

2810

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT

THE COURT OF APPEALS OF ALABAMA

October Term 1959

To the Clerk of the Circuit Court  
of Baldwin County—Greeting:

Whereas, in the matter of  
Eddie Gemison Appellant,  
vs.  
The State Appellee,  
recently pending in the Court of Appeals of Alabama, on appeal from the said  
Court of County,  
our Court of Appeals did on the 26 day of Jan, 1960,  
render a judgment of affirmance

in said cause; and,

Whereas, a certificate of such action of the Court of Appeals was duly issued to you, and  
thereafter an application for a rehearing of said cause was filed in this Court on the 8  
day of Feb, 1960;

Now, it is hereby certified, that our Court of Appeals, or one of the Justices thereof, did,  
on the 8 day of Feb, 1960, order that the said certificate be recalled.  
And you will accordingly return the same to this office at once, together with copy of the opinion  
in said cause issued to you.

Witness, Charles Bricken, Jr., Clerk of the Court  
of Appeals of Alabama, at the Capitol, this the  
8 day of Feb, 1960  
Charles Bricken, Jr.  
Clerk of the Court of Appeals of Alabama.

## THE COURT OF APPEALS OF ALABAMA

October Term, 1959

1st Div., No. 807

Eddie Jamison  
AppellantThe State  
Appellee

From Baldwin County Court.

## CERTIFICATE OF RECALL

On Application for Rehearing.

THE STATE OF ALABAMA,

County. }

Filed this 10 day of

Feb 19 60

W. J. French  
Clerk

2810

STATE OF ALABAMA  
Baldwin County

Case No. 31 No. 10331

The State of Alabama

In the Cir Court of  
Baldwin County, Alabama

vs. Eddie J. Jones  
Before me, T. J. Duck, Clerk of the Cir Court of  
Baldwin County, Alabama, personally appeared Taylor Wilkins, who being duly sworn deposes and says:  
I am the Sheriff of Baldwin County, Alabama. In the above case, in the above mentioned court, in  
executing the warrant of arrest or in arresting the said defendant, I or one of my duly authorized deputies,  
traveled 54 miles by the most direct route to the point of arrest and return, and I am entitled to  
mileage at ten cents per mile to be taxed as costs in the case.

Point of Arrest Naphtali Taylor Wilkins Sheriff

Subscribed and sworn to before me this 17 day of April, 1952

Disposition \_\_\_\_\_ Clerk Circuit Court

After considering the above affidavit made by the Sheriff of Baldwin County, Alabama, I, as the trial  
Judge of said court, do hereby approve the claim for mileage in the sum of \$ \_\_\_\_\_ incurred in the  
making of the arrest or executing the warrant of arrest in the above styled cause and I hereby order the  
clerk of the court to tax the said sum as part of the costs in said case.

This the \_\_\_\_\_ day of \_\_\_\_\_, 195\_\_\_\_  
Judge of the above named court

2810

## APPEARANCE BOND

MOORE PRINTING CO., BAY MINETTE, ALA.

The State of Alabama,

Baldwin County

We, Eddie Jamison, as  
 principal, and undersigned as sureties agree to pay THE STATE OF ALABAMA, the sum of  
Five Thousand \$5,000.00 DOLLARS  
 unless the said Eddie Jamison appears at the  
Nxt Term, 1959 of the County Court of Baldwin County, Alabama  
 and from term to term thereafter until discharged by law, to answer a criminal prosecution for the offense of

possession of marijuana  
 We hereby waive as to all amounts that may become due hereunder the benefit of all laws exempting  
 personal property from levy and sale under execution or other process for the collection of debt by constitu-  
 tion or laws of the State of Alabama, and we hereby severally certify that we have property over and above  
 all debts, liabilities, exemptions and this bond to the amount of: real property of the value of \$2,000.00 and  
 personal property of the value of \$1,000.00.

Sworn to and subscribed before me this the

----- day of -----, 19-----

----- Baldwin County, Ala.

Taken and approved this the

16th

day of

Mar.

1959

By

Eddie Denison L. S.  
S. J. Tallent L. S.  
Max Lee F. Hill L. S.  
Sam S. Massey L. S.  
Taylor Wilkins Sheriff  
G. Horn Deputy Sheriff

Horn  
Mar. 16, 1959

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

State of Alabama  
Baldwin County

\_\_\_\_\_ Court

**Sheriff's Office**

The State  
vs.

**Sheriff's Appearance Bond**

Amount of Bond \$ \_\_\_\_\_

Filed \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_, Clerk

2810

The State of Alabama, {  
Baldwin County

TO ANY SHERIFF OF THE STATE OF ALABAMA:

An indictment having been found against

Eddie Jemison

at the Spring Term, 1959 of the Circuit Court of Baldwin County, for the offense of

Possession of Marijuana

you are, therefore, commanded forthwith to arrest the said Defendant and commit him

to jail, unless he give bail to answer said indictment, and that you return this Writ according to law.

Dated this 12 day of Mar, 1959

Reinhardt  
Clerk Circuit Court of Baldwin County.

The State of Alabama {  
Baldwin County

We, \_\_\_\_\_, as principal and

the other undersigned as sureties, agree to pay the State of Alabama \_\_\_\_\_

Dollars, unless the said \_\_\_\_\_ appears

at the \_\_\_\_\_ Term of the Circuit Court of Baldwin County, and from Term to

Term thereafter until discharged by law, to answer a criminal prosecution for the offense of \_\_\_\_\_

In signing the above bond we and each of us hereby waive all legal rights of exemptions allowed us by the Constitution and laws of the State of Alabama.

