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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County

Honorable H. Steven DeBerry IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

VINCENTE PINEDA GARCIA,

APPELLANT

APPELLATE CASE NO. 2021-001238

RECORD ON APPEAL

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INDEX

INDEX i

 GUILTY PLEA TRANSCRIPT DATED SEPTEMBER 10, 20211

 OPENING STATEMENT BY MR. EVANS.....4

 PLEA COLLOQUY7

 CONTINUED OPENING STATEMENT BY MR. EVANS11

 CONTINUED PLEA COLLOQUY.....15

 GUILTY PLEA ACCEPTED BY THE COURT.....16

 TESTIMONY BY MS. CHRISTEN JOHNSON.....16

 OPENING STATEMENT BY MR. LIZZI.....18

 TESTIMONY BY DEFENDANT21

 SENTENCE OF THE COURT23

NOTICE OF MOTION AND MOTION FOR RECONSIDERATION.....25

TRANSCRIPT OF HEARING ON MOTION FOR RECONSIDERATION DATED
 SEPTEMBER 29, 202128

 MOTION FOR RECONSIDERATION OF THE SENTENCE BY MR. LIZZI.....31

 REBUTTAL BY MR. EVANS33

 REPLY BY MR. LIZZI.....35

 COURT DEFERS DECISION.....37

 STATEMENT BY DEFENDANT.....38

EMAIL FROM JUDGE H. STEVEN DEBERRY, IV DENYING MOTION TO
 RECONSIDER41

INDICTMENT42

SENTENCE SHEET.....44

STATE OF SOUTH CAROLINA)	IN THE COURT OF
)	GENERAL SESSIONS
COUNTY OF COLLETON)	
)	NO. 2019-GS-15-00353
THE STATE OF SOUTH CAROLINA)	
)	
VS.)	<u>TRANSCRIPT OF RECORD</u>
)	
VINCENTE PINEDA GARCIA)	

B E F O R E:

The Honorable H. Steven DeBerry IV, Judge
Walterboro, South Carolina

DATE: Friday, September 10, 2021
1:50 p.m.

A P P E A R A N C E S:

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Reported by: Cathy J. Provost, RPR/RMR

Official Court Reporter

1 Also Present:

2 Beverly Neiderhiser, Interpreter

3 Christen Johnson, Victim

4 Crystal Crosby, Victim

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13
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15
16
17
18
19
20
21
22
23
24
25

INDEX

PAGE:

Vincente Pineda Garcia, Defendant, sworn in	4
Beverly Neiderhiser, Interpreter, sworn in	4
Victim, Christen Johnson's, statement	16
Sentence of the Court	23
Certificate of Reporter	24

EXHIBITS

MARKED: RECEIVED:

(No exhibits marked.)

1 -- P R O C E E D I N G S --

2 VINCENTE PINEDA GARCIA, DEFENDANT, SWORN

3 THE COURT: All right. Before we begin, you're Ms. Beverly
4 Neiderhiser?

5 THE INTERPRETER: Neiderhiser, Your Honor.

6 THE COURT: Can you say it again, please?

7 THE INTERPRETER: Neiderhiser.

8 THE COURT: Neiderhiser. All right. And you are a
9 certified translator?

10 THE INTERPRETER: I am qualified; correct.

11 THE COURT: And we have your credentials so we can make it
12 part of the Court's exhibit?

13 THE INTERPRETER: Not with me, but they are with the court,
14 Judge.

15 THE COURT: Okay. So they're filed with the South Carolina
16 Judicial Department?

17 THE INTERPRETER: Yes, Your Honor.

18 THE COURT: Okay. And if you will, please, raise your right
19 hand.

20 BEVERLY NEIDERHISER, INTERPRETER, SWORN

21 THE COURT: Thank you very much. Mr. Solicitor.

22 ATTORNEY EVANS: Thank you, Your Honor. This is Vincente
23 Pineda Garcia. V-i-n-c-e-n-t-e is his first name, P-i-n-e-d-a
24 and G-a-r-c-i-a are his last names. We've been referring to him
25 as Vincente Garcia, but recently I remembered some of my high

1 school Spanish and realized that Pineda is his true family name,
2 so I think that's what I'll be addressing him as today.

3 He's represented by Chris Lizzi of the North Charleston
4 Bar. He's here before you on Indictment 2019-GS-15-00353; that
5 is for felony driving under the influence resulting in death.
6 This is a plea, as indicted, for a recommendation of a sentence
7 in your discretion between 15 and 20 years.

8 May I approach with the -- oh, I should add, it has been
9 true billed by a Grand Jury. May I approach with the sentencing
10 sheet and indictment?

11 THE COURT: Yes, sir. And before we begin, we have some
12 victims that are present with us?

13 ATTORNEY EVANS: We do.

14 THE COURT: In the courtroom?

15 ATTORNEY EVANS: Yes, sir, that is correct. We have
16 Ms. Christen Johnson, who is the mother of the late victim; and
17 her mother, who is a victim herself; and a witness, Ms. Crystal
18 Crosby. I don't know whether Your Honor likes to hear from them
19 after I've given the facts but before you accept guilt, or after
20 you've accepted his plea since I haven't done a victim plea in
21 front of Your Honor yet.

