiction of that court because he is incarcerated in Hot Spring County and not Little River County.

A petitioner who does not allege his or her actual innocence and proceed under Act 1780 of 2001 must plead either the facial invalidity of the judgment or the lack of jurisdiction by the trial court and make a showing, by affidavit or other evidence, of probable cause to believe that he or she is being illegally detained. Ark. Code Ann. § 16-112-103(a)(1) (Repl. 2016); *Fuller/Akbar*, 2021 Ark. 155, 628 S.W.3d 366. Proceedings for the writ are not intended to require an extensive review of the record of the trial proceedings, and the circuit court's inquiry into the validity of the judgment is limited to the face of the commitment order. *Jones v. Payne*, 2021 Ark. 37, 618 S.W.3d 132. Unless the petitioner can show that the trial court lacked jurisdiction or that the commitment order was invalid on its face, there is no basis for a finding that a writ of habeas corpus should issue. *Id.*

A circuit court's decision on a petition for writ of habeas corpus will be upheld unless it is clearly erroneous. *Owens v. Payne*, 2020 Ark. 413, 612 S.W.3d 169. A decision is clearly erroneous when, although there is evidence to support it, the appellate court, after reviewing the entire evidence, is left with the definite and firm conviction that a mistake has been made. *Morgan v. Payne*, 2020 Ark. 239, 602 S.W.3d 736.

With these authorities in mind, we turn to Hogan's appeal. Hogan does not challenge the trial court's jurisdiction to hear and determine the criminal charges against him. Instead, he first argues that the State's reference to a sentencing range of "ten to 60 to life" on the day of trial means that he must have been charged as a habitual offender under section 5-4-501(a), which does not authorize a 125-year sentence. Hogan insists that his sentence is therefore illegal because the trial court lacked the authority to impose it. An argument that

Hogan was convicted of an offense for which he was never charged would, if established, be grounds for the writ. *Anderson v. Kelley*, 2019 Ark. 6, 564 S.W.3d 516.

Hogan's argument requires us to consider the specific language of two subsections of Arkansas Code Annotated section 5-4-501, which governs sentencing for habitual offenders. Subsection (a) applies to defendants who have previously been convicted of at least one, but less than four, prior felonies. In Hogan's case, it would provide for a sentencing range of "not less than ten (10) years nor more than sixty (60) years, or life" in prison. Ark. Code Ann. § 5-4-501(a)(1), (2)(A). Subsection (b) applies to defendants who have previously been convicted of four or more prior felonies. Under this subsection, Hogan was eligible for a sentence of "not less than ten (10) years nor more than life" imprisonment. Ark. Code Ann. § 5-4-501(b)(1), (2)(A).

Although Hogan argues that his sentence is illegal because he was actually charged under subsection (a), he has not established probable cause that the writ should issue. Regardless of the State's comments regarding the sentencing range, it stated that Hogan should be sentenced as a habitual offender because he had four or more prior felony offenses. This clearly referenced section 5-4-501(b). The State's use of the term "big habitual" also indicates a reference to section 5-4-501(b). See *Trammel v. Payne*, 2022 Ark. 76 (noting that a "small habitual" offender is subject to sentencing under section 5-4-501(a)).<sup>3</sup> Hogan has presented no convincing proof that the information in this case was defective such that

---

<sup>3</sup>Notably, a sentencing range of "ten to 60 to life," is not inconsistent with the ten years to life sentencing range authorized pursuant to subsection (b).

the trial court was deprived of jurisdiction to enter the judgment. *See Johnson v. Payne*, 2021 Ark. 145.

Because Hogan was charged as a habitual offender pursuant to section 5-4-501(b), the court was vested with the authority to impose a sentence consistent with that subsection. Here, the amended sentencing order indicates that Hogan was sentenced as a habitual offender pursuant to section 5-4-501(b). That subsection provides for a sentence of between ten years and life imprisonment. Hogan's sentence of 125 years' imprisonment is more than ten years and less than life. Therefore, Hogan's sentence fell within the sentencing range authorized by section 5-4-501(b) and is not illegal on its face.

Hogan's second argument is that if the State was not referencing section 5-4-501(a), its amendment was too vague to amend the information at all. To the extent that Hogan argues his due-process rights were violated because the State's amendment was too vague, we note that trial error and due-process claims do not implicate the facial validity of the judgment or the jurisdiction of the trial court. *Philyaw v. Kelley*, 2015 Ark. 465, 477 S.W.3d 503. If there are errors at trial, those errors could, and should, have been raised at trial on the record and on direct appeal. *Noble v. State*, 2019 Ark. 284, 585 S.W.3d 671. Thus, they are not within the purview of the remedy because the writ of habeas corpus will not be issued to correct errors or irregularities that occurred at trial. *Id.*

In sum, Hogan was charged as a habitual offender pursuant to section 5-4-501(b). Therefore, the trial court had authority to sentence him under that subsection, and his 125-year sentence is within the range authorized. Hogan's due-process and trial-error arguments

do not implicate the facial validity of the judgment or the jurisdiction of the trial court, and the circuit court did not clearly err in rejecting his petition.