Witness our hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
(L. S.)

\_\_\_\_\_  
(L. S.)

\_\_\_\_\_  
(L. S.)

\_\_\_\_\_  
(L. S.)

Taken and approved \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Sheriff of Baldwin County

Received in Sheriff's Office  
this 13 day of March, 1959  
TAYLOR WILKINS, Sheriff

2810

**CAPIAS**

No. 31

The State

vs.

Eddie Jensen

Bail fixed in this case in open Court at

\$ 5000.00

By H. M. Hall  
Judge Presiding.

Attest: \_\_\_\_\_  
Clerk.

Executed this 16 day of May, 1959

By arresting the within

named Defendant

and placing him in jail

Taylor Wilkins, Sheriff

Deputy, Deputy Sheriff  
Daphne

2810

THE STATE OF ALABAMA

Baldwin County.

IN THE CIRCUIT COURT.

We Eddie Jemison, S.T. Tallent, andMrs. Ida F. Hill agree to pay to the State of Alabama thesum of Five Thousand - - - (\$5000.00) Dollars, unless the saidEddie Jemison appears at the nextterm of the Circuit Court of Baldwin County, and from term to term thereafter

until discharged by law, to answer a criminal prosecution for the offense of

Possession of Marijuana

And we, and each of us, hereby waive all exemptions we may have to any personal property under the Constitution and Laws of the State of Alabama as to the collection of the penalty of this bond.

Witness our hands and seals this 26 day of March, 19 59

The condition of the above obligation is such that, whereas the above bound

Eddie Jemison was duly convicted in the Circuit Court ofBaldwin County on the 26 day of March, 19 59,

of the above stated offense, and has duly applied for and obtained an appeal from said conviction and sentence to the Court of Appeals for the State of Alabama, and the amount of his appeal bond has been duly and legally fixed at said above stated sum:

Now, therefore, if the said Eddie Jemison

shall appear at the next term of the Circuit Court of Baldwin County, and from term to term thereafter until discharged by law, and abide the judgment of the said Court of Appeals for the State of Alabama, then this obligation to be void and of no effect; otherwise to remain in full force and effect.

Eddie Jemison (Seal.)S.T. Tallent (Seal.)Mrs. Ida F. Hill (Seal.)

(Seal.)

Approved this 1-6 day of March, 19 59Allice F. Durek, Clerk.



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

**THE STATE OF ALABAMA**\_\_\_\_\_  
County.**CIRCUIT COURT OF**\_\_\_\_\_  
County**THE STATE  
vs.****APPEAL BOND TO COURT OF  
APPEALS  
CRIMINAL CASES**

Filed in office this the \_\_\_\_\_ day of

\_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Clerk.

Case No. 12271

323

JUSTICE COURT OF

T. C. HAND

**The State**

VS.

Eddie Jensen

CHARGE

Possession of Marijuana

15 Jan. 59

DISPOSITION

Waved Grand Jury

Bond set \$ 5,000.00

Recommitted to jail

16 Jan. 59 Ref Posted bond

Moore Printing Co., Bay Minette, Ala.

2810

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

CERTIFICATE OF APPEAL. (Criminal Cases).

No. 2810

BALDWIN County, Circuit Court

EDDIE JEMISON

Appellant

VS.

The State of Alabama,  
Appellee

The State of Alabama,

BALDWIN County, The Circuit Court of BALDWIN  
County.

I, Alice J. Duck, Clerk of the Circuit Court  
of Baldwin County in and for said County and State, do  
hereby certify that in the above stated case, which was tried and  
determined in this Court on the 26th day of March, 19 59, and  
the defendant convicted by a Jury of the offense of Possession of  
Marijuana, and that on the 26th day of March, 19 59  
said defendant was sentenced to a term of 16 years in the penitentiary  
which said sentence was suspended  
pending an appeal to the Court of Appeals ~~Court~~ of Alabama.

I further certify that on this the 11 day of September  
19 59, the defendant gave notice in writing of an appeal to the  
Court of Appeals ~~Court~~ of Alabama.

Witness my hand and the seal of this Court, this the 16  
day of Sept, 19 59.

Alice J. Duck  
Clerk of Circuit Court of

Baldwin County, Alabama,

(Code 1940, Title 7, Sec. 754)

