

FILED

MAR 10 1993

MUNICIPAL COURT OF CALIFORNIA
SANTA CLARA COUNTY JUDICIAL DISTRICT
SAN JOSE FACILITY

STE ... V. LOVE
County Clerk
Santa Clara County

COMPLAINT FOR ARREST WARRANT(S)
FOR: SYLVIA CELESTE BROWN
KENSIL DALZELL BROWN

DEPUTY

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff, ,

vs.

SYLVIA CELESTE BROWN (10/19/36),
[REDACTED], Campbell, CA

KENSIL DALZELL BROWN (10/08/43)

[REDACTED]
San Jose, CA

Defendant(s).

19282086 -

FELONY COMPLAINT

DA COURT NO:

CEN: * SB A

CEN: * KB A

FILED

MAY 26 1992

The undersigned is informed and believes that:

163063

By [Signature] Deputy
Municipal Court Santa Clara Co. J. 1 Dist.

COUNT ONE

That in the County of Santa Clara, State of California, on or about and between February 1, and February 24, of 1988, the said Defendants, SYLVIA CELESTE BROWN and KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25110-25540 (SALE OF SECURITY WITHOUT PERMIT) in that the said defendants did wilfully offer and sell in this state a security in an issuer transaction, to wit: INVESTMENT CONTRACT, to ROBIN AND GREG CROSS, without having first qualified said offer and sale with the Commissioner of Corporations of the State of California.

N.C.

* * * * *

COUNT TWO

That in the County of Santa Clara, State of California, on or about and between February 1, and February 24, of 1988, the said Defendants, SYLVIA CELESTE BROWN and KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25401-25540 (SALE OF SECURITIES BY MEANS OF WRITTEN OR ORAL COMMUNICATIONS CONTAINING FALSE STATEMENTS OR OMISSIONS) in that the said defendants did offer to sell and sell in this state a security in an issuer transaction, to wit: INVESTMENT CONTRACT, to ROBIN AND GREG CROSS, by means of a communication which included an untrue statement of a material fact and omitted to state a material fact necessary in order to make the statements not misleading, in light of the circumstances under which they were made.

* * * * *

COUNT THREE

That in the County of Santa Clara, State of California, on or about and between February 1, 1988 and June 7, 1989, the said Defendant, KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25541 (USE OF DEVICE, SCHEME, OR ARTIFICE TO DEFRAUD in that the said defendant did wilfully employ a device, scheme and artifice to defraud ROBIN AND GREG CROSS, and did wilfully engage in an act, practice and course of business which operated and would operate as a fraud and deceit upon such person in connection with the offer, purchase and sale of a security, to wit: INVESTMENT CONTRACT.

* * * * *

COUNT FOUR

That in the County of Santa Clara, State of California, on or about February 24, 1988, the said Defendants, SYLVIA CELESTE BROWN and KENSIL DALZELL BROWN, committed a felony, to wit: a violation

of California Penal Code Section 484-487.1 (GRAND THEFT) in that the said defendants did unlawfully take personal property, to wit: MONEY, of a value exceeding four hundred dollars (\$400.00), the property of ROBIN and GREG CROSS.

It is further alleged that the offenses described in Counts one through four were not discovered, within the meaning of Section 803 of the California Penal Code, until on or after June 7, 1989, when a complaint was registered with the Department of Corporations by Robin & Greg Cross. Prior to that date, no law enforcement agency had any knowledge, actual or constructive, of the defendants criminal activities with respect to the sale of securities to Robin & Greg Cross.

On or about June 7, 1989, the Crosses reported to the Department the defendants' sale of securities in a gold mining venture. The Department of Corporations initiated an investigation, and subsequently, through the use of its investigative and subpoena powers, discovered the defendants' misrepresentations, omissions and failure to qualify the offering with the Commissioner of Corporations of the State of California. The reason no law enforcement agency had any knowledge of these activities earlier was that no complaints had been received prior to June 7, 1989.

Similarly, Robin & Greg Cross had no knowledge, actual or constructive, of the defendants' criminal activities prior to June 7, 1989, because the defendants misrepresented the nature and status of the investment.