22 THE COURT: I just wanted to make sure who, because we have
23 some appearing by Webex, as well.

24 ATTORNEY EVANS: Yes, sir. We also have some who aren't
25 appearing. I don't think they need to be heard, but they did

1 wish to watch the proceedings. And since we were trying to keep
2 our numbers down, we encouraged them to stay home. And we
3 appreciate the Court letting us use the Webex technology to give
4 them a chance to watch.

5 THE COURT: Okay. And before we go any further, I wanted to
6 make sure, with the translator, that Mr. Pineda is understanding
7 him. Is that true?

8 THE INTERPRETER: Yes.

9 THE COURT: And is the speed about which we are moving okay?

10 THE INTERPRETER: If you can be just a bit slower.

11 THE COURT: Okay. And by Webex, just for the record, I see
12 that we have Ms. Karen Driggers. And there may be someone else
13 there. Can you hear us? Okay, they have acknowledged that they
14 can at least hear us.

15 And at the appropriate time -- you're saying that these
16 individuals probably do not want to address the Court?

17 ATTORNEY EVANS: That's my understanding, that only the
18 folks who are here wish to address the Court. These folks just
19 wanted to observe.

20 THE COURT: And there's also a Nolan Thomas that we don't
21 have ---

22 ATTORNEY EVANS: That's another family member, Judge. It
23 appears that they're logged in but maybe didn't feel the need to
24 turn their camera on; which, again, that should still allow them
25 to see and hear you.

1 THE COURT: And you, sir, are Mr. Vincente Pineda Garcia?

2 THE DEFENDANT: Si'.

3 THE INTERPRETER: Yes.

4 THE COURT: All right. Mr. Lizzi, have you explained the
5 nature of these charges, the possible penalty and Mr. Pineda's
6 constitutional rights?

7 ATTORNEY LIZZI: I have, Your Honor.

8 THE COURT: And you believe he understands those rights?

9 ATTORNEY LIZZI: I do, Your Honor.

10 THE COURT: And you agree with his decision to plead guilty
11 here today?

12 ATTORNEY LIZZI: I do, Your Honor.

13 THE COURT: Mr. Pineda, you are 45 years old?

14 THE INTERPRETER: Yes.

15 THE COURT: How far did you go in school?

16 THE INTERPRETER: Third grade.

17 THE COURT: Are you under the influence of any drugs or
18 alcohol here today?

19 THE INTERPRETER: No, none.

20 THE COURT: Do you suffer from any mental illnesses,
21 infirmities, or disabilities, or physical issues that would
22 prevent you from understanding exactly what you're doing here
23 today?

24 THE INTERPRETER: No. I'm fine.

25 THE COURT: All right. Do you understand that you're here

1 today; that you're entering a plea of guilty to felony DUI where
2 death was the result? Do you understand that?

3 THE INTERPRETER: Yes. Yes, sir.

4 THE COURT: And do you understand that when you plead guilty
5 you give up certain constitutional rights?

6 THE INTERPRETER: Give up? Yes.

7 THE COURT: Okay. When you plead guilty, you give your
8 right to remain silent up; in other words, you have the right to
9 remain silent and not testify on your own behalf but when you
10 plead guilty, you're telling this Court you are guilty and you're
11 giving that right up. Do you understand that?

12 THE INTERPRETER: Yes.

13 THE COURT: You also have the right to a jury trial. And at
14 a jury trial, there will be 12 members of society that are seated
15 to hear the facts and decide the facts of your case. Do you
16 understand that?

17 THE INTERPRETER: Yes.

18 THE COURT: And at that jury trial, you could cross-examine
19 witnesses that the state has against you; you could contest the
20 evidence that the state has against you; you can call witnesses
21 on your own behalf.

22 THE INTERPRETER: I have none.

23 THE COURT: You could testify on your own behalf if you
24 choose to do so, and you can present any defenses that you might
25 have but when you plead guilty, you give that right to a jury

1 trial up. Do you understand that?

2 THE INTERPRETER: Yes.

3 THE COURT: Furthermore, if you decided that you wanted to
4 exercise your right to a jury trial, all 12 members of that jury
5 would have to agree in order to find you guilty.

6 THE INTERPRETER: Yes, sir. I agree.

7 THE COURT: Do you understand that?

8 THE INTERPRETER: Yes.

9 THE COURT: And also, under our law, you are innocent until
10 you are presumed guilty, you're found guilty by a jury, or you
11 enter a guilty plea. Do you understand that?

12 THE INTERPRETER: Yes.

13 THE COURT: Having all those rights in mind, do you still
14 wish to waive your right to a jury trial?

15 THE INTERPRETER: No, I just want to get out of here.

16 THE COURT: All right. And by getting out of here, you do
17 understand that you're pleading guilty to a felony DUI resulting
18 in death; is that right?

19 THE INTERPRETER: Yes, sir.

20 THE COURT: Other than the recommendation in this case by
21 the state, which is that this Court sentence you to a range
22 between 15 and 20 years in the South Carolina Department of
23 Corrections, has anybody threatened you, promised you, or coerced
24 you in any way to get you to plead guilty?

