

STATE OF NORTH CAROLINA

ROBESON County LUMBERTON Seat of Court

File No.

98CRS007055 51

NOTE: [Use AOC-CR-342 for DWI offense(s).]

In The General Court Of Justice
 District Superior Court Division

STATE VERSUS

**JUDGMENT AND COMMITMENT
 ACTIVE PUNISHMENT - FELONY
 (STRUCTURED SENTENCING)
 (For Convictions On Or After Jan. 1, 2012)**

Name Of Defendant
 BELL,ANTONE,LAMONT

Race B Sex M Date Of Birth 09/10/1969

G.S. 15A-1301, -1340.13

Attorney For State
 MATTHEW C SCOTT

Def. Found Not Indigent Def. Waived Attorney

Attorney For Defendant
 IAN ANDREW MANCE

Appointed Retained
 Crtr Rptr Initials
 SAS

The defendant was found guilty/responsible, pursuant to plea (pursuant to Afford) (of no contest) trial by judge trial by jury, of

File No.(s)	Off.	Offense Description	Offense Date	G.S. No.	FIM	CL.	Pun. CL.
98CRS007055	51	TRAFFICKING IN COCAINE	04/04/1998	90-95(H)(3)	F	D	

*NOTE: Enter punishment class if different from underlying offense class (punishment class represents a status or enhancement).
 The Court: 1. has determined, pursuant to G.S. 15A-1340.14, the prior record points of the defendant to be 11.
 Any prior record level point under G.S. 15A-1340.14(b)(7) is based on the determination of this issue by the trier of fact beyond a reasonable doubt or the defendant's admission to this issue.
 2. makes no prior record level finding because none is required for Class A felony, violent habitual felon, or drug trafficking offenses.

PRIOR RECORD LEVEL:
 I III V
 II IV VI

The Court (NOTE: Block 1 or 2 MUST be checked):

- 1. makes no written findings because the term imposed is: (a) in the presumptive range. (b) for a Class A felony. (c) for adjudication as a violent habitual felon, G.S. 14-7.12. (d) for drug trafficking. for which the Court finds the defendant provided substantial assistance, G.S. 90-95(h)(5). (e) in the aggravated range, pursuant to G.S. 20-141.4(b)(1a).
- 2. finds the Determination of aggravating and mitigating factors on the attached AOC-CR-605.
- 3. adjudges the defendant to be a habitual felon to be sentenced (offenses committed before Dec. 1, 2011) as a Class C felon. (offenses committed on or after Dec. 1, 2011) four classes higher than the principal felony (no higher than Class C).
- 4. adjudges the defendant to be a habitual breaking and entering status offender, to be sentenced as a Class E felon.
- 5. adjudges the defendant to be an armed habitual felon to be sentenced as a Class C felon (unless sentenced herein as a Class A, B1, or B2 felon) and with a minimum term of imprisonment of no less than 120 months.
- 6. finds enhancement pursuant to: G.S. 90-95(e)(3) (drugs). G.S. 14-3(c) (hate crime). G.S. 50B-4.1 (domestic violence). G.S. 14-50.22 (gang misdemeanor). Other: _____
- 7. finds that the defendant committed the felony by using, displaying, or threatening the use or display of a firearm or deadly weapon and actually possessed the firearm or weapon about his or her person. This finding is based on the jury's determination of this issue beyond a reasonable doubt or on the defendant's admission. Pursuant to G.S. 15A-1340.16A, the Court has increased the minimum sentence by (check only one)
 (Class A-E felony committed prior to Oct. 1, 2013) 60 months. (Class A-E felony committed on or after Oct. 1, 2013) 72 months.
 (Class F or G felony committed on or after Oct. 1, 2013) 38 months. (Class H or I felony committed on or after Oct. 1, 2013) 12 months.
- 8. finds the above-designated offense(s) is a reportable conviction under G.S. 14-208.6 (check only one)
 a. and therefore makes the additional findings and orders on the attached AOC-CR-615, Side One.
 b. but makes no finding or order concerning registration or satellite-based monitoring due to a sentence of life imprisonment without parole.
- 9. finds the above-designated offense(s) involved the physical or mental sexual abuse of a minor.
 (NOTE: If offense(s) is not also a reportable conviction in No. 8 above, this finding requires no further action by the court.)
- 10. finds that a motor vehicle commercial motor vehicle was used in the commission of the offense and that it shall be reported to DMV.
- 11. finds this is an offense involving assault, communicating a threat, or an act defined by G.S. 50B-1(a), and the defendant had a personal relationship as defined by G.S. 50B-1(b) with the victim.
- 12. (offenses committed on or after Dec. 1, 2017, only) finds that the offense was committed as part of criminal gang activity as defined in G.S. 14-50.16A(2). and that the defendant was a criminal gang leader or organizer as defined in G.S. 14-50.16A(3). This finding is based on the determination of this issue by the trier of fact beyond a reasonable doubt or on the defendant's admission.
- 13. finds the above-designated offense(s) involved (check one) (offenses committed Dec. 1, 2008 - Nov. 30, 2017) criminal street gang activity (offenses committed on or after Dec. 1, 2017) criminal gang activity. G.S. 14-50.25.
- 14. did not grant a conditional discharge under G.S. 90-96(a) because (check all that apply) the defendant refused to consent. (offenses committed on or after Dec. 1, 2013, only) the Court finds, with the agreement of the District Attorney, that the offender is inappropriate for a conditional discharge for factors related to the offense.
- 15. finds that the defendant used or displayed a firearm while committing the felony. G.S. 15A-1382.2.
- 16. finds that the offense involved child abuse or assault or an act defined in G.S. 50B-1(a) against a minor. G.S. 15A-1382.1(a1).
- 17. imposes sentence pursuant to G.S. 90-95(h)(5a) and the Court's findings on the attached AOC-CR-618. Other: _____