The defendants initially misrepresented to the Crosses that the gold mine was close to operation, and that their investment of \$20,000 was needed to pay immediate operating expenses. Defendants failed to inform the Crosses of their personal and corporate indebtedness, and further failed to inform them that a

substantial portion of their investment would be immediately channeled into other bank accounts unrelated to the gold mine. Further, the defendants failed to inform the Crosses directly when they declared bankruptcy in April of 1988.

Even after the Crosses learned of the loss of their investment, Defendant Kensil Brown continued to provide assurances that the investment had been a regrettable, but ordinary business loss due to lack of capital, and that their money could be recovered through the sale of mining equipment. After repeated efforts to get their money back, the Crosses finally registered a complaint with the Department of Corporations on June 7, 1989. Only after that date, and by virtue of the Department's investigation, did the Crosses discover defendants' misrepresentations, omissions and failure to qualify the offering with the Commissioner of Corporations of the State of California.

Defendants criminal activities could not have been discovered by the Crosses earlier, because they were unsophisticated investors, who had no knowledge of the regulations regarding qualification of securities, and further, had no way of knowing that a substantial portion of their investment had been channeled into other ventures by the Browns.

* * * * *

COUNT FIVE

That in the County of Santa Clara, State of California, on or about and between February 1, and March 1, of 1988, the said Defendants, SYLVIA CELESTE BROWN and KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25110-25540 (SALE OF SECURITY WITHOUT PERMIT) in that the said defendants did wilfully offer and sell in this state a security in an issuer transaction, to wit: INVESTMENT CONTRACT, to

MARK HELLING, without having first qualified said offer and sale with the Commissioner of Corporations of the State of California.

* * * * *

COUNT SIX

That in the County of Santa Clara, State of California, on or about and between February 1, and March 1, of 1988, the said Defendants, SYLVIA CELESTE BROWN and KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25401-25540 (SALE OF SECURITIES BY MEANS OF WRITTEN OR ORAL COMMUNICATIONS CONTAINING FALSE STATEMENTS OR OMISSIONS) in that the said defendants did offer to sell and sell in this state a security in an issuer transaction, to wit: INVESTMENT CONTRACT, to MARK HELLING, by means of a communication which included an untrue statement of a material fact and omitted to state a material fact necessary in order to make the statements not misleading, in light of the circumstances under which they were made.

* * * * *

COUNT SEVEN

That in the County of Santa Clara, State of California, on or about and between February 1, 1988 and June 7, 1989, the said Defendant, KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Corporations Code Section 25541 (USE OF DEVICE, SCHEME, OR ARTIFICE TO DEFRAUD in that the said defendant did wilfully employ a device, scheme and artifice to defraud MARK HELLING, and did wilfully engage in an act, practice and course of business which operated and would operate as a fraud and deceit upon such person in connection with the offer, purchase and sale of a security, to wit: INVESTMENT CONTRACT.

* * * * *

COUNT EIGHT

That in the County of Santa Clara, State of California, on or about March 1, 1988, the said Defendants, SYLVIA CELESTE BROWN and KENSIL DALZELL BROWN, committed a felony, to wit: a violation of California Penal Code Section 484-487.1 (GRAND THEFT) in that the said defendants did unlawfully take personal property, to wit: MONEY, of a value exceeding four hundred dollars (\$400.00), the property of MARK HELLING.

It is further alleged that the offenses described in Counts five through eight were not discovered, within the meaning of Section 803 of the California Penal Code, until on or after June 7, 1989, when a complaint was registered with the Department of Corporations by Robin & Greg Cross. Prior to that date, no law enforcement agency had any knowledge, actual or constructive, of the defendants criminal activities with respect to the sale of securities to Mark Helling.

On or about June 7, 1989, the Crosses reported to the Department the defendants' sale of securities in a gold mining venture. The Department of Corporations initiated an investigation, and subsequently, through the use of its investigative and subpoena powers, discovered the defendants' misrepresentations, omissions and failure to qualify the offering with the Commissioner of Corporations of the State of California. The reason no law enforcement agency had any knowledge of these activities earlier was that no complaints had been received prior to June 7, 1989.