25 THE INTERPRETER: No.

1 THE COURT: Are you pleading guilty freely and voluntarily?

2 THE INTERPRETER: Yes, sir.

3 THE COURT: It is your decision to plead guilty?

4 THE INTERPRETER: Yes, sir.

5 THE COURT: And are you pleading guilty because you are
6 guilty?

7 THE INTERPRETER: Yes, I think so.

8 THE COURT: Have you explained -- has your attorney
9 explained to you the elements of this crime?

10 THE INTERPRETER: Yes, he explained.

11 THE COURT: And do you understand the elements of this crime
12 that the state would have to prove in order to find you guilty?
13 Do you understand that?

14 THE INTERPRETER: Yes.

15 THE COURT: And do you agree that you're guilty to the
16 elements of the crime of felony DUI resulting in death; is that
17 right?

18 THE INTERPRETER: Yes, sir.

19 THE COURT: Do you have any complaints or need any more time
20 whatsoever to speak with your attorney?

21 THE INTERPRETER: No, I don't think so. I am good.

22 THE COURT: Are you completely satisfied with the services
23 of your attorney?

24 THE INTERPRETER: Yes.

25 THE COURT: If there is anything else that you need to speak

1 to him about during this plea, you can let us know, and we'll
2 give you all the time you need to talk to your attorney, okay?

3 THE INTERPRETER: No. I think it's okay.

4 THE COURT: I'm sorry?

5 THE INTERPRETER: No. I think it's okay.

6 THE COURT: Okay. You understand that you have -- if you do
7 not agree with what happens here today, then you have ten days
8 from today's date to appeal this plea?

9 THE INTERPRETER: Okay.

10 THE COURT: And you must do so, in writing, to this Court.

11 THE INTERPRETER: Okay.

12 THE COURT: And you understand that?

13 THE INTERPRETER: Yes.

14 THE COURT: Please pay attention to the solicitor. He's
15 going to give us the facts of this case.

16 ATTORNEY EVANS: Thank you, Your Honor. This incident took
17 place on March 30th, 2019, just after eight in the evening. This
18 is a three-vehicle crash, Your Honor, which took place on
19 Highway 17A, which we usually call Cottageville Highway around
20 here. It was -- the crash happened just west of the Edisto
21 River, which is the county line with Dorchester County.

22 Mr. Garcia, just prior to the crash, had been driving a
23 Ford F-150 northbound but which is really -- they call it
24 northbound because it's 17A but it's really eastbound.

25 The second vehicle was a Jeep Compass, and that was being

1 driven south but really west by Gene Tomashpolsky,
2 T-o-m-a-s-h-p-o-l-s-k-y.

3 And finally, behind Mr. Tomashpolsky's Jeep and also heading
4 west towards Cottageville in Walterboro was a Toyota Corolla
5 which was being driven by Ms. Crystal Crosby. And Ms. Crosby is
6 in the courtroom today.

7 Mr. Garcia was alone in his F-150. Mr. Tomashpolsky had a
8 passenger, which was his mother-in-law at the time. And
9 Ms. Crosby was driving some of her grandchildren, one of whom was
10 in the back seat, her granddaughter, Ms. MINOR.

11 Both the southbound drivers, Mr. Tomashpolsky and
12 Ms. Crosby, estimated the speeds they were traveling at around 50
13 to 60 miles an hour. The speed limit there is 55.
14 Mr. Tomashpolsky later told me that he thought that the vehicle
15 that he saw, which we now know was being driven by Mr. Garcia,
16 was traveling much faster than that, but we don't have a mate
17 (ph.) finding about Mr. Garcia's speed.

18 As all of the vehicles approached the intersection of 17A
19 and McDanieltown Road, as I said, just west of the river and in
20 Colleton County, Mr. Tomashpolsky could see coming up in front of
21 him the vehicle, the F-150 we now know being driven by
22 Mr. Pineda, drifting over the centerline and heading toward he,
23 Mr. Tomashpolsky's, Jeep. Mr. Tomashpolsky had to swerve to his
24 right. He told me, when we met in person to prepare for trial,
25 that he knew he had to go completely onto the shoulder to avoid a

1 head-on collision himself; but, as it was, Mr. Garcia's -- or
2 Mr. Pineda's F-150 still struck Mr. Tomashpolsky's Jeep on the
3 rear panel, driver's side, incurring some damage and some
4 relatively minor injuries, to his passenger, Ms. Marilyn
5 Kennelly.

6 Unfortunately, Judge, because Mr. Tomashpolsky was in
7 between Mr. Pineda coming the other direction and Ms. Crosby
8 behind him a reasonable distance, Ms. Crosby could not see
9 Mr. Garcia -- Mr. Pineda, I should say, until Mr. Tomashpolsky
10 swerved to the right, and only then when it was too late did she
11 see Mr. Pineda's F-150 heading head-on into her Corolla.
12 Essentially, Judge, both those vehicles, the F-150 and the
13 Corolla, were totaled.

14 Emergency responders came to the scene. Had to treat folks
15 in all three vehicles, including Mr. Pineda, who was
16 unresponsive. I believe they had to use the Jaws of Life, if I'm
17 not mistaken, to get him out. So he was not interviewed on the
18 scene, but they were able to identify him from bank cards in his
19 wallet. Mr. Pineda, Ms. Crosby, and Ms. **MINOR** were all
20 transported to MUSC.