2810

# JURY LIST

Spring Term, March 23, 1959

NO.	NAME	OCCUPATION	ADDRESS
1	Akers, Redus M.	Insurance	Bay Minette
<del>2</del>	<del>Alegri, Joe</del>	<del>Hardware</del>	<del>Belforest</del>
<del>3</del>	<del>Allen, James B., Jr.</del>	<del>Farmer</del>	<del>Lillian</del>
4	Alms, Arthur N.	Farmer	Elberta
<del>5</del>	<del>Baggett, Lonnie L.</del>	<del>Farmer</del>	<del>Halls Fork</del>
<del>6</del>	<del>Barton, John S.</del>	<del>Banker</del>	<del>Bay Minette</del>
<del>7</del>	<del>Beasley, Wilson C.</del>	<del>Merchant</del>	<del>Bay Minette</del>
8	Beck, John	Mechanic	Foley
<del>9</del>	<del>Becker, Earl V.</del>	<del>Mailman</del>	<del>Bay Minette</del>
<del>10</del>	<del>Bryant, Bertram</del>	<del>Salesman</del>	<del>Bay Minette</del>
<del>11</del>	<del>Bryant, Roy Woolf</del>	<del>Farmer</del>	<del>Bay Minette</del>
<del>12</del>	<del>Burmeister, William E.</del>	<del>Grower and Shipper</del>	<del>Foley</del>
<del>13</del>	<del>Byrd, Claude</del>	<del>Newport</del>	<del>Bay Minette</del>
14	Clopton, Clifton	Brookley Field	Summerdale
<del>15</del>	<del>Corley, Alexander B.</del>	<del>Brookley Field</del>	<del>Bay Minette</del>
<del>16</del>	<del>Davis, Barney</del>	<del>State Emp.</del>	<del>Gulf Shores</del>
<del>17</del>	<del>Doering, Richard</del>	<del>Merchant</del>	<del>Foley</del>
<del>18</del>	<del>Duck, Davis</del>	<del>Farmer</del>	<del>Bay Minette</del>
<del>19</del>	<del>Flowers, John B.</del>	<del>Farmer</del>	<del>Gulf Shores</del>
<del>20</del>	<del>Foy, Preston</del>	<del>Electrician</del>	<del>Fairhope</del>
<del>21</del>	<del>Frolick, Joseph</del>	<del>Farmer</del>	<del>Silverhill</del>
22	Griffith, Joel B.	Brookley Field	Fairhope
<del>23</del>	<del>Hadley, John T.</del>	<del>City Emp.</del>	<del>Foley</del>
<del>24</del>	<del>Hall, Hamilton F.</del>	<del>Policeman</del>	<del>Robertsdale</del>
<del>25</del>	<del>Keuler, Albert</del>	<del>Salesman</del>	<del>Loxley</del>
26	Kichler, Fred H.	Farmer	Elberta
27	Kichler, Walter P.	Farmer	Elberta
<del>28</del>	<del>King, Henry Lowell</del>	<del>Banker</del>	<del>Elberta</del>
<del>29</del>	<del>King, Vernon</del>	<del>Farmer</del>	<del>Robertsdale</del>
30	Krischer, Joe	Farmer	Elberta

- 29 ~~King, Vernon, Farmer, Robertsdale~~
- 30 Krischer, Joe, Farmer, Elberta
- 31 Krischer, William, Well Man, Elberta
- 32 Lenderman, Clarence T., Farmer, Gulf Shores
- 33 ~~Lynam, Joseph F., Farmer, Lottie~~
- 34 ~~McCarthy, James G., Merchant, Bay Minette~~
- 35 ~~McGill, Harold B., Merchant, Perdido~~
- 36 ~~Nelson, J. L., Jr., Laborer, Fairhope~~
- 37 ~~Newell, E. E., Salesman, Fairhope~~
- 38 Palmer, James J., Salesman, Robertsdale
- 39 ~~Parker, Floyd B., Millman, Stockton~~
- 40 ~~Phillips, Mayben, Farmer, Little River~~
- 41 ~~Quinley, John H., Farmer, Bay Minette~~
- 42 ~~Quinley, Walter E., Farmer, Bay Minette~~
- 43 ~~Rush, Howard, Gov't Emp., Montrose~~
- 44 ~~Sheppard, Lloyd, Farmer, Foley~~
- 45 ~~Simms, Ben E., Merchant, Daphne~~
- 46 Steigerwald, Robert P., Presser, Foley
- 47 Stimpson, Carl, Clay Products, Fairhope
- 48 ~~Strickland, Marvin, Laborer, Bay Minette~~
- 49 ~~Thompson, Wilton, Farmer, Stockton~~
- 50 ~~Waters, J. Douglas, Farmer, Gateswood~~
- 51 ~~Woerner, Carl, Farmer, Elberta~~
- 52 ~~Woodward, C. H., Merchant, Fairhope~~
- 53 ~~Paul Titus~~

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Eddie Jensen

2111A 1181

June 1941 25 1930



STATE OF ALABAMA

VS.

EDDIE JEMISON,

Defendant.

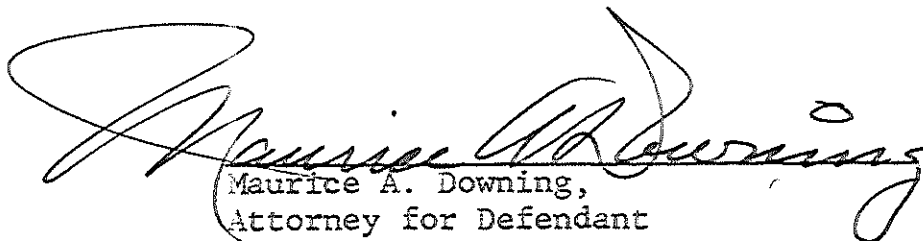
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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

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

Comes the Defendant, Eddie Jemison, in the above styled cause and shows unto the Court that on March 26, 1959 he was convicted of the crime of the possession of marijuana in the Circuit Court of Baldwin County, Alabama; that bond was set by this Honorable Court and posted by the Defendant and his surities, and that desiring to appeal this conviction, the Defendant does hereby make this Notice of Appeal in the above styled case.

  
Maurice A. Downing,  
Attorney for Defendant

0187

TO THE HONORABLE CLERK OF THE  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ALICE J. DUCK, CLERK  
REGISTER

RECEIVED JUL 23 1957

JAN 26 1960

2819

THE STATE OF ALABAMA --- JUDICIAL DEPARTMENT

THE ALABAMA COURT OF APPEALS

OCTOBER TERM, 1959-60

1 Div. 807

Eddie Jamison

v.

State

Appeal from Baldwin Circuit Court

CATES, JUDGE

Jamison stands convicted on an indictment charging him with the possession of marijuana. Code 1940, T. 22, § 256. The trial judge sentenced him to sixteen years imprisonment.

2.