Affirmed.

CV-22-662

**IN THE CIRCUIT COURT OF  
HOT SPRING COUNTY, ARKANSAS**

**LAQUINCE T. HOGAN**  
**Petitioner**

v. **No. 30CV-21-278-1**

**DEXTER PAYNE, Director**  
**Arkansas Division of Correction**

**ORDER DENYING PETITION FOR A WRIT OF HABEAS CORPUS**

Now before the Court is LaQuince Hogan's Petition for a Writ of Habeas Corpus. He is an inmate in the Ouachita River Unit. A hearing was had on the petition on February 22, 2022. After considering the facts, law, and statements of counsel, the Court is of the opinion that it should be denied.

On June 4, 2009, a Little River County jury convicted LaQuince Hogan of Possession of a Controlled Substance (crack cocaine) with Intent to Deliver and Possession of a Controlled Substance (marijuana). He was sentenced as a habitual offender to 125 years in the Arkansas Division of Correction on the intent to deliver charge and one year in the county jail on the marijuana charge. The initial Judgment and Commitment Order was entered the same day. On appeal, the convictions and sentences were affirmed. Hogan v. State, 2010 Ark. App. 434.

Mister Hogan subsequently filed a timely petition for post-conviction relief pursuant to Rule 37 of the Arkansas Rules of Criminal Procedure. The circuit court denied relief and the Supreme Court of Arkansas affirmed. Hogan v. State, 2013 Ark. 223.

In 2014, he filed an application for a writ of habeas corpus in the United States District Court for the Eastern District of Arkansas. In an unpublished opinion and order, the magistrate

judge denied habeas relief. Hogan v. Kelley, 5:14-cv-00105 (Document 37, July 31, 2015). The United States Circuit Court for the Eighth Circuit affirmed the denial of habeas relief. Hogan v. Kelley, 826 F.3d 1025 (8th Cir. 2016). The Supreme Court of the United States denied certiorari. Hogan v. Kelley, 138 S.Ct. 635 (2018). This petition followed.<sup>1</sup>

“A writ of habeas corpus is proper when a judgment and commitment order is invalid on its face or when a trial court lacked jurisdiction over the cause. Jefferson v. Payne, 2022 Ark. 4, at 3. “Jurisdiction is the power of the court to hear and determine the subject matter in controversy.” Id. “When the trial court has personal jurisdiction over the appellant and also has jurisdiction over the subject matter, the court has authority to render the judgment.” Id. When a petitioner files a petition for a writ of habeas corpus “and does not allege his or her actual innocence and proceed under Act 1780 of 2001” he or she “must plead either the facial invalidity of the judgment or the lack of jurisdiction by the trial court and make a showing, by affidavit or other evidence, of probable cause to believe that he or she is being illegally detained.” Id.

In 2008, as is true currently, the penalty range for a Class Y felony when the defendant has four or more felony convictions is a minimum of 10 years and a maximum of life in the Arkansas Division of Correction. Ark. Code Ann. §5-4-501(b)(2)(A) (2008).

LaQuince Hogan was originally charged with one count of Possession of a Controlled Substance with Intent to Deliver, a Class Y felony, and one count of Possession of a Controlled Substance with Intent to Deliver, a Class C felony. He was not charged as a habitual offender and

---

<sup>1</sup>Mr. Hogan has a pending state habeas corpus petition in Little River County. However, because he is incarcerated in the Ouachita River Unit in Hot Spring County, this Court is the appropriate court to rule on his claims.

the second count was eventually reduced to a Class A misdemeanor.

On June 3, 2009, during a pre-trial hearing on the day of trial, the trial court allowed the State to orally amend the Information to include the habitual allegation. The prosecutor correctly told the court “[i]t’s the big habitual” but then gave inaccurate information when he told said that the penalty range is, “ten to 60 to life.” Also, during voir dire the prosecutor twice told prospective jurors that the range was ten to 60 or life.

After the Mr. Hogan was convicted, however, the trial court instructed the jury on the proper penalty range, a minimum of ten years to a maximum of life in the Arkansas Division of Correction. During Stage Two the State introduced evidence of the prior convictions. The jury was given a proper Stage Two verdict form with the proper penalty range and the jury sentenced Mr. Hogan to 125 years, within the penalty range.