21 Meanwhile, highway patrol officers began investigating.
22 They found open beer cans on scene near the F-150 and smelled
23 beer inside the truck, the odor of alcohol. Since they knew that
24 victims had to go to MUSC, they began treating it as a felony DUI
25 and not an ordinary DUI.

1 They sent an officer to Charleston. Asked Mr. Pineda for
2 consent to give his blood sample, which he declined. He said
3 that he didn't remember what had happened, nor did he remember
4 the last time he had a drink.

5 They were able to execute -- to obtain a search warrant and
6 executed it on him at MUSC. And they collected a blood sample
7 which they sent to SLED. SLED later returned toxicology results
8 showing a BAC of 0.194.

9 Officers from the Multidisciplinary Accident Investigation
10 Team went to the scene to analyze it, and they found that the
11 collision did take place in the, what they call the, southbound
12 lane but which is really the westbound lane where Mr. Pineda's
13 vehicle should not have been.

14 Meanwhile, at MUSC the pediatric critical care department
15 was trying everything they could to save young **MINOR**. She was
16 admitted just before midnight on the 30th. Dr. Melissa Evans, I
17 met with her a few weeks ago when we thought this would be the
18 No. 1 trial for this term, Judge. She was going to be our, our
19 sort of representative/physician witness. She was not on-call
20 that night, but took over treatment of **MINOR** April the 1st.
21 Unfortunately, despite the best efforts of everyone at MUSC,
22 Dr. Evans and her fellow physicians determined that she was not
23 going to recover; spoke to the family on April the 2nd; and at
24 that time a decision was made to enter a DNR.

25 On April the 3rd, a little bit after 5:00 p.m., she was

1 pronounced deceased at MUSC. The death note in her medical
2 records indicate her causes of death were cerebral herniation;
3 cerebral edema; hypoxic ischemic encephalopathy; traumatic brain
4 injury; traumatic high cervical spinal cord injury; and traumatic
5 cardiac arrest.

6 In my meetings with **MINOR**'s family, they confirmed with me
7 that she was a healthy 4 year old prior to the accident; and
8 Dr. Evans told me that there were no signs that she had any
9 preexisting health problems, so it's clear that her death was
10 due, unfortunately, to this accident.

11 The silver lining, Judge, if there is one, is that her
12 family agreed to let her serve as an organ donor. So I don't
13 obviously have any way to trace this or provide records of it,
14 but I am sure that she saved lives of other children.

15 Mr. Garcia's only prior conviction is a 2017 domestic
16 violence - third degree, Your Honor.

17 THE COURT: Mr. Pineda, did you understand the facts as
18 stated by the solicitor?

19 THE INTERPRETER: Yes.

20 THE COURT: And are you guilty of the facts as stated by the
21 solicitor in causing this accident?

22 THE INTERPRETER: Yes. I understand.

23 THE COURT: I find there's a substantial factual basis for
24 this plea; I find that the decision -- that the defendant's
25 decision to plead guilty is entered freely, voluntarily and

1 intelligently; and that the defendant has had the advice and
2 counsel from a lawyer with whom he says he's completely satisfied
3 with.

4 THE INTERPRETER: Yes.

5 THE COURT: And I accept your plea.

6 ATTORNEY EVANS: Would you care to hear from the victims
7 before or after mitigation, Judge?

8 THE COURT: Is there a preference from the state?

9 ATTORNEY EVANS: No, sir. I just don't know how you prefer
10 to handle that. I know every judge is a little different.

11 THE COURT: We'll go ahead and hear from the victims.

12 VICTIM'S STATEMENT

13 MS. JOHNSON: Hello, Your Honor. My name is Christen
14 Johnson, J-o-h-n-s-o-n. I am the mother of **MINOR**
15 **██████████**.

16 As I stand before you today, I'm a strong woman, but I'm a
17 broken woman. I'm a woman who, every day for the rest of her
18 life, has to endure the pain that no person, let alone a mother,
19 should have to feel. I am a woman who will wake up every day
20 missing a part of her soul, her heart, her entire being, her
21 4-year-old daughter, **MINOR**.

22 March 30th, 2019, the day before my birthday, my world
23 changed completely. There will never be a day that I don't wake
24 up and feel a part of me is missing. For the rest of my life, I
25 will start and end my day wondering what **MINOR** may have looked

1 like or what she may be doing if she were still here with me. I
2 wonder to myself if she would still love doing beauty pageants
3 and dressing up. I wonder how much she would act like me, and
4 how much of a helper she would be with her brothers. So many
5 precious moments have been stolen from me. I will never get to
6 see **MINOR** graduate from high school or college. I'll never get
7 to see my daughter walk down the aisle, or become a mother, all
8 things I know she would be amazing at. I no longer get to plan
9 birthday parties. Instead, I have to go to a cemetery to wish
10 **MINOR** a happy birthday.

11 I am a strong woman and a broken woman but yet I'm still a
12 mother. I'm also a mother to two precious little boys who will
13 never get the opportunity to know who their big sister was other
14 than from stories that they will be told.