The tendency of the State's evidence was: January 15, 1959, three law enforcement officers (one Federal, one State and one municipal) went to Jenison's home near Daphne in Baldwin County and discovered (1) several sacks of dried "plant material" in his corn crib; (2) a small portion of the same substance in a brown paper sack in Jenison's truck; and (3) some more in brown paper sacks in his house.

Chemical analysis showed this substance to be marijuana. The material in the brown paper bags found in the house and truck had apparently been manipulated or "manicured." That in the truck was hidden in the springs in back of the seat. The defendant, at the time of the raid, claimed that the material found in his corn crib was being kept for hog feed.

Several of the witnesses described the material as "marijuana," to which objection was taken, because testimony of the State toxicologist had not at that time been introduced to establish the identity of the substance. Strictly speaking, of course, such a description by a nonexpert is conclusionary and improper. However, we think it was error without injury to permit the witness to describe the substance as such, since the testimony was later connected up with the toxicologist's opinion of its identity.

The statute in this case provides as follows:

"It shall be unlawful for any person to possess, transport, deliver, sell, offer for sale, barter, or give away in any form whatever in this state, any marijuana, cannabis Americana, or cannabis Indica, or any compound or mixture containing any marijuana, cannabis Americana or cannabis Indica, or any derivative therefrom or thereof or any cigar or cigarettes made of or containing any marijuana, cannabis Americana or cannabis Indica."--Code 1940, T. 22, § 256.

3.

The indictment is alternative and charged Jemison "did, possess, transport, deliver, sell, offer for sale, barter, or give away marijuana, cannabis Americana, or cannabis Indica, or a compound or mixture containing marijuana, cannabis Americana or cannabis Indica, against the peace and dignity of the State of Alabama."

The trial court stated that, since the State had--in the solicitor's opening statement to the jury--elected to prove only possession of the marijuana, the defendant was not entitled to adduce proof that a man who presumably had grown the weed owed Jemison money.

We do not wish to be committed to the proposition that an indictment may be amended merely by the State's opening statement. However, the ruling of the trial court was proper, since the only proof made by the State in its case in chief was that the transaction with which Jemison was charged was solely one amounting to possession. Hence, what other parties had done with the marijuana in the past was not relevant to the issue shown by the State's evidence. In Marshall v. State, 18 Ala. App. 526, 93 So. 380, we find:

"As to what other parties had formerly owned and operated the still was entirely immaterial. Admitting that the other parties were alike guilty, this would not exculpate the defendant."

We consider the motion of the defendant's counsel that the State be required to elect that it stood simply on possession was properly overruled in view of Code 1940, T. 15, § 249, which provides:

"When offenses are of the same character, and subject to the same punishment, the defendant may be charged with the commission of either in the same count in the alternative."

4.

The following quotation from Herring v. State, 16 Ala. App. 98, 75 So. 646, applies here:

" \* \* \* when the evidence is all in for the state, and it discloses the fact that two or more offenses have been proven, the state will be required to elect; \* \* \* But where there is but one transaction proven, and the defendant is only called upon to meet the proof as to one set of facts which may relate to each allegation in the indictment, the reason for the rule disappears and the rule with it.

" \* \* \* The court did not err in overruling the defendant's motion for an election. Only one act was testified to \* \* \* by the state, \* \* \*"

Jemison contends that a photograph of the marijuana at the Fairhope police station was inadmissible, since (a) the marijuana was not found at the Fairhope police station but in Jemison's barn, truck and house, and (b) because the witness who identified the photograph of the subject marijuana in it purportedly testified that the contraband was not in the identical condition in which it was found.

From the examination of Mr. Coley, a criminal investigator for the State, we excerpt:

"MR. HENDRIX: The State would like to introduce this picture in evidence, showing the plant material taken from the premises of Eddie Jemison, for the purpose of identification.

"MR. CHASON: I would like to ask the witness a question or two --

"Q. You are testifying that this is the way that this stuff looked when you first found it?

"A. No sir--

"Q It had been moved?

"A It had been moved.

"Q Had been handled and re-arranged?

"A Yes sir.

5.

"MR. HENDRIX, Continues.

"Q. It is still in the same containers--

"MR. DOWNING: We object.

"THE COURT: Yes --

"MR. CHASON: It had been taken from the premises where it was found?

"A. Yes sir.

"Q. (By Mr. Chason) It had been handled by you four men and re-arranged and stacked as you placed it here before the picture was made?

"A. When you say 're-arranged' you mean the containers?

"Q. (Mr. Chason) This is not an accurate representation as it appeared at the scene?

"A. No sir.

"MR. CHASON: We object to the introduction of the picture.

"THE COURT: Overrule the objection.

"MR. CHASON: We except. And we object on the further ground that it is not an accurate reproduction of the scene - the material shown has admittedly been re-arranged to the satisfaction of these gentlemen to assist its appearance.

"THE COURT: Overrule the objection.

"MR. CHASON: We except.

"Q. Mr. Coley, after you took the picture at the police station, what did you then do?

"A. It was placed in my car and I carried it to Mobile to the Laboratory of the State Toxicologist.

"Q. Who is in charge of that Laboratory?

"A. Doctor Nelson B. Grubbs.

"Q. You carried it personally yourself that night or day?

"A. Yes sir.

"Q. What time did you get to Doctor Grubbs' place, if you remember, please?

6.

"A. The best of my recollection around 8:00 or 8:30."