A Judgment and Commitment Order was entered on June 4, 2009. This order omitted the habitual notation. An amended order was entered on June 20, 2019, to correct the scrivener’s error and accurately reflect the habitual status. “A circuit court can enter an order *nunc pro tunc* at any time to correct clerical errors in a judgment or order.” Riley v. State, 2011 Ark. App. 511, at 8, 385 S.W.3d 355, 360.

LaQuince Hogan was convicted of a Class Y felony after having been convicted of four or more prior felonies. Consequently, he was subject to the penalty range of 10 years to life in the Arkansas Division of Correction. He received a valid sentence.

The trial court allowed the State to amend the Information to include the habitual allegation. Subsequently, the trial court instructed the jury on the proper sentencing range, the jury was given a proper verdict form, and the jury imposed a verdict within the appropriate penalty range.

The fact that the prosecutor misspoke during voir dire is not sufficient to warrant habeas relief. The judgement is not invalid on its face and the trial court had jurisdiction over the matter. Any error by the prosecutor when initially telling the trial court what the penalty range was and in submitting an inaccurate judgment is harmless as it was appropriately corrected. The petition is denied.

**IT IS SO ORDERED.**



Honorable Chris E Williams  
Circuit Judge

Date: 6/27/2022

Prepared by:

Jeff Weber  
Deputy Prosecuting Attorney

Approved as to form by:

/s/ Jeremy Lowrey  
Attorney for Mr. Hogan

# SENTENCING ORDER

AMENDED

IN THE CIRCUIT COURT OF LITTLE RIVER COUNTY, ARKANSAS,  
9 WEST JUDICIAL DISTRICT 1ST DIVISION

On 6/4/2009 the Defendant appeared before the Court, was advised of the nature of the charge(s), of Constitutional and legal rights, of the effect of a guilty plea upon those rights, and of the right to make a statement before sentencing.

ELECTRONICALLY FILED  
 Little River County Circuit Court  
 Lauren Abney, Circuit Clerk  
 2019-Jun-20 15:27:12  
 41CR-08-54  
 C09WD01 : 6 Pages

Offender

Court Info

Legal Statement

Offense #1

Defendant [Last, First, MI] <u>HOGAN, LAQUINCE, T</u>	DOB <u>1/19/1974</u>	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Total Number of Counts <u>2</u>
SID #	Race & Ethnicity <input type="checkbox"/> White <input checked="" type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Unknown <input type="checkbox"/> Other <input type="checkbox"/> Hispanic		
Supervision Status at Time of Offense			
Judge <u>TOM COOPER</u>			File Stamp
Prosecuting Attorney/Deputy <u>BRYAN CHESSHIR/AL SMITH</u>			
Defendant's Attorney <u>MICHAEL BOOKER</u>		<input checked="" type="checkbox"/> Private <input type="checkbox"/> Pro Se	<input type="checkbox"/> Public Defender <input type="checkbox"/> Appointed
Change of Venue <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, from:			

Pursuant to A.C.A.  §§16-93-301 et seq., or  §§ this Court, without making a finding of guilt or entering a judgment of guilt and with the consent of the Defendant defers further proceedings and places the Defendant on probation.

There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment: is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. Defendant was advised of the conditions of the sentence and/or placement on probation and understands the consequences of violating those conditions. The Court retains jurisdiction during the period of probation/suspension and may change or set aside the conditions of probation/suspension for violations or failure to satisfy Department of Community Correction (D.C.C) rules and regulations.

of conviction is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Department of Correction (A.D.C) for the term specified on each offense shown below.

Defendant made a voluntary, knowing, and intelligent waiver of the right to counsel.  Yes  No

A.C.A. # of Offense/ Name of Offense+ <u>5-64-401 POSSESSION OF CRACK COCAINE W/INTENT TO DELIVER</u>	Case # <u>CR2008-54-1</u>
A.C.A. # of Original Charged Offense	ATN <input type="checkbox"/> Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted
Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Offense Date <u>8/5/2008</u>	Offense is <input type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol. <input type="checkbox"/> Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U
Number of Counts: <u>1</u>	Criminal History Score <u>N/A</u> Seriousness Level <u>N/A</u> Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense

Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ to _____ months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction	
Defendant Sentence* (see Page 2) Imposed <input checked="" type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input type="checkbox"/> County Jail <u>1500</u> months	If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.
Probation _____ months	Sentence was enhanced _____ months, pursuant to A.C.A. §§ _____.
SIS _____ months	Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive.
Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death	Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)

Victim Info# (See page 2) <input type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input type="checkbox"/> No]	Age _____	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic
Defendant voluntarily, intelligently, and knowingly entered a <input type="checkbox"/> negotiated plea of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere. <input type="checkbox"/> plea directly to the court of <input type="checkbox"/> guilty or <input type="checkbox"/> nolo contendere.		Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____ <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input checked="" type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input checked="" type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.	