15 I'm a daughter to a grandmother who will never see her
16 granddaughter again, not to mention she has to endure the
17 physical disabilities that are a result of the carelessness of
18 Mr. Pineda. It has been almost 2 1/2 years since I last held
19 **MINOR**'s hand, heard her voice, or kissed her sweet face. Two
20 years may not seem like that long to some but for myself, my mom,
21 and the rest of our family, it has been a lifetime, a lifetime of
22 missed opportunities and memories, all because of the careless
23 actions of one human being.

24 Mr. Pineda has destroyed the lives and futures of so many
25 others simply because he placed his own agenda ahead of the lives

1 of others. He took my best friend from me, and all he has to
2 offer in return is his freedom. I'd say, if you asked me, that
3 **MINOR**'s life sure was a high cost for a good time.

4 There will not be a day that goes by that I don't wonder why
5 God would let this happen; why someone would make the choice to
6 get behind the wheel and take the lives of others while myself,
7 my son and the rest of our family have to live without our
8 precious **MINOR**.

9 I have prayed and asked God to help me forgive Mr. Pineda,
10 and I pray that one day I can. However, my forgiveness doesn't
11 excuse his negligence in the fact that he took my entire world
12 from me. All I'm asking for today is justice to be served for
13 our sweet **MINOR** and for some sort of peace for our family as we
14 continue to endure this horrific tragedy. Thank you.

15 MS. CROSBY: GRANDPARENT: Thank you, Your Honor.

16 THE COURT: Thank you for being here. And we are sorry for
17 your loss.

18 MS. CROSBY: Thank you.

19 THE COURT: Mr. Evans, is there anything further from the
20 victims in this matter?

21 ATTORNEY EVANS: No, sir, I don't believe so.

22 THE COURT: All right. Mr. Lizzi.

23 ATTORNEY LIZZI: May it please the Court. Mr. Garcia stands
24 before you accepting responsibility for what he's done. He feels
25 very, very bad, and feels that he can't even understand the pain

1 that the family has endured here; but he wants to at least help
2 them through this part of it by accepting responsibility and
3 being here in front of the Court and not putting them through
4 anything further, a trial or any other matters of the court, and
5 take his responsibility.

6 As you heard, he only went through the third grade. He came
7 here to the United States; has been here about 18 years.
8 However, he still has about 150 members of his family in Mexico.
9 His family is, the majority of them, still in Mexico. He does
10 have a grownup daughter who is here in the courtroom today; along
11 with a cousin; and he's got two other children, one 17 and one
12 10.

13 He understands what a parent would understand on the loss of
14 a child. His children have also -- because of this are
15 suffering, too. And this is a tragedy for everyone, not just the
16 normal visible but the invisible damage that this does, not only
17 to these families but to the whole community.

18 My client, as you heard from his record, doesn't have a
19 history of alcohol abuse; doesn't have a history of any type of
20 drugs or alcohol. There was one domestic abuse when he was going
21 through a separation and divorce back in 2017.

22 He's a hard-working gentleman who helped out friends and
23 members of the community; he worked with his hands; he did
24 carpentry; he did restoration work.

25 And why he was in Cottageville, because he was living in

1 Ladson at the time, was helping a family member fix up a trailer,
2 and had been working out there from the Friday before and was
3 working out there all weekend. He made a very bad choice that
4 day, not realizing the effects of alcohol while he was working.

5 Your Honor, he has been in the Colleton County Jail for 892
6 days, but these 892 days are probably not like all 892 days
7 because during the last year prisoners over there have been
8 locked down for a good part of each day, up to 22 hours a day and
9 sometimes would stay in excess of 28 to 30 hours. This has
10 been -- I think this has been a long 2 1/2 years for him also.

11 I do court-martial work, and one of the things that was
12 really surprising is how there is some mitigation that the Court
13 has added as a condition to somebody having to stay, anticipating
14 incarceration. He hasn't been free; he hasn't been out; and,
15 right now there is an ICE hold that's been on him since he was
16 placed in jail. At the end of whatever sentence that this Court
17 sees fit, he will be deported, and he will never be able to enter
18 the United States again. He understands that and has no
19 intention to ever come back to the United States; he will stay
20 with his family, and his children will have to visit him there.

21 Your Honor, we just ask that there be some type of fair
22 sentence. The recommendation from the state, we're not here
23 pleading on a recommendation. There was no offer given in this
24 matter. We're pleading straight up to the charge, with the
25 recommendation attached by the state.

1 But, Your Honor, he's here accepting responsibility, and he
2 has accepted it each and every day since he's been here. A year
3 of the time the courts were basically closed. We just ask that
4 you give him some mercy and afford him some type of mercy based
5 on him trying to lessen the overall trauma that's being given to
6 these victims.

7 He does want to address the victims, and he wants to address
8 the Court to give his apologies, Your Honor. And if the Court
9 will allow him to at least speak and apologize to the victims, he
10 would ask very much. I told him it would be up to you. But he
11 feels very saddened, being a father, about what has happened.
12 And I would ask if he could address, at least to say he's sorry
13 to them.

14 THE COURT: All right. Mr. Pineda, you can certainly
15 address the Court. You have the right to speak here at this
16 hearing. I'd ask that anything that you want to relay to the
17 victims, you relay it to the Court, okay.