We do not consider the court's ruling as error. The photograph was taken with a blank white wall for background with two office chairs appearing at one side, apparently used to support the bundles. The pictured marijuana having been identified by the State Criminal Investigator, Mr. Oscar F. Coley, as that found in and about Jamison's premises and as that turned over by him to Dr. Nelson Grubbs, Assistant State Toxicologist, for analysis, the picture was relevant, since the State later put in evidence the bundles which Dr. Grubbs stated Mr. Coley brought him and which Dr. Grubbs stated contained marijuana.

Jamison also argues that it was error to permit the bundles of marijuana to be offered in evidence (a) because of the failure to concatenate the State's possession of the marijuana from the time of its seizure until it was identified in court by Dr. Grubbs, and (b) because it was repackaged by the State.

This latter objection we do not consider of any merit, since there is no question of an "original package" doctrine in a case of this sort.

As to the identification of the marijuana described in open court by Dr. Grubbs, it is to be noted that he pointed out he made notes which he had in the form of receipts for the material to Mr. Coley. Mr. Coley had previously testified that the sacks of the material had been loaded up into Jamison's truck, and, apparently because of rain, had been switched to the trunk of the police chief's car and therein carried to the Fairhope police station. After they had been photographed, Coley carried them with him to Mobile to the laboratory of the State Toxicologist.



7.

Coley, moreover, stated that he carried the sacks personally to Dr. Grubbs's laboratory.

While Mr. Coley's testimony does not expressly state that he personally delivered the marijuana in person to Dr. Grubbs, nevertheless Dr. Grubbs's testimony as to his issuing receipts to Mr. Coley, when taken with Coley's testimony, sufficiently links the marijuana from the time of its finding until its production in court.

We have considered the entire record as required by Code 1940, T. 15, § 389, and consider that the judgment below is due to be

**AFFIRMED.**

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE COURT OF APPEALS OF ALABAMA

1st Div., No. 807

Eddie Jemison Appellant,

v.

The State Appellee,

From Baldwin Circuit Court

The State of Alabama, }  
City and County of Montgomery. }

I, Charles Bricken, Jr., Clerk of the Court of Appeals of Alabama, do hereby certify that the foregoing pages numbered from one to 7 inclusive, contain a full, true and correct copy of the opinion of said Court of Appeals in the above stated cause, as the same appears and remains of record and on file in this office.

Witness, Charles Bricken, Jr., Clerk of the Court

of Appeals of Alabama, at the Capitol, this the

26th day of January, 19 60

*Charles Bricken, Jr.*  
Clerk of the Court of Appeals of Alabama.

NO 2810

**THE COURT OF APPEALS OF ALABAMA**

1st Div., No. 807

Eddie Jemison

*Appellant*

*vs.*

The State

*Appellee*

From Baldwin Circuit Court.

**COPY OF OPINION**

BROWN PRINTING CO., MONTGOMERY 1951



MACDONALD GALLION  
ATTORNEY GENERAL

EDWIN STRICKLAND  
EXECUTIVE ASSISTANT

STATE OF ALABAMA  
OFFICE OF THE ATTORNEY GENERAL  
MONTGOMERY 4, ALABAMA

June 30, 1960

Hon. James A. Hendrix  
Circuit Solicitor  
Twenty-eighth Judicial Circuit  
Bay Minette, Alabama

Re: Eddie Jemison  
1st Div. 807  
Court of Appeals

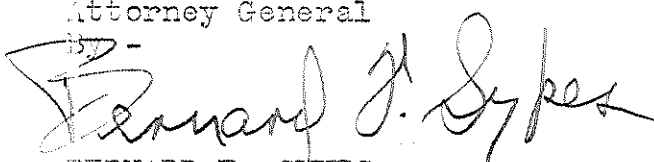
Dear Jim:

I am informed by the deputy clerk of the Court of Appeals that no mandate has issued in this case; simply the State's motion to dismiss application for certiorari in the Court of Appeals was granted and the petition stricken.

This appears to me to be sufficient cause to pick up the defendant on the original mandate from the Court of Appeals.

Very truly yours,

MACDONALD GALLION  
Attorney General

BY -  
  
BERNARD F. SYKES  
Assistant Attorney General

BFS:fw

2819

WILLARD W. LIVINGSTON  
CHIEF ASSISTANT ATTORNEY  
GENERAL

ASSISTANT ATTORNEYS  
GENERAL

OWEN BRIDGES  
DAVID W. CLARK  
JERRY L. COE  
PAUL T. GISH, JR.  
JAMES T. HARDIN  
NICHOLAS S. HARE  
ROBERT M. HILL, JR.  
GORDON MADISON  
GEORGE D. MENTZ  
WILLIAM N. MCQUEEN  
JOSEPH D. PHELPS  
JAMES L. SCREWS  
BERNARD F. SYKES  
JOHN C. TYSON, III

STATE OF ALABAMA, )  
PLAINTIFF, ) IN THE CIRCUIT COURT OF  
VS )) BALDWIN COUNTY, ALABAMA  
EDDIE JEMISON, ) NO. 2810  
DEFENDANT. )

DEMURRERS

Now comes the defendant in the above styled cause and demurs to the indictment and for grounds of said demurrer sets down and assigns the following, separately and severally, to-wit:

1. For that it does not state an offense.
2. For that it does not state an offense against the laws and statutes of the State of Alabama.
3. For that it does not apprise the defendant as to what he is to defend.
4. For that it does not set forth sufficient facts to apprise the defendant as to what he is to defend.
5. For that the averments of said indictment are vague, indefinite and uncertain.
6. For that the indictment is vague, uncertain and indefinite as to place.
7. For that the indictment is vague, uncertain and indefinite as to time.
8. For that the allegations of said indictment fail to inform the defendant with sufficient particularity the offence charged against him.
9. For that the allegations of the indictment fail to set forth with sufficient certainty the facts constituting the nature and the cause of the accusations against the defendant.
10. For that the allegations of the indictment fail to sufficiently inform the defendant of the acts which allegedly constitute a crime.
11. For that the allegations of the indictment fail to give the defendant notice of the specific charge against him and to afford to the defendant a chance to be heard in a trial of the issues raised by that charge.