Mark Helling had no knowledge, actual or constructive, of the defendants' criminal activities prior to March 25, 1990, because the defendants misrepresented the nature and status of the investment.

The defendants initially misrepresented to Helling that the gold mine was close to operation, and that his investment of \$20,000 was needed to pay immediate operating expenses. Defendants failed to inform Helling of their personal and corporate indebtedness, and further failed to inform them that a substantial portion of their investment would be immediately channeled into other bank accounts unrelated to the gold mine. Further, the defendants failed to inform Helling directly when they declared bankruptcy in April of 1988.

Even after Mark Helling learned of the loss of his investment, Defendant Kensil Brown continued to provide assurances that the investment had been a regrettable, but ordinary business loss due to lack of capital, and that Helling's money could be recovered through the sale of mining equipment.

On or after March 25, 1990, the Department of Corporations contacted Helling to obtain a statement from him regarding his investment in the defendant's gold mine. Only after that date, and by virtue of the Department's investigation, did Helling discover defendants' misrepresentations, omissions and failure to qualify the offering with the Commissioner of Corporations of the State of California.

Defendants' criminal activities could not have been discovered by Helling earlier, because he was an unsophisticated investor, who had no knowledge of the regulations regarding qualification of securities, and further, had no way of knowing that a substantial portion of his investment had been channeled into other ventures by the Browns.

* * * * *

If the above-named defendant(s) is/are presently on probation in Santa Clara County, any evidence presented at a preliminary

hearing in the instant case will be used not only as a basis for a holding in this case but also as a circumstance for a violation of probation and, at any formal hearing on that violation of probation, the People will move the transcript of the preliminary hearing into evidence as a basis for the violation.

Further, attached hereto and incorporated herein are official reports and documents of a law enforcement agency which the undersigned believes establish probable cause for the arrest of defendant SYLVIA CELESTE BROWN, for the above-listed crimes. Wherefore, A WARRANT OF ARREST IS REQUESTED therefor.

Further, attached hereto and incorporated herein are official reports and documents of a law enforcement agency which the undersigned believes establish probable cause for the arrest of defendant KENSIL DALZELL BROWN, for the above-listed crimes. Wherefore, A WARRANT OF ARREST IS REQUESTED therefor.

Complainant therefore prays that the said defendant(s) may be dealt with according to law.

I certify under penalty of perjury that the foregoing is true and correct. Executed on May 19, 1992, in SANTA CLARA County, California.

Warrant received for service by: _____

J. Baldyga
BALDYGA, JOBI
(Baldyga)

5-26-92
Cash or Bond \$ _____

SA (408) 299-8400/92-0-0426 "E"
HAYWORTH/D252/FEL/kw

[Signature]
JUDGE OF THE MUNICIPAL COURT

MUNICIPAL COURT OF CALIFORNIA
SANTA CLARA COUNTY JUDICIAL DISTRICT
FACILITY
FELONY MINUTES, COMMITMENT, CERTIFICATION

103063

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.

Case No. C9292080
Date: 3-8-93
Judge: Robert Priore
Reporter: Jo Tacha
Custody Status 0-BB-50000
Vacate _____

Sylvia Clea Brown
Defendant
CEN 4220276
Deputy District Attorney Teresa Humphreys
Defendant and Attorney Carleen Arledge

- Stipulates and consents to a Magistrate/Commissioner.
- Complaint amended on a Motion by District Attorney.
- Interpreter _____
- Formal Arraignment waived

PRELIMINARY EXAMINATION WAIVED

- The above-named defendant, being charged in a complaint on file in this Court under the above case number, and having waived preliminary examination of the charges of _____

the Court and the District Attorney consenting thereto, it is ordered that said defendant be held to answer to the same.

- Written waiver filed.