18 THE INTERPRETER: First of all, I would like to ask
19 forgiveness of the family. And my very sincere condolences to
20 the family. It was not my intention; it was an accident. I
21 can't do anything. I feel horrible. So I want everyone to
22 realize it was an accident. And I've been praying. I was also
23 praying that she would be okay. And I didn't do anything. It
24 was an accident. It was not my intention.

25 THE COURT: Anything further from Mr. Pineda?

1 THE INTERPRETER: I would like to say I am sorry, and give
2 my condolences. It was not my intention.

3 And the same to you; I would like to ask forgiveness from
4 you.

5 THE COURT: Mr. Lizzi, anything further?

6 ATTORNEY LIZZI: And, Your Honor, I do want to -- and I
7 think they talked about it. My client was injured and was
8 hospitalized for a while, too. He did suffer injuries, fairly
9 serious injuries, from the accident.

10 THE COURT: Mr. Evans, anything further from the state?

11 ATTORNEY EVANS: Just, I know I slipped a few times and
12 referred to him as Mr. Garcia in the facts but just for the
13 benefit of the record, I was referring to Mr. Pineda Garcia.

14 THE COURT: And is it proper to refer to your client as
15 Mr. Pineda? Is that right?

16 THE INTERPRETER: Yes.

17 THE COURT: And, you know, this is nothing that anyone looks
18 forward to, obviously. And throughout my career, I've been
19 involved with these situations, from really day one. And felony
20 DUIs, whether they result in a death or great bodily injury, is
21 really a crime that's across the board. It can be two friends
22 traveling together, make the same sort of decisions; it can be
23 somebody with a terrible past with alcohol and addiction
24 problems; it can be any mixture of all of those things. And so
25 they're all so very different.

1 This is everyone's worst nightmare; this is what all of law
2 enforcement, all people that valiantly fight this problem, this
3 is what they do it for and this is the type of situation that
4 they try to prevent day in and day out.

5 And the only thing in my mind that could make this worse is
6 if Mr. Pineda had a longstanding issue and had a prior history of
7 drinking and driving or using substances and driving. But that's
8 not the case in this situation.

9 And I understand. I've got small children. This is a
10 parent's worst nightmare. It's a -- it's just a terrible
11 situation. And I think, as adults and even some teenagers, you
12 know better than to take these chances. And sometimes it results
13 in unimaginable loss. And that's where we are today. There's a
14 small child that's gone. There's a family that's grieving.
15 There is a man that's before this Court that's got a family, as
16 well. So there is terrible loss in every direction.

17 SENTENCE OF THE COURT

18 THE COURT: And having said all that, the sentence of the
19 Court on Indictment No. 2019-GS-15-00353, for the offense of
20 felony driving under the influence resulting in death, is that
21 the defendant, Vincente Pineda Garcia, is committed to the State
22 Department of Corrections for a term of 17 years; given credit
23 for 892 days. Good luck to you.

24 ATTORNEY EVANS: Thank you, Your Honor.

25 (End of Transcript of Record)

CERTIFICATE OF REPORTER

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4 I, Cathy J. Provost, Official Court Reporter for the
5 Fourteenth Judicial Circuit of the State of South Carolina, do
6 hereby certify that the foregoing is a true, accurate and
7 complete Transcript of Record of the proceedings had and evidence
8 introduced in the trial/proceedings of the captioned case,
9 relative to appeal, in the Court of General Sessions for Colleton
10 County, South Carolina, on the 10th day of September, 2021.

11 I do further certify that I am neither of kin, counsel, nor
12 interest to any party hereto.

13
14 Date: January 30, 2022

15
16 /s/ Cathy J. Provost
17 Cathy J. Provost, RMR
18 Official Circuit Reporter
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STATE OF SOUTH CAROLINA)
)
 COUNTY OF COLLETON)
)
 STATE OF SOUTH CAROLINA,)
)
 Plaintiff,)
)
 vs.)
)
 VINCENTE PINEDA GARCIA,)
)
 Defendant,)
)

THE COURT OF GENERAL SESSIONS
 CASE NO.: 2019-GS-15-00353

**NOTICE OF MOTION AND
 MOTION FOR RECONSIDERATION**

COLLETON COUNTY
 GENERAL SESSIONS COURT
 2021 SEP 20 AM 11:20


TO: REED A. EVANS, ASSISTANT SOLICITOR AND THE HONORABLE H. STEVEN DEBERRY, IV:

YOU WILL PLEASE TAKE NOTICE that the Defendant, through his undersigned attorney, will move before the Honorable H. Steven DeBerry, IV of the Fourteenth Judicial Circuit, at the Colleton County Clerk of Court located at 101 Hampton Street, South Carolina, on the _____ day of _____, 2021 at _____ a./p.m., or as soon as the matter can be heard for an Order reducing or modify the Sentence of Defendant from his guilty plea of September 10, 2021.

The grounds for this motion are as follows:

1. That this Court reconsider the Sentence signed by the Honorable H. Steven DeBerry, IV and filed simultaneously on September 10, 2021. That the Court take into account the lack of criminal record and no history of alcohol abuse.
2. Granting such other and further relief as to the Court may deem just and proper under the facts and circumstances of this case.