12. For that the allegations of the indictment fail to state with sufficient clarity which of the alleged allegations constituting a crime, defendant is supposed to have violated.

13. For ought that appears in the indictment the alleged offence or crime is barred by the statute of limitations of one year.

14. For ought that appears in the indictment the offence or crime alleged is barred by the statute of limitations of three years.

15. That the indictment does not allege with sufficient certainty where the alleged offence was committed.

16. That the indictment does not allege with sufficient certainty which of the enumerated accusations defendant is supposed to have committed.

17. That the indictment does not allege with sufficient certainty whether alleged offences were committed in Baldwin County, Alabama.

18. That the indictment does not allege with sufficient certainty whether alleged offences were committed within the State of Alabama.

19. That under the indictment that defendant is not apprised as to whether he is being charged with the possession, transportation, delivery, sale, offering for sale, bartering, or giving away of a prohibited drug or combination thereof.

20. From ought that appears from said indictment, the defendant had a legal right to possess the narcotic or drug for which he was indicted for possessing.

21. From ought that appears from said indictment, the defendant had a legal right to transport the narcotic or drug for which he was indicted for transporting.

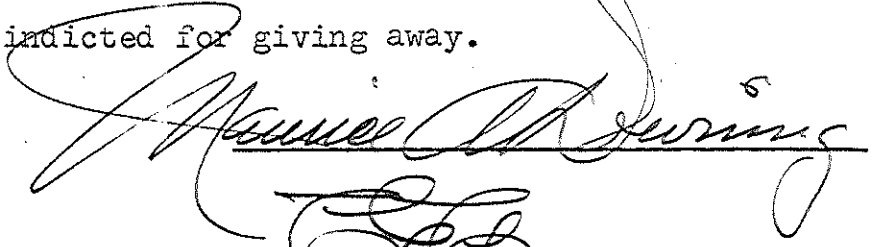

22. From ought that appears from said indictment, the defendant had a legal right to deliver the narcotic or drug for which he was indicted for delivering.

23. From ought that appears from said indictment, the defendant had a legal right to sell the narcotic or drug for which he was indicted for selling.

24. From ought that appears from said indictment, the defendant had a legal right to offer for sale the narcotic or drug for which he was indicted for offering for sale.

25. From ought that appears from said indictment, the defendant had a legal right to barter the narcotic or drug for which he was indicted for bartering.

26. From ought that appears from said indictment, the defendant had a legal right to give away the narcotic or drug for which he was indicted for giving away.

Attorneys for Defendant

DEMURRERS

\*\*\*\*\*

STATE OF ALABAMA,

PLAINTIFF,

VS

EDDIE JEMISON,

DEFENDANT.

\*\*\*\*\*

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

NO. 2810

\*\*\*\*\*

CECIL G. CHASON

ATTORNEY AT LAW

FOLEY, ALABAMA



State Of Alabama, }  
Baldwin County. }

In the Justice Court of

T. C. HAND

Before me, T. C. HAND, Justice of the Peace

in and for said County, personally appeared Oscar F. Coley who, being  
duly sworn, deposes and says on oath that he has probable cause for believing and does believe that in said County,  
on or about 15 January 1959 that one Eddie Jemison  
did possess, transport, deliver, sell, offer for sale, barter, or give away in the form of leaves  
seed, flowering tops and stems Marihuana, cannabis Americana, or Cannabis Indica

against the peace and dignity of the State of Alabama.

Sworn to and subscribed before me this 16day of January, A. D., 1959T. C. Hand, J. P.Oscar F. Coley

## WARRANT

State Of Alabama, }  
Baldwin County. }

To Any Lawful Officer of Said County, Greetings:

You are hereby commanded to arrest Eddie Jemisonand bring himbefore me to answer the State of Alabama on a chargePossession of Marihuana

and have you then and there this writ with your return thereon

Witness my hand this 16 day of January, 1959T. C. Hand, J. P.

No. .... Page .....

# The State Of Alabama

BALDWIN COUNTY

Justice Court Of

**T. C. HAND**

## AFFIDAVIT

THE STATE OF ALABAMA

vs.

**Eddie Jemison**

Witnesses for the State

Oscar F. Coley  
Mickey Johnson  
Donald Dryer  
E. R. Barber  
Dr. Nelson Grubbs

JUSTICE COURT OF  
BALDWIN COUNTY

## Warrant Of Arrest

THE STATE OF ALABAMA  
vs.

**Eddie Jemison**

Executed this the 15 day of Jan 1959

by arresting the within

named Defendant

*Eddie Jemison*

and placing him

*In Jail*

....., Sheriff

....., Deputy Sheriff

*O. F. Coley*, Highway Patrol

# APPEARANCE BOND

Printed by Moore Ptg. Co.

The State of Alabama, {  
Baldwin County

We, Eddie Jemison, as  
principal, and undersigned as sureties agree to pay THE STATE OF ALABAMA, the sum of  
Five Thousand DOLLARS

unless the said Eddie Jemison appears at the  
Next Term, 1959 of the Grand Jury Court of Baldwin County, Alabama  
and from term to term thereafter until discharged by law, to answer a criminal prosecution for the offense of  
Possession of Marijuna

We hereby waive as to all amounts that may become due hereunder the benefit of all laws exempting  
personal property from levy and sale under execution or other process for the collection of debt by constitu-  
tion or laws of the State of Alabama, and we hereby severally certify that we have property over and above  
all debts, liabilities, exemptions and this bond to the amount of: real property of the value of \$2,000.00 and  
personal property of the value of \$1,000.00.