PLEA OF GUILTY/NOLO CONTENDERE:

- Conditions: Plea of Guilty/Nolo Contendere entered upon the following conditions:
 - No state prison Includes Violation(s) of Probation _____
 - Jail/Prison term of _____
 - Dismissal/Striking of through stipulation (as to submitted counts)
 - Restitution no jail if restitution is made by time of sentencing
- The reasons for the District Attorney's/Court's recommendation shall be transcribed and made part of the Clerk's record.
- The above-named defendant, being charged in a complaint on file in this Court under the above case number, and having entered a plea of GUILTY NOLO CONTENDERE to (a) Felony violation(s) of C.C. 25110-25540

and to Misdemeanor violations of _____

- Allegations / Enhancements / Priors admitted, _____
- it is ordered that this case together with a copy of all proceedings held herein be certified to the Superior Court of this county.
- Court finds factual basis for plea. Court finds that the plea is knowingly, intelligently, voluntarily entered.
- Waives rights Voir dired in open court Written Waiver Filed Advised registration PC290/HS11590

DISMISSAL/TRANSFER:

- Court orders section(s) C.C. 26-CC-25401-25540, C.C. 4-8-PC 487-48701, C.S. CC 25110-25540
- Submitted for dismissal Dismissed on Motion of District Attorney
- Reason for dismissal/Recommendation _____
- Misdemeanor Violation(s) _____
- ordered certified to Superior Court

FURTHER PROCEEDINGS:

- Referred to Probation Department Referred to Superior Court Waived Not waived for imposition of sentence
- DEFENDANT ORDERED TO APPEAR IN SUPERIOR COURT ON 3-17-93 AT 9AM 5-394
- Defendant to remain out of custody on status Bond, cash bail or SORP ordered transferred to Superior Court. 200 W. Hedding St. S. 5.

REMANDED to custody of D.O.C. until next appearance. Bail \$ _____

ORDERED RELEASED on O/R on S/O/R _____

I certify that the foregoing is a true and correct record of the proceedings had before me this date
DATED 3-8 19 93
JUDGE OF THE MUNICIPAL COURT

I certify that the foregoing is a true copy of the Judgment/Order rendered on the above date by the above-named Judge.
Clerk of the above named Court. By Do DAVIS Deputy

TO THE DOC: The foregoing certified copy of Judgment/Order in the above entitled action is your authority for the execution thereof.

OR OTHER SENTENCE CHOICE

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
BRANCH HOJ

COURT I.D.
4 | 3 | | |

PEOPLE OF THE STATE OF CALIFORNIA VERSUS
DEFENDANT: SYLVIA CELESTE BROWN
AKA:
REPORT OF: DEATH SENTENCE
 INDETERMINATE SENTENCE
 OTHER SENTENCE CHOICE
AMENDED REPORT

PRESENT
 NOT PRESENT
CASE NUMBER(S)
163063 -A
-B
-C
-D
-E

DATE OF HEARING (MO)(DAY)(YR) 12-17-93 DEPT. NO. 34 JUDGE JOHN T. BALL CLERK M. PARKER
REPORTER: N. CARAVANESS COUNSEL FOR PEOPLE S. VOYLES COUNSEL FOR DEFENDANT J. DUFRECHON PROBATION NO. OR PROBATION OFFICER J. DEENEAN

1. DEFENDANT WAS CONVICTED OF THE COMMISSION OF THE FOLLOWING FELONIES (OR ALTERNATE FELONY/MISDEMEANORS):

Table with columns: COUNT, CODE, SECTION NUMBER, CRIME, YEAR OR DATE COMMITTED, DATE OF CONVICTION (MO, DAY, YEAR), CONVICTED BY (JURY TRIAL, COURT TRIAL, PLEA), BIL. STAT.

2. ENHANCEMENTS (charged and found true) TIED TO SPECIFIC COUNTS (mainly in the § 12022-series) including WEAPONS, INJURY, LARGE AMOUNTS OF CONTROLLED SUBSTANCES, BAIL STATUS, ETC. For each count list enhancements horizontally. DO NOT LIST enhancements charged but not found true or stricken under § 1336. DO NOT LIST TIME imposed. For indeterminate terms, report enhancements and time imposed for them on the abstract.