Please be present if you so care to defend.


 Christopher D. Lizzi, Esquire
 Attorney for Defendant
 2170 Ashley Phosphate Road, Suite 402
 Charleston, SC 29406
 (843) 797-0222 office
 (843) 797-0202 fax

September 17, 2021
 North Charleston, SC



Certified True Copies of Records
Rebecca Hill
 Clerk of Court, CP & GS
 Colleton County, South Carolina
 Date: 02-07-2022 CN

I served a copy of Defendant's Notice of Motion and Motion for Reconsideration on the 17th day of September, 2021, via Federal Express, United States Mail with sufficient postage and electronic communication to the following:

Reed A. Evans, Assistant Solicitor
PO Box 366
Walterboro, SC 29488

The Honorable H. Steven DeBerry, IV
180 N. Irby Street, Suite 3600
Florence, SC 29501

Colleton County Clerk of Court
101 Hampton Street
Walterboro, SC 29488



Christopher D. Lizzi, Esq.

COLLETON COUNTY
GENERAL SESSIONS COURT
2021 SEP 20 AM 11: 20

LIZZI LAW FIRM, PC

Attorney at Law

2170 Ashley Phosphate Road, Suite 402
 North Charleston, SC 29406
 Telephone: (843)797-0222
 Christopher D. Lizzi, Esquire

Post Office Box 61899
 North Charleston, SC 29419
 Facsimile: (843)797-0202
 E-Mail: lizzlaw@aol.com

September 17, 2021

Via Federal Express and US Mail

Colleton County Clerk of Court
 Attn: Clerk
 101 Hampton Street
 Walterboro, SC 29488

Via Federal Express, US Mail and Email

Reed A. Evans, Asst. Solicitor
 PO Box 366
 Walterboro, SC 29488

Via Federal Express, US Mail, and Email

The Honorable H. Steven DeBerry, IV
 180 N. Irby Street, Suite 3600
 Florence, SC 29501

COLLETON COUNTY
 GENERAL SESSIONS COURT
 2021 SEP 20 AM 11:20


RE: State of South Carolina v. Vincente Pineda Garcia
Warrant No: 2019-GS-15-00353

Dear Clerk,

Enclosed please find the original and one (1) copy of the Notice of Motion and Motion for Reconsideration and Proof of Service. I would ask that the Motion be filed with the Court, returning a copy to me in the SASE provided.

Thank you for your attention to this matter.

Very truly yours,


 Christopher D. Lizzi

CDL/tr

Enclosures

Cc: Reed A. Evans, Asst. Solicitor
 The Honorable H. Steven DeBerry, IV

STATE OF SOUTH CAROLINA)	IN THE COURT OF
)	GENERAL SESSIONS
COUNTY OF COLLETON)	
)	NO. 2019-GS-15-00353
THE STATE OF SOUTH CAROLINA)	
)	
VS.)	<u>TRANSCRIPT OF RECORD</u>
)	
VINCENTE PINEDA GARCIA)	

B E F O R E:

The Honorable H. Steven DeBerry IV, Judge

Webex Virtual Courtroom

DATE: Wednesday, September 29, 2021

1:55 p.m.

A P P E A R A N C E S:

REED A. EVANS, ESQUIRE, ASSISTANT SOLICITOR
 Fourteenth Circuit Solicitor's Office
 P.O. Box 366
 Walterboro, SC 29488
 revans@scsolicitor14.org

Attorney for the State

CHRISTOPHER D. LIZZI, ESQUIRE
 Lizzi Law Firm, PC
 2170 Ashley Phosphate Road
 Suite 402
 North Charleston, SC 29406
 lizzilawfirm@aol.com

Attorney for the Defendant

Reported by: Cathy J. Provost, RPR/RMR

Official Court Reporter

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Also Present:

Beverly Neiderhiser, Interpreter for the Defendant

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INDEX

PAGE:

Beverly Neiderhiser, Interpreter, sworn in	4
Certificate of Reporter	13

1 -- P R O C E E D I N G S --

2 THE COURT: And we have the defendant, Mr. Pineda Garcia.
3 And the translator's here to translate this hearing on behalf of
4 him. Ms. Neiderhiser, if you will you raise your right hand,
5 please.

6 BEVERLY NEIDERHISER, INTERPRETER, SWORN

7 THE COURT: Thank you. For the record, we're here on
8 Mr. Lizzi's motion to reconsider the sentence in case no.
9 2019-GS-15-00353. It's the State of South Carolina v. Vincente
10 Pineda Garcia.

11 ATTORNEY EVANS: I'm sorry, go ahead.

12 THE INTERPRETER: Okay.

13 THE COURT: And, Mr. Evans, have the victims in this
14 situation been notified or are they present?

15 ATTORNEY EVANS: Judge, Ms. Crosby and Ms. Johnson, who
16 appeared at the sentencing, they are actually right here behind
17 me. You can't see them, but they can see you and hear you. And
18 they may want to speak at the appropriate time if you care to
19 hear from them again.