Sworn to and subscribed before me this the

       day of       , 19      

       Baldwin County, Ala.

Taken and approved this the 16 day of Jan, 1959

Taylor Watkins, Sheriff

By Bannan, Deputy Sheriff

A.R. Solent

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

State of Alabama  
Baldwin County

\_\_\_\_\_ Court

Sheriff's Office

The State  
vs.

Sheriff's Appearance Bond

Amount of Bond \$ \_\_\_\_\_

Filed \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_, Clerk

Jan 16-59  
O. H. Coley

2819  
Transcript of Criminal Cases from Justice Court of Baldwin County, Ala.

Attorneys	Case	Charge
	THE STATE OF ALABAMA,	
No. <u>12271</u>	Vs.	
	<u>Eddie Jemison</u>	<u>Possession of Marijuana</u>

	Disposition of Case	Fees	Amount
	Affidavit made and Warrant Issued to <u>Oscar F. Coley</u> .	Judge's Fees	
	Returnable <u>Grand Jury</u>	Warrant at 50c, Affidavit at 25c	<u>75</u>
	Witness—for State <u>Oscar F. Coley</u>	Bond at 50c, Sci Fa. at 50c	
	<u>Donald Syer</u>	Witnesses' Recognizances at 25c	<u>25</u>
	<u>Wesley Johnson</u>	Subpoenas or notice at 25c	
	<u>E.R. Parker (F.B.I.)</u>	Continuance at 25c	
	<u>Si Wilson Subor</u>	Trial of Misdemeanor at \$1.00	
<u>15 Jan 59</u>	<u>Wanted Grand Jury</u>	Mittimus at 25c	<u>25</u>
	<u>Bond set at \$5000 as</u>	Judgment on Forfeited Bond at 25c	
	<u>Re Committed to jail</u>	Taking Bond, etc., on Appeal at \$1.00	
		Execution of costs at 25c	
		Constable's Fees	
		Subpoena or Notice at 25c	
		Carrying Defendant before Justice	
		each mile for himself and guard at 10c	
		Arrest 50c	
		Sheriff's Fees	
		Arrest \$2.00, Bond \$1.00, Sci Fa. 50c	<u>5.00</u>
		Guard \$2.00, Finger Printing 10c	<u>2.10</u>
		Subpoenas at 50c, Mileage	
		Witness Fees	<u>2.00</u>
		Days at 50c	
		Days at 50c	
		Days at 50c	
		Days at 50c	
		Days at 50c	
		Days at 50c	
		Days at 50c	
		Defendant's Costs	
		Witnesses' Recognizance at 25c	
		Subpoenas at 50c	
		Executing Subpoenas	

THE STATE OF ALABAMA }  
Baldwin County - Circuit Court }

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the

4th

Monday in March

, 1959, in a cer-

tain cause in said Court wherein

STATE OF ALABAMA

Plaintiff, and

EDDIE JEMISON

Defendant, a judgement was rendered against said

Eddie Jemison

to reverse which

Judgment

, the said

EDDIE JEMISON

applied for and obtained from this office an APPEAL, returnable to the next

Term of our Court of Appeals ~~Term~~ of the State of Alabama, to be held at Montgomery,

on the day of , 1959 next, and the necessary bond

having been given by the said EDDIE JEMISON

with S. F. Tallent and Mrs. Ida F. Hill

, sureties,

Now, You Are Hereby Commanded, without delay, to cite the said

STATE OF ALABAMA

or

James A. Hendrix

, attorney, to appear at the next

Term of our

said Supreme Court of Appeals

to defend against the said Appeal, if he think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 26th

day of April Sept, A. D., 1959

Attest:

Alice J. Duck, Clerk.

2810

CIRCUIT COURT  
Baldwin County, Alabama

STATE OF ALABAMA

Vs. Citation in Appeal

EDDIE JEMISON

Issued..... day of....., 195.....

Received 99<sup>th</sup> day of Sept 1955  
and on 99<sup>th</sup> day of Sept 1955  
I serve a copy of the within Citation  
on \_\_\_\_\_  
By service on James Hendrix  
TAYLOR WILKINS, Sheriff  
By W. A. Jolly  
0 m.

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE COURT OF APPEALS OF ALABAMA

October Term 19 59.

To the Clerk of the Circuit Court  
of Baldwin County—Greeting:

Whereas, the Record and Proceedings of the Circuit Court  
of said county, in a certain cause lately pending in said Court between  
Eddie Jemison, Appellant,  
and  
The State, Appellee,

wherein by said Court, at the Term, 19, it was considered  
adversely to said appellant, were brought before our Court of Appeals, by appeal taken, pursuant  
to law, on behalf of said appellant:

NOW, IT IS HEREBY CERTIFIED, That it was thereupon considered by our Court of Appeals, on the  
26th day of January 19 60, that said judg-  
ment of said Circuit Court be in all things affirmed,  
and that it was further considered that the appellant, ~~xxx~~

pay the cost accruing on said appeal in this Court and in the Court below

Witness, Charles Bricken, Jr., Clerk of the Court  
of Appeals of Alabama, at the Capitol, this the  
26th day of January, 19 60

Charles Bricken, Jr.  
Clerk, Court of Appeals of Alabama.