Sentence is a Departure <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:
Departure Reason (See page 2 for a list of reasons)	
Aggravating # _____ or Mitigating # _____ For Agg. #17 or Mit. #9, or if departing from guidelines, please explain: _____	
Sentence will run: <input type="checkbox"/> Cons to Offense # _____ Case # _____	

## Reasons for Departure

(Please see complete list of departure criteria found at A.C.A. §16-90-804)

Aggravating	Mitigating
1. Offender's conduct manifested deliberate cruelty to the victim during commission of current offense.	1. Victim played an aggressive role or provoked the incident or was a willing participant.
2. Offender knew victim vulnerable due to extreme youth, advanced age, disability or ill health.	2. Offender played a minor or passive role in commission of the offense.
3. Offense was major economic offense established by one of the following criteria: (a) multiple victims/incidents, (b) monetary loss substantially greater than typical, (c) degree of sophistication or time, (d) misuse of fiduciary duty, or (e) other similar conduct.	3. Offender compensated/made an effort to compensate for damage or injury before detection.
4. Current Offense was major controlled substance offense if two or more of the following are present: (a) Three or more separate transactions involve sale, transfer or possession with purpose; (b) Amount substantially larger than the statutory minimums which define the offense; (c) Offense involved a high degree of planning or lengthy period or broad geographic area; (d) Offender occupied a high position in the drug distribution hierarchy; (e) Offender misused position of trust or status or fiduciary duty to facilitate commission; (f) Offender has received substantial income or resources from drug trafficking.	4. Offender was lesser participant showing caution/concern for safety or well-being of victim.
5. Current offense is a felony and the offender employed a firearm in furtherance or flight unless such use is element of offense.	5. Offender or offender's children acted in response to continuing physical/sexual abuse by victim.
6. Current offense was sexual offense and part of pattern with same or different victims under eighteen manifested by multiple incidents over a prolonged period of time.	6. Policy on multiple offenses in single course of conduct in offender's prior criminal history results in sentence which is excessive for the offense.
7. Policy on multiple offenses in a single course of conduct in offender's prior criminal history results in a sentence that is clearly too lenient.	7. Offender voluntarily admitted sexual offense and sought and participated in treatment before detection.
8. Offense was committed in manner that exposed risk of injury to others.	8. Offender made effort to provide assistance in investigation or prosecution of another as indicated by motion of state (can weigh timeliness of assistance, nature and extent of assistance, and truthfulness, completeness, and demonstrable reliability of info or testimony).
9. Offense was a violent or sexual offense committed in victim's zone of privacy.	9. Other
10. Offender attempted to cover or conceal the offense by intimidation of witnesses, tampering of evidence, or misleading authorities.	
11. Offense committed to avoid arrest or effecting an escape from custody.	
12. Offender lacks minimum insurance in a vehicular homicide.	
13. Statutory minimum sentence overrides the presumptive sentence.	
14. Multiple concurrent sentences being entered at this time require a higher sentence.	
15. Sentence is higher as a result of other charges being dropped or merged.	
16. Sentence is outside the presumptive range but is not a departure due to statutory override or because the offender/offense is ineligible for a Community Correction Center.	
17. Other:	

## NOTE:

\* **Defendant Sentence.** "Imposed ADC" means incarceration in an Arkansas Department of Correction facility. "Imposed Judicial Transfer" means incarceration in a Department of Community Correction Center. "Imposed County Jail" means incarceration in a county jail facility. Indicate in months the total time the Defendant was sentenced to a term of incarceration. DO NOT INCLUDE TIME FOR SIS.

# **Victim Info.** For more than one victim, please use the "Additional Victim Information" page to disclose additional victim demographics. If there is no victim, check not applicable.

+ **A.C.A. # of Offense/Name of Offense & Probation/SIS Revocation.** If an offender is being sentenced as a result of a revocation of probation or SIS, check the box indicating this is a "Probation/SIS Revocation", and enter the A.C.A. number and name of the offense for which the defendant was originally convicted. Do not enter the code provision for revocation or the cause of the revocation.