Table with columns: Count, Enhancement, Year or Date, Enhancement, Year or Date, Enhancement, Year or Date, Enhancement, Year or Date, Enhancement, Year or Date

3. ENHANCEMENTS charged and found true FOR PRIOR CONVICTIONS OR PRIOR PRISON TERMS (mainly § 667-series) and OTHER. List all enhancements based on prior convictions or prior prison terms charged and found true. If 2 or more under that same section, repeat it for each enhancement (e.g., If 2 non-violent prior prison terms under § 667.5(b) list § 667.5(b) 2 times. DO NOT LIST enhancements not found true. Also enter here any enhancement not provided for in space 2. DO NOT LIST TIME imposed. For indeterminate terms, report enhancements and time for them on the abstract.

Table with columns: Enhancement, Year or Date, Enhancement, Year or Date, Enhancement, Year or Date, Enhancement, Year or Date, Enhancement, Year or Date

4. Defendant was sentenced TO DEATH on counts _____
5. Defendant was sentenced to State Prison for an indeterminate term:

- A. For LIFE, or a term such as 15 or 25 years to life, WITH POSSIBILITY OF PAROLE on counts _____
B. For LIFE WITHOUT the possibility of parole on counts _____
C. For other term prescribed by law on counts _____ (Life Terms are on 'A' and 'B').

6. Counts _____ are alternate felony/misdemeanors and were DEEMED MISDEMEANORS.
A term in jail was was not ordered.

7. For counts 01 the defendant was placed on FELONY probation.
A. (1) Sentence pronounced and execution of sentence was suspended; or
(2) Imposition of sentence was suspended.
B. Conditions of probation included Jail Time Fine

8. Other dispositions
A. Defendant was committed to California Youth Authority.
B. Proceedings suspended, and defendant was committed to California Rehabilitation Center.
C. Proceedings suspended, and defendant was committed as a Mentally Disordered Sex Offender.
D. Proceedings suspended, and defendant was committed as a mentally incompetent.

Formal Probation Granted 1 years For period co-terminous with Jail Sentence Defendant committed to CYA Advised of Appeal Right
 County Jail 0 with credit for time served of 0 days Consecutive/Concurrent Pre-Processing date _____ at _____ M
 Jail sentence to be served on Weekend Work Program: Weekend/s Work Furlough/EMP recommended No Programs
 Jail sentence stayed until _____ at _____ M. or sooner Review date _____ in Department _____
 Jail sentence stayed/susp pending completion of Commun. Altern./Elect. Monit. Prgm. Perform 200 hours uncomp. commun. service work
 Restitution Fine \$ 200 Drug Program Fee \$ _____ Alcohol Education Fee \$ _____ Fine \$ _____ Penalty \$ _____ Concurrent w/sentence at \$ _____ / day
 Lab Fee \$ _____ Attorney Fees ordered \$ _____ APO Rept. Fee \$ 300 Probation Cost \$ 20 /mo. other Fees: _____
 _____ Counseling No Alcohol/drugs/or where sold Complete Alcohol/Drug Prgm _____ Release to representative
 Submit to search/testing Not own/possess deadly/dangerous weapons Weapon ordered destroyed Restitution _____ Empl/Trg
 Driver's License suspended/revoked _____ Restricted _____ Complete Multiple Offender Prgm/First Offender _____

OTHER ORDERS: RESTITUTION HAS BEEN PAID IN FULL.

Criminal Proceedings having been previously suspended Matter submitted on report of Dr. _____ Court finds Defendant a Narcotic Drug Addict
 Incompetent Insane Defendant committed to California Rehabilitation Center under 3051 WI 3050 WI _____ State Hosp. 1370PC 1026PC
On Motion of the People Defendant Court orders 2,4,5,6,8 dismissed

Dated: _____
Form 9587 Rev. 9/92
REPORT - INDETERMINATE SENTENCING • ORDER/MINUTES
Judge of the Superior Court