20 THE COURT: Sure.

21 Mr. Lizzi, it's your motion. I'll be happy to hear from
22 you.

23 ATTORNEY LIZZI: May it please the Court. Your Honor, we're
24 here today asking the Court to reconsider the sentence of
25 Mr. Garcia. As you know, he appeared before you on a felony DUI

1 with death. The state had a range of 13 to 17 years, I believe,
2 that they had suggested and had informed the Court that that was
3 going to be -- that was not plea negotiation; that was what they
4 would be asking for even if the matter went to trial.

5 THE COURT: All right. Mr. Lizzi, I think we need to stop
6 and wait for translation.

7 THE INTERPRETER: Thank you, Your Honor.

8 ATTORNEY LIZZI: And Mr. Garcia appeared in front of you and
9 was very remorseful and accepted full responsibility for
10 everything he did and did so in hopes to spare the victims any
11 additional trauma out of having to go through the trial, as well
12 as show the Court that he fully accepted his responsibility in
13 this matter. And -- sorry.

14 And we are not here trying to downplay whatsoever the trauma
15 and how terrible this was for the victims. But we are asking
16 that the Court take a reconsideration.

17 Looking at similar pleas in Charleston, Colleton and
18 Dorchester County, they range from as far as down to one year to
19 about 19 years. Most of them would be between a 6- and 12-year
20 period. And we would just ask for the Court to consider the
21 overall meter of justice, as with him taking responsibility.

22 Mr. Garcia has no record of driving under the influence and
23 no history of substance abuse. And we very much understand that
24 this all is within your discretion, and he understands that this
25 was within the state's guidelines. I would ask that the Court

1 reconsider and look not only to his record but also the fact that
2 he too has a family that's having him gone for 17 years.
3 Respectfully ask the Court to reconsider and lower the sentence.
4 Thank you, Your Honor.

5 THE COURT: I have in my notes and also from memory -- this
6 wasn't too long ago -- that the recommendation from the state was
7 a 15-to-20. Is that right or is that not right?

8 ATTORNEY LIZZI: Your Honor, I would defer to the solicitor.
9 I had several pleas made at this time in that range, so I would
10 defer to the solicitor on that.

11 THE COURT: Okay.

12 ATTORNEY EVANS: Thank you, Your Honor. Your notes are
13 correct. I have pulled the sentencing sheet where I was right,
14 not only the sentencing language but also the recommendation --
15 and I'll try to hold it up -- but in the upper left, it does seem
16 to indicate a recommendation of 15 to 20.

17 ATTORNEY LIZZI: Your Honor, I do believe that the
18 prosecution did tell the state that that would not -- that
19 recommendation would not change even if he had gone to trial and
20 was found guilty by a jury.

21 THE COURT: I understand that. Mr. Evans.

22 ATTORNEY EVANS: Thank you, Your Honor. Our position is --
23 first and foremost, thank you for acknowledging the
24 recommendation. It was, in fact, 15 to 20. You gave him a
25 sentence within that range. We feel that it was a reasonable

1 sentence under the facts and circumstances. We took into
2 account, certainly, his record or lack thereof when coming up
3 with that recommendation. I'll pause for the interpreter.

4 Certainly we understand that putting forward a
5 recommendation that would be the same, whether for a plea or
6 following a conviction at trial, is an unusual practice; it's a
7 relatively new practice for our office. But that doesn't make it
8 objectively unreasonable, nor does it make your sentence
9 unreasonable.

10 As I understand it, the motion is based, in large part, on
11 asking Your Honor to take into consideration his lack of a prior
12 record and his -- not being any official record of any history of
13 alcohol abuse, both of which, of course, we obviously agree to as
14 factual matters.

15 As I understood your comments just prior to rendering
16 sentence, Judge, I understood from what you said then that you
17 were taking those facts into consideration; and you did sentence
18 him on the lower, just under the median, portion of the
19 recommended range, so I understood you to be taking everything
20 into account.

21 As far as comparing and contrasting other cases, other
22 charges, other pleadings under the same offense, we don't have --
23 got sentencing guidelines in this state, and that's so that the
24 Court can take each case into consideration, with all the facts
25 and circumstances of that case and come up with an appropriate

1 judgment. Not every felony DUI involves multiple vehicles. Not
2 every felony DUI involves four-year-old victims.

3 So, Judge, I won't go on much longer, just to say our
4 position is that the sentence was and remains reasonable. We
5 would ask you to deny the motion and keep the sentence as it is.

6 However, if you are inclined to grant the motion in some
7 form, we would simply ask that you stick with the recommended
8 range and sentence him to something within that range: again, 15
9 to 20 years.

10 Your Honor, that's it for me. I'll check and see if
11 Ms. Crosby or Ms. Johnson wish to speak. Judge, they've
12 indicated they don't feel they can address the Court at this
13 time, but they agree with the argument. Thank you, Your Honor.

14 THE COURT: Mr. Lizzi, anything further?

15 ATTORNEY LIZZI: Only, Your Honor, this plea -- and I guess
16 the structure over there is a little unusual, because one of the
17 things that I just kind of want to make sure is clear on the
18 record was we weren't -- we weren't, unlike a lot of times when
19 you make a deal with the prosecution that you're going to take a
20 plea in a plea bargain based on a recommended range, you know, we
21 -- I hope I