The Court, having considered evidence, arguments of counsel and statement of defendant, Orders that the above offenses, if more than one, be consolidated for judgment and the defendant be sentenced (check only one)

to Life Imprisonment Without Parole for Class A Felony. Class B1 Felony. Violent Habitual Felon.

In the custody of:
 N.C. DACJJ.
 Other: _____

to Life Imprisonment With Parole, pursuant to G.S. Chapter 16A, Article 81B, Part 2A.

for a minimum term of: 175 months and a maximum term of: 219 months ASR term (Order No. 4, Side Two) _____ months

to Death (see attached Death Warrant and Certificates)

The defendant shall be given credit for 254 days spent in confinement prior to the date of this Judgment as a result of this charge(s).

- The sentence imposed above shall begin at the expiration of all sentences which the defendant is presently obligated to serve.
- The sentence imposed above shall begin at the expiration of the sentence imposed in the case referenced below:

File No.	Offense	County	Court	Date

Material opposite unmarked squares is to be disregarded as surplusage.
 (Over)

The Court further Orders: (check all that apply)

1. The defendant shall pay to the Clerk of Superior Court the "Total Amount Due" shown below.

Costs	Fine	Restitution*	Attorney's fees	SBM Fee	Appt Fee/Misc	Total Amount Due
\$ 0.00	\$	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$

*See attached "Restitution Worksheet, Notice and Order (Initial Sentencing)," AOC-CR-611, which is incorporated by reference.

- 2. The Court finds that restitution was recommended as part of the defendant's plea arrangement.
- 3. The Court finds just cause to waive costs, as ordered on the attached AOC-CR-618. Other: _____
- 4. Without objection by the State, the defendant shall be admitted to the Advanced Supervised Release (ASR) program. If the defendant completes the risk reduction incentives as identified by the Division of Adult Correction and Juvenile Justice, then he or she will be released at the end of the ASR term specified on Side One. G.S. 15A-1340.18.
- 5. Other:
03/22/2022 MAR HEARING. JUDGE JAMES G BELL MODIFIED SENTENCE TO RUN CONCURRENT WITH 98CRS7054.

The Court recommends:

- 1. Substance abuse treatment. 2. Psychiatric and/or psychological counseling. 3. Work release should should not be granted.
- 4. Payment as a condition of post-release supervision or from work release earnings, if applicable, of the "Total Amount Due" set out above.
 but the Court does not recommend restitution be paid as a condition of post-release supervision. from work release earnings.