FEB 23 1960 APPLICATION FOR REHEARING OVERRULED



THE COURT OF APPEALS OF ALABAMA

October Term, 19 59

1st Div., No. 807

Eddie Jemison

Appellant,

vs.

The State

Appellee.

From Baldwin Circuit Court.

CERTIFICATE OF AFFIRMANCE.

THE STATE OF ALABAMA,

Filed this \_\_\_\_\_ day of \_\_\_\_\_

FILED }  
County  
JAN 27 1960  
ALICE J. DUCK, CLERK  
REGISTER

The State of Alabama, {  
Baldwin County

TO ANY SHERIFF OF THE STATE OF ALABAMA:

An indictment having been found against

Eddie Jernison

at the Spring Term, 1959 of the Circuit Court of Baldwin County, for the offense of

Possession Marijuana  
case appealed to court of appeals 3-26-59, affirmed 1-26-60

you are, therefore, commanded forthwith to arrest the said Defendant and commit

to jail, unless ~~give bail to answer said indictment~~, and that you return this Writ according to law.

Dated this 6 day of July, 1960

Cliff J. Neuk  
Clerk Circuit Court of Baldwin County.

The State of Alabama {  
Baldwin County

We, \_\_\_\_\_, as principal and

the other undersigned as sureties, agree to pay the State of Alabama \_\_\_\_\_

Dollars, unless the said \_\_\_\_\_ appears

at the \_\_\_\_\_ Term of the Circuit Court of Baldwin County, and from Term to

Term thereafter until discharged by law, to answer a criminal prosecution for the offense of \_\_\_\_\_

In signing the above bond we and each of us hereby waive all legal rights of exemptions allowed us by the Constitution and laws of the State of Alabama.

Witness our hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
(L. S.)

\_\_\_\_\_  
(L. S.)

\_\_\_\_\_  
(L. S.)

\_\_\_\_\_  
(L. S.)

Taken and approved \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
Sheriff of Baldwin County

CAPIAS

No. 2810

The State

vs.

Eddie Jensen

Executed this 8 day of July, 1960

By arresting the within

named Defendant

and placing him in jail

Taylor Wilkins, Sheriff

W. O. Garner, Deputy Sheriff

Daphne

Bail fixed in this case in open Court at

\$ \_\_\_\_\_

By \_\_\_\_\_  
Judge Presiding.

Attest: \_\_\_\_\_  
Clerk.

2810

STATE OF ALABAMA }

Baldwin County

Case No. 2810

No. 11344

The State of Alabama

In the Civil Court of  
Baldwin County, Alabama

Robbin vs. James  
Before me, John H. Hask, Clerk of the Civil Court of

Baldwin County, Alabama, personally appeared Taylor Wilkins, who being duly sworn deposes and says:

I am the Sheriff of Baldwin County, Alabama. In the above case, in the above mentioned court, in executing the warrant of arrest or in arresting the said defendant, I or one of my duly authorized deputies,

traveled 5 1/2 miles by the most direct route to the point of arrest and return, and I am entitled to mileage at ten cents per mile to be taxed as costs in the case.

Point of Arrest W. G. Adams Nathan Wilkins Sheriff

Subscribed and sworn to before me this 8 day of July, 1956

Disposition \_\_\_\_\_ Clerk Circuit Court

After considering the above affidavit made by the Sheriff of Baldwin County, Alabama, I, as the trial Judge of said court, do hereby approve the claim for mileage in the sum of \$ \_\_\_\_\_ incurred in the making of the arrest or executing the warrant of arrest in the above styled cause and I hereby order the clerk of the court to tax the said sum as part of the costs in said case.

This the \_\_\_\_\_ day of \_\_\_\_\_, 195 \_\_\_\_\_

Judge of the above named court

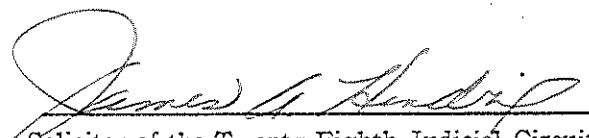
The State of Alabama,  
Baldwin County.

Circuit Court, Spring Session, 19 59.

The Grand Jury of said County charge that before finding this indictment

Eddie Jemison, whose name is to the Grand Jury otherwise unknown, did, possess, transport, deliver, sell, offer for sale, barter, or give away marijuana, cannabis Americana, or cannabis Indica, or a compound or mixture containing marijuana, cannabis Americana or cannabis Indica,

against the peace and dignity of the State of Alabama.

  
Solicitor of the Twenty-Eighth Judicial Circuit.

2810  
RECORDED

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

The State of Alabama

Baldwin County.

Circuit Court

Spring

Term, 19 59

The State

vs.

EDDIE JEMISON

POSSESSION OF MARIJUANA

INDICTMENT

NO Prosecutor

WITNESSES:

Oscar Coley	1-68-	3.75
Donald Dryer	1-70-	4.25
Mickey Johnson	1-70-	4.25
E. R. Barber	1-0-	1.75
Dr. Nelson Grubbs		

GRAND JURY NO. 31

A TRUE BILL

R. H. Hubbard  
Foreman Grand Jury.

Filed in open Court and in the presence of  
the Grand Jury on the 12 day of  
Mar, 1959

Alice French  
Clerk.

Presented in open Court to the presiding  
Judge by the Foreman of the Grand Jury, in the  
presence of 17 other Grand Jurors.

Alice French  
Clerk.

Bail fixed \$ 5000

W. H. H. H.  
Judge.

2810

We the Jury find the defendant  
Guilty as charged in the indictment.

J. B. Griffin  
Foreman of Jury