A.C.A. # of Offense/ Name of Offense+ 5-64-401 POSSESSION OF MARIJUANA				Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted	
A.C.A. # of Original Charged Offense		ATN		Appeal from District Court <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Probation/SIS Revocation+ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Offense Date 8/5/08		Offense is <input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input checked="" type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U	
Number of Counts: 1	Criminal History Score	N/A	Seriousness Level	N/A	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense
Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ to _____ months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction					

Defendant Sentence* (see Page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input checked="" type="checkbox"/> County Jail 12 months Probation _____ months SIS _____ months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. §§ _____. Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)				
Victim Info# (See page 2) <input checked="" type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic	Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____. <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.	
Sentence is a Departure <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:					

Departure Reason (See page 2 for a list of reasons) Aggravating # _____ or Mitigating # _____. For Agg. #17 or Mit. #9, or if departing from guidelines, please explain: _____				Sentence will run: <input type="checkbox"/> Consecutive Concurrent <input checked="" type="checkbox"/> to Offense # 1 _____ or Case # _____		
--	--	--	--	--	--	--

A.C.A. # of Offense/ Name of Offense+				Case #		
A.C.A. # of Original Charged Offense		ATN		Offense was <input type="checkbox"/> Nolle Prossed <input type="checkbox"/> Dismissed <input type="checkbox"/> Acquitted		
Appeal from District Court		<input type="checkbox"/> Yes <input type="checkbox"/> No		Probation/SIS Revocation+ <input type="checkbox"/> Yes <input type="checkbox"/> No		
Offense Date		Offense is <input type="checkbox"/> Felony <input type="checkbox"/> Misd. <input type="checkbox"/> Viol.		Offense Classification <input type="checkbox"/> Y <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> U		
Number of Counts:	Criminal History Score	Seriousness Level	Defendant <input type="checkbox"/> Attempted <input type="checkbox"/> Solicited <input type="checkbox"/> Conspired to commit the offense			
Presumptive Sentence <input type="checkbox"/> Prison Sentence of _____ to _____ months <input type="checkbox"/> Community Corrections Center <input type="checkbox"/> Alternative Sanction						
Defendant Sentence* (see Page 2) Imposed <input type="checkbox"/> ADC <input type="checkbox"/> Jud. Tran. <input checked="" type="checkbox"/> County Jail _____ months Probation _____ months SIS _____ months Other <input type="checkbox"/> Life <input type="checkbox"/> LWOP <input type="checkbox"/> Death		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. §§ _____. Enhancement(s) is to run: <input type="checkbox"/> Concurrent <input type="checkbox"/> Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection <input type="checkbox"/> (a) <input type="checkbox"/> (b) <input type="checkbox"/> (c) <input type="checkbox"/> (d)				
Victim Info# (See page 2) <input type="checkbox"/> N/A [Multiple Victims <input type="checkbox"/> Yes <input type="checkbox"/> No]		Age	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Race & Ethnicity <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Asian <input type="checkbox"/> Native American <input type="checkbox"/> Pacific Islander <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Hispanic	Defendant: <input type="checkbox"/> was sentenced pursuant to <input type="checkbox"/> §§16-93-301 et seq., or <input type="checkbox"/> other §§ _____. <input type="checkbox"/> entered a plea and was sentenced by a jury. <input type="checkbox"/> was found guilty by the court & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty at a jury trial & sentenced by <input type="checkbox"/> court <input type="checkbox"/> jury. <input type="checkbox"/> was found guilty of lesser included offense by <input type="checkbox"/> court <input type="checkbox"/> jury.	
Sentence is a Departure <input type="checkbox"/> Yes <input type="checkbox"/> No	Sentence Departure is <input type="checkbox"/> Durational or <input type="checkbox"/> Dispositional. If durational, state how many months above/below the presumptive sentence:					

Departure Reason (See page 2 for a list of reasons) Aggravating # _____ or Mitigating # _____. For Agg. #17 or Mit. #9, or if departing from guidelines, please explain: _____				Sentence will run: <input type="checkbox"/> Consecutive Concurrent <input type="checkbox"/> to Offense # _____ or Case # _____		
--	--	--	--	---	--	--

## Defendant's Full Name: HOGAN, LAQUINCE, T

## Special Conditions

<b>Sex Offenses</b> Defendant has been adjudicated guilty of an offense requiring sex offender registration and must complete the Sex Offender Registration Form and pay the Mandatory Sex Offender Fee of \$250. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<b>Domestic Violence Offenses</b> Defendant has been adjudicated guilty of a domestic-violence related offense and must pay additional court costs of \$25 under Act 583 of 2017. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Defendant has committed an aggravated sex offense as defined in A.C.A. §12-12-903. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Defendant was originally charged with a domestic-violence related offense. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, state the A.C.A. # of the offense:
Defendant is alleged to be a sexually dangerous person and is ordered to undergo an evaluation at a facility designated by A.D.C. pursuant to A.C.A. §12-12-918. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Defendant, who has been adjudicated guilty of an offense requiring registration, has been adjudicated guilty of a prior sex offense under a separate case number. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list prior case numbers:		If yes to either question, identify the relationship of the victim to the Defendant by offense number.

## Fines, Fees, Restitution

<b>DNA Sample/Qualifying Offense</b> Defendant has been adjudicated guilty of a qualifying offense or repeat offense (as defined in A.C.A. §12-12-1103). <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Defendant is ordered to have a DNA sample drawn at <input type="checkbox"/> A.C.C. facility <input type="checkbox"/> the A.D.C. or <input type="checkbox"/> other _____		<b>Drug Crime</b> Defendant has been convicted of a drug crime, as defined in §12-17-101. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	--	--

<b>Court Costs</b> Fines Booking/Admin Fees (\$20) Drug Crime Assessment Fee (\$125) DNA Sample Fee (\$250) Children's Advocacy Center Fund Fee Public Defender User Fee Public Defender Attorney Fee Other (explain) _____	\$200.00 \$26,000.00 \$20.00 \$0 \$0 \$0 \$150.00 \$0	<b>Restitution \$</b> _____ Payable to [If multiple beneficiaries, give names and payment priority] _____ <b>Terms</b> <input type="checkbox"/> Due Immediately <input type="checkbox"/> Installments of: <input type="checkbox"/> Payments must be made within _____ days of release from A.D.C. <input type="checkbox"/> Upon release from confinement, Defendant must return to court to establish payment of restitution <input type="checkbox"/> Restitution is joint and several with co-defendant(s) who was found guilty – List name(s) and case number(s) _____
---	--	--

## Sentence Options

Defendant was convicted of a target offense(s) and is sentenced pursuant to provisions of the Community Punishment Act. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No The Court hereby orders a judicial transfer to the Department of Community Correction. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Pursuant to the Community Punishment Act, the Defendant shall be eligible to have his/her records sealed. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<b>Extended Juvenile Jurisdiction</b> Applied <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>JAIL TIME CREDIT</b> 105	<b>TOTAL TIME TO BE SERVED FOR ALL OFFENSES</b> In months: 1500 <input type="checkbox"/> Life <input type="checkbox"/> LWOP	Death Penalty <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, State Execution Date:
DEFENDANT IS ASSIGNED TO: <input checked="" type="checkbox"/> ADC <input type="checkbox"/> ADC, Admin. Transfer Authorized Conditions of disposition or probation are attached. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
A copy of the pre-sentence investigation or sentencing information is attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Defendant has previously failed a drug court program. A copy of the Prosecutor's Short Report is attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
DEFENDANT WAS INFORMED OF APPELLATE RIGHTS <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Appeal Bond \$ _____		
The County Sheriff is hereby ordered to: <input type="checkbox"/> transport the defendant to county jail <input type="checkbox"/> take custody for referral to CCC <input checked="" type="checkbox"/> transport to ADC		
Defendant shall report to ACC probation officer for report date to CCC <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

Prosecuting Attorney/Deputy (Print Name): BRYAN CHESSHIR/AL SMITH Signature: <u>Alvin A. Smith</u>		Date: 6/13/2019
Circuit Judge (Print Name): TOM COOPER Signature: _____		Date: 6/13/2019
Additional Info: _____		

JUDGMENT AND COMMITMENT ORDER  
IN THE CIRCUIT COURT OF LITTLE RIVER COUNTY, ARKANSAS  
9W DISTRICT 1 DIVISION

On 6-4-09 the Defendant appeared before the Court, was advised of the nature of the charge(s), of constitutional and legal rights, of the effect of a guilty plea upon those rights, and of the right to make a statement before sentencing. The Court made the following findings:

DEFENDANT'S FULL NAME: LAQUINCE T. HOGAN

DATE OF BIRTH: 1-19-74

RACE: BLACK

SEX: MALE

SID #:

DEFENDANT'S ATTORNEY: MICHAEL BOOKER

PROSECUTING ATTORNEY OR DEPUTY: BRYAN L. CHESSHIR / AL SMITH

CHANGE OF VENUE FROM:

2009R001076 4\*

2009R001076

CONTRACT AND AGREEMENT

RECORDED ON

06/04/2009 04:29:52PM

ANDREA BILLINGSLEY

CIRCUIT CLERK

LITTLE RIVER COUNTY, AR

Defendant was represented by  private counsel  appointed counsel  
 public defender  himself/herself

Defendant made a voluntary, knowing and intelligent waiver of the right to counsel:

Yes No

There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment of conviction is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Department of Correction (A.D.C.) for the term specified on each offense shown below:

TOTAL NUMBER OF COUNTS: 2

Offense # 1

Docket #: CR-2008-54-1

Arrest Tracking #:

A.C.A. # of Offense: 5-64-401

Name of Offense: POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO DELIVER - CRACK COCAINE

Seriousness Level of Offense: N/A

Criminal History Score: N/A

Presumptive Sentence: N/A

Sentence is a departure from the sentencing grid.  Yes  No.