The Court further recommends:

ORDER OF COMMITMENT/APEAL ENTRIES

- 1. It is ORDERED that the Clerk deliver two certified copies of this Judgment and Commitment to the sheriff or other qualified officer and that the officer cause the defendant to be delivered with these copies to the custody of the agency named on the reverse to serve the sentence imposed or until the defendant shall have complied with the conditions of release pending appeal.
- 2. The defendant gives notice of appeal from the judgment of the trial court to the Appellate Division. Appeal entries and any conditions of post conviction release are set forth on form AOC-CR-350.

SIGNATURE OF JUDGE

Date 10/25/2001	Name Of Presiding Judge (type or print) THE HONORABLE JAMES G BELL	Signature Of Presiding Judge <i>J. G. Bell</i>
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ORDER OF COMMITMENT AFTER APPEAL

Date Appeal Dismissed	Date Withdrawal Of Appeal Filed	Date Appellate Opinion Certified
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It is ORDERED that this Judgment be executed. It is FURTHER ORDERED that the sheriff arrest the defendant, if necessary, and recommit the defendant to the custody of the agency named in this Judgment on the reverse and furnish that agency two certified copies of this Judgment and Commitment as authority for the commitment and detention of the defendant.

Date	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk Of Superior Court
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CERTIFICATION

I certify that this Judgment and Commitment with the attachment(s) marked below is a true and complete copy of the original which is on file in this case.

- Appellate Entries (AOC-CR-350)
- Felony Judgment Findings Of Aggravating And Mitigating Factors (AOC-CR-605)
- Judicial Findings As To Forfeiture Of Licensing Privileges (AOC-CR-317)
- Victim Notification Tracking Form
- Additional File No.(s) And Offense(s). (AOC-CR-626)
- Restitution Worksheet, Notice And Order (Initial Sentencing) (AOC-CR-611)
- Judicial Findings And Order For Sex Offenders - Active Punishment (AOC-CR-615, Side One)
- Additional Findings (AOC-CR-618)
- Convicted Sex Offender Permanent No Contact Order (AOC-CR-620)
- Other: _____

Date	Date Certified Copies Delivered To Sheriff	Signature Of Clerk	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk Of Superior Court	SEAL
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*CC mail
FAX DAC
11/16
3:2222
HW*

STATE OF NORTH CAROLINA
ROBESON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 98 CRS 7055

STATE OF NORTH CAROLINA)

v.)

ANTONE LAMONT BELL,)
Defendant)

) MOTION FOR APPROPRIATE RELIEF
)
)
)
)

NOW COME the parties, Robeson County District Attorney Matt Scott, and Defendant Antone Lamont Bell, through his undersigned counsel, to bring this motion for appropriate relief under N.C. GEN. STAT. §§ 15A-1415(b)(8), Article I, §§ 19 and 27 of the North Carolina Constitution, and the Eighth and Fourteenth Amendments to the United States Constitution.

For reasons discussed below, the parties agree that Defendant's service of consecutive sentences under the unique circumstances that exist in this case is not consonant with state and federal law regarding equal protection, due process, and the imposition of unusual sentences. A defendant may seek relief from a sentence that violates equal protection, that is obtained in violation of the Defendant's right to due process, or that is objectively unusual under N.C. GEN. STAT. § 15A-1415(b)(8), and through agreement with the State. N.C. GEN. STAT. § 15A-1420(e); State v. Chevallier, 824 S.E.2d 440, 448 (N.C. Ct. App. 2019); UNC SCHOOL OF GOV'T, N.C. PROSECUTORS' RESOURCE ONLINE, 411.1C – Motions for Appropriate Relief by Agreement.

In support of their motion, the parties show:

1. Defendant was convicted on October 25, 2001, of two counts of Trafficking a Schedule II controlled substance (cocaine), both Class D felonies. The docket numbers for the charges are 98 CRS 7054 and 98 CRS 7055.

2. Defendant was sentenced to serve consecutive sentences on the two Trafficking convictions. For each count, the court imposed a maximum sentence of 18 years and 3 months. Defendant's earliest projected release date is February 15, 2031.

3. As of the filing of this Motion for Appropriate Relief, the Defendant has served more than twenty (20) years, or a substantial majority, of his sentence.

4. The Defendant's trafficking convictions resulted from an April 4, 1998 incident in which the Defendant and his brother Christopher Bell, who was driving, were arrested during a traffic stop. During the course of the stop, a package later identified as cocaine, weighing just over three-quarters of a kilogram, was discovered in the trunk. Defendant was subsequently tried and convicted of trafficking by possession and transportation in Robeson County Superior Court.