Offense is a  felony  misdemeanor.

Classification of offense:  A  B  C  D  U  Y

Sentence imposed: 1500 months.

Suspended imposition of sentence: \_\_\_\_\_ months.

Defendant was sentenced as an Habitual Offender under A.C.A. 5-4-501, Subsection (a) (b) (c) (d).

Sentence was enhanced by \_\_\_\_\_ months pursuant to A.C.A. \_\_\_\_\_.

Defendant attempted solicited conspired to commit the offense.

Offense date: 8-5-08

Number of counts: 1

Defendant was on  probation  parole at time of conviction.

Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence.  Yes  No.

Victim of the offense was  under  over the age of 18 years.

Defendant voluntarily, intelligently, and knowingly entered a

negotiated plea of guilty or nolo contendere.

plea directly to the court of guilty or nolo contendere.

Defendant

entered a plea as shown above and was sentenced by a jury.

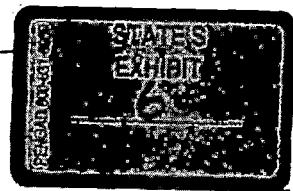
was found guilty of said charge(s) by the court, and sentenced by the court a jury.

was found guilty at a jury trial, and sentenced by the court X a jury.

FILED

2009 JUN -4 P 421

ANDREA BILLINGSLEY  
CIRCUIT CLERK



Offense # 2

Docket #: CR-2008-54-1

Arrest Tracking #:

A.C.A. # of Offense: 5-64-401

Name of Offense: POSSESSION OF CONTROLLED SUBSTANCE - MARIJUANA

Seriousness Level of Offense: N/A

Criminal History Score: N/A

Presumptive Sentence: N/A

Sentence is a departure from the sentencing grid.  Yes  No.Offense is a  felony  misdemeanor.Classification of offense:  A  B  C  D  U  Y

Sentence imposed: 12 months COUNTY JAIL.

Suspended imposition of sentence: months.

Defendant was sentenced as an Habitual Offender under A.C.A. 5-4-501, Subsection (a) (b) (c) (d).

Sentence was enhanced by months pursuant to A.C.A.

Defendant attempted solicited conspired to commit the offense.

Offense date: 8-5-08

Number of counts: 1

Defendant was on  probation  parole at time of conviction.Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence.  Yes  No.Victim of the offense was  under  over the age of 18 years.

Defendant voluntarily, intelligently, and knowingly entered a

 negotiated plea of guilty or nolo contendere. plea directly to the court of guilty or nolo contendere.

Defendant

 entered a plea as shown above and was sentenced by a jury. was found guilty of said charge(s) by the court, and sentenced by the court a jury. was found guilty at a jury trial, and sentenced by the court X a jury.

Offense #

Docket #:

Arrest Tracking #:

A.C.A. # of Offense:

Name of Offense:

Seriousness Level of Offense:

Criminal History Score:

Presumptive Sentence:

Sentence is a departure from the sentencing grid.  Yes  No.Offense is a  felony  misdemeanor.Classification of offense:  A  B  C  D  U  Y

Sentence imposed: months.

Suspended imposition of sentence: months.

Defendant was sentenced as an Habitual Offender under A.C.A. 5-4-501, Subsection (a) (b) (c) (d).

Sentence was enhanced by months pursuant to A.C.A.

Defendant attempted solicited conspired to commit the offense.

Offense date:

Number of counts:

Defendant was on  probation  parole at time of conviction.Commitment on this offense is a result of the revocation of Defendant's probation or suspended imposition of sentence.  Yes  No.Victim of the offense was  under  over the age of 18 years.

Defendant voluntarily, intelligently, and knowingly entered a

 negotiated plea of guilty or nolo contendere. plea directly to the court of guilty or nolo contendere.

Defendant

 entered a plea as shown above and was sentenced by a jury. was found guilty of said charge(s) by the court, and sentenced by the court a jury. was found guilty at a jury trial, and sentenced by the court a jury.

DEFENDANT'S FULL NAME:  
LAQUINCE T. HOGAN

Indicate which sentences are to run consecutively:

Death Penalty:  Execution Date:

Total time to serve on all offenses listed above: 1500 months.

Time to be served at:  Department of Correction  Regional Punishment Facility.

Jail time credit: 105 days.

Defendant was convicted of a target offense under the Community Punishment Act. The Court hereby orders that the Defendant be judicially transferred to the Department of Community Correction (D.C.C.).  Yes  No

Failure to meet the criteria or violation of the rules of the D.C.C. could result in transfer to the A.D.C.