5. Identical charges were filed against Defendant's brother, Christopher Bell. Christopher Bell did not appear in court, and his charges were initially dismissed with leave by the District Attorney at the time. These charges were subsequently voluntarily dismissed by the current Robeson County District Attorney. It was determined that the charging officer's subsequent conviction in federal court in connection with drug-related crimes that he committed in 1998—the year of the Bell brothers' arrest—precluded prosecution.

6. Prior to his federal conviction, the same deputy, Kevin Meares, testified for the State in Defendant's 2001 trial and introduced the drug evidence against him.

7. The trial court ran the Defendant's sentences consecutively. As a result, Defendant received an unusually long sentence, while his brother, who was arrested at the same time, for the same offenses, and who faced the same charges, faced no prison time.

8. Federal courts in North Carolina have described the state's sentencing laws as "vastly discretionary because judges are not limited in any fashion when deciding whether to impose

consecutive or concurrent sentences.” *Williams v. Currie*, 103 F. Supp. 2d 858, 866 (M.D.N.C. 2000). Both federal and state courts have indicated that equal protection can be violated when a defendant receives a “substantially harsher sentence than a . . . [similarly-situated] co-defendant.” *Id.* at 865; *Dobrowolska ex rel. Dobrowolska v. Wall*, 138 N.C. App. 1, 14 (2000) (“The principle of equal protection of the law is explicit in both the Fourteenth Amendment to the United States Constitution and Article I, Section 19 of the Constitution of North Carolina. This principle requires that all persons similarly situated be treated alike.”).

9. Deputy Meares was convicted in connection with Operation Tarnished Badge, a federal investigation and prosecution of law enforcement officers who were involved in official misconduct, much of it drug-related.

10. As a result of Operation Tarnished Badge, the Robeson County District Attorney’s Office voluntarily dismissed hundreds of drug-related charges against criminal defendants whose cases it determined were tainted by the involvement of officers subsequently discovered to have been engaged in criminal activity. *See, e.g.*, WRAL, *Stiff Sentencing in ‘Operation Tarnished Badge’ Continues*, Nov. 16, 2007 (“Many of the deputies charged were involved with drug enforcement, and District Attorney Johnson Britt said he has dismissed between 200 and 300 drug cases because they were tainted.”). These dismissals included felony cocaine trafficking cases charged by Deputy Kevin Meares. *See, e.g.*, *State v. Carol Johnson*, File No. 05-CR-051444 (Robeson Co. Sup. Ct.) (reflecting voluntary dismissal of Felony Trafficking in Cocaine charges against defendant charged by Deputy Meares; dismissal entered on August 22, 2006, eighteen days after Deputy Meares’ conviction).

11. Dismissals were entered in these cases because the Robeson County District Attorney’s Office determined that the officers’ involvement in unlawful drug-related activity undermined the

reliability of their accounts as to the facts and circumstances of the cases they charged. *See, e.g., Colorado v. Connelly*, 479 U.S. 157, 182 (1986) (“Our interpretation of the Due Process Clause has been shaped by . . . a concern for reliability.”); *Jackson v. Denno*, 378 U.S. 368, 376–77 (1964) (stating it is “axiomatic that a defendant in a criminal case is deprived of due process if his conviction is founded, in whole or in part” upon unreliable evidence).

12. These concerns about reliability also exist in Defendant’s case, because the State relied upon Deputy Meares’ testimony to establish key facts at his trial, and the transcript from Deputy Meares’ sentencing hearing indicates that at the time he testified at Defendant’s trial, he had been engaged in drug-related misconduct that had yet to be discovered.

13. Following Deputy Meares’ guilty plea, the Federal District Court for the Eastern District of North Carolina revisited cases in which he had previously testified, and it ordered the release of federal drug defendants—one of whom was serving a life sentence—after determining Meares’ “testimony was no longer trustworthy.” *See Tarnished by the Badge*, THE ROBESONIAN, Jan. 15, 2009 (detailing federal court’s order releasing two men from prison, one from a life sentence, and stating, “[i]n making his decision, [U.S. District Court Judge Terrence] Boyle pointed out that . . . Kevin Meares . . . testified against the [defendants], and since . . . Meares . . . pleaded guilty to charges brought by Tarnished Badge, [his] testimony was no longer trustworthy”).