Defendant was convicted of a "drug crime," as defined in Act 1086 of 2007, and codified at A.C.A. 12-17-101 *et seq.*  Yes  No

Fines \$26,000.00 Court Costs \$200.00

Booking and Admin. Fee (A.C.A. 12-41-505) \$20.00

Drug Crime Special Assessment (A.C.A. 12-17-106) \$ DNA Sample Fee (A.C.A. 12-12-1118) \$

A judgment of restitution is hereby entered against the Defendant in the amount and terms as shown below:

Amount \$ Due immediately  Installments of:

Payment to be made to:

If multiple beneficiaries, give names and show payment priority:

Defendant has been adjudicated guilty of an offense requiring registration as a sex offender, and is ordered to complete the Sex Offender Registration Form:  Yes  No.

Defendant, who has been adjudicated guilty of an offense requiring registration as a sex offender, has been adjudicated guilty of a prior sex offense under a separate case number:  Yes  No. If yes, list prior case number(s): \_\_\_\_\_

Defendant is alleged to be a Sexually Violent Predator, and is ordered to undergo an evaluation at a facility designated by the Department of Correction pursuant to A.C.A. 12-12-918:  Yes  No.

Defendant has committed an aggravated sex offense, as defined in A.C.A. 12-12-903.  Yes  No.

Defendant was adjudicated guilty of a felony offense, a misdemeanor sexual offense, or a repeat offense (as defined in A.C.A. 12-12-1103), ordered to have a DNA sample drawn at:  a D.C.C. facility  the A.D.C. or \_\_\_\_\_ (other):  Yes  No.

Defendant was informed of the right to appeal:  Yes  No.

Appeal Bond: \$

The County Sheriff is hereby ordered to transport the Defendant to  the Arkansas Department of Correction  Regional Punishment Facility.

The short report of circumstances attached hereto is approved.

Date: 6-4-09  
6-4-09

Circuit Judge:  
TOM COOPER

Signature: 

I certify this is a true and correct record of this Court.

Date 6-4-09 Circuit Court:



(Seal)

Revised 01/2004



PAGE 3 OF 3

154

APPRI54X19

# PROSECUTOR'S SHORT REPORT OF CIRCUMSTANCES

This information is pursuant to A.C.A. 12-27-113 (C)(1) & (2) (Supp. 1993)

Defendant's Name LAQUINCE T. HOGAN

SID#

CS. CR-2008-54-1

County LITTLE RIVER

## SUMMARY OF THE FACTS:

POSSESSION OF CONTROLLED SUBSTANCE WITH INTENT TO DELIVER - CRACK COCAINE, POSSESSION OF CONTROLLED SUBSTANCE - MARIJUANA

## II. FACTORS:

### AGGRAVATING

- Production or use of any weapon during the criminal episode.
- Threat or violence toward witness(es) or victim(s).
- Defendant knew or had reason to know the victims were particularly vulnerable (aged, handicapped, very young, etc.)
- Ability to make restitution, reparation or return property and failed to do so.
- Violation of position of public trust recognized professional ethics.
- Degree of property loss, personal injury, or threatened personal injury substantially greater than characteristic for the crime.
- There is a single conviction for a crime involving multiple victims or incidents.

Defendant on probation or parole at the time of the crime.

Persistent involvement in similar criminal offenses.

Repetition of behavior pattern which contributes to criminal conduct (e.g. return to drug or alcohol abuse).

Prior record of similar offenses

Serious prior record.

Pursuant to a Guilty or No Contest plea, other crimes were dismissed or not prosecuted.

New criminal activity while on pretrial release.

Persistent criminal misconduct while under supervision.

Efforts to conceal crime.

Other: Convicted previously of  
Selling Drugs & Taxes!

SIGNED: CIRCUIT JUDGE

### MITIGATING

- Victim(s) provoked the crime to substantial degree, or other evidence that misconduct by victim contributed to the criminal episode.
- Cooperation with criminal justice agencies in resolution or other criminal activity.
- Effort to make restitution or reparation (particularly before required to do so by sentencing).
- Degree of property loss, personal injury or threatened personal injury substantially less than characteristic for the crime.
- Special effort on part of perpetrator to minimize the harm or risk.
- Peripheral involvement in criminal episode, (e.g. passive accessory).
- Evidence of withdrawal, duress, necessity or lack of sustained criminal intent or diminished mental capacity (e.g. mental retardation) which is insufficient to constitute a defense but is indicative of reduced culpability.
- No prior parole or probation difficulty.
- Efforts to deal with problems associated with past criminal conduct.
- No, or minimal, prior record.
- Other: \_\_\_\_\_

SIGNED: Emy J. C. PROSECUTING ATTORNEY/DEPUTY