14. In addition to the issues with the way that the Defendant’s sentence was procured, his sentence is also objectively unusual, implicating Article I, § 27 of the North Carolina Constitution.

15. An affidavit from a subject matter expert at Duke University School of Law that has been reviewed by the parties indicates that only one person in North Carolina history has received a longer active sentence for a pair of Trafficking convictions. The affidavit identifies Defendant’s sentence as “one of the most extreme sentences ever imposed by a North Carolina criminal court

for non-violent drug-related offenses.” See Affidavit of Ben Finholt, Director, Just Sentencing Project, Wilson Center for Science and Justice, Duke University School of Law (Sept. 10, 2021).

16. For the foregoing reasons, the parties agree that Defendant’s sentence is entitled to relief under N.C. GEN. STAT. § 15A-1415(b)(8) and that Defendant may seek relief under the North Carolina motion for appropriate relief (MAR) statutes, which were enacted as mechanisms for amending sentences previously believed to be lawful.

17. In the interests of justice and judicial economy, the State, through the District Attorney, and the Defendant, through counsel, have jointly “enter[ed] into an agreement for appropriate relief,” as provided for by N.C. GEN. STAT. § 15A-1420(e). They now jointly move this Court to enter an order granting the requested relief.

18. Specifically, the parties move the Court to amend Defendant’s sentence in file number 98 CRS 7055 (Trafficking Schedule II) and order it to be served concurrently with the judgments in file numbers 98 CRS 7054 (Trafficking Schedule II), 98 CRS 7050 (Drug Para – Use/Possess), and 98 CRS 7051 (Possess WITS Schedule II), which were consolidated for judgment.

19. Defendant agrees to proceed without a hearing on this matter.

20. The parties certify that there is a sound legal basis for this Motion for Appropriate Relief and that this motion is being made in good faith.

WHEREFORE, the parties pray the Court ORDER that:

1. The judgment in file number 98 CRS 7055 be AMENDED to reflect that the sentence should be served concurrently with the judgments in file numbers 98 CRS 7054 (Trafficking Schedule II), 98 CRS 7050 (Drug Para – Use/Possess), and 98 CRS 7051 (Possess WITS Schedule II), which were consolidated for judgment.

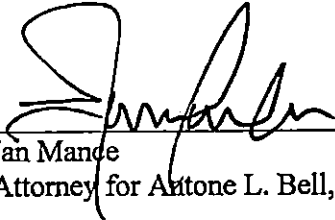
2. The judgment in 98 CRS 7055 is entered *nunc pro tunc* to reflect the original sentence date

of October 25, 2001.

This, the 02 day of March, 2022



Matt Scott
Robeson County District Attorney



Ian Mance
Attorney for Antone L. Bell, Defendant

STATE OF NORTH CAROLINA
ROBESON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 98 CRS 7055

STATE OF NORTH CAROLINA)
)
v.)
)
ANTONE LAMONT BELL,)
Defendant)

ORDER

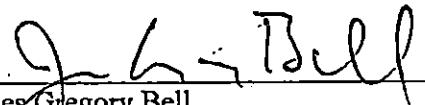
This matter having come before the Court on a motion for appropriate relief filed the 22 day of March, 2022, the Court enters an order as follows:

1. The judgment in file number 98 CRS 7055 (Trafficking Schedule II) is AMENDED to reflect that the sentence is to be served concurrently with the judgment in file numbers 98 CRS 7054 (Trafficking Schedule II), 98 CRS 7050 (Drug Para – Use/Possess), and 98 CRS 7051 (Possess WITS Schedule II), which were consolidated for judgment; and
2. The judgment in 98 CRS 7055 is to be entered *nunc pro tunc* to reflect the original sentencing date of October 25, 2001.

The Court hereby enters Judgments and Commitments reflecting the foregoing, and it directs certified copies thereof, along with a certified copy of this order, be provided to the North Carolina Department of Public Safety Office of Combined Records.

IT IS SO ORDERED.

3-22-2022
Date


James Gregory Bell
Superior Court Judge Presiding

cc man
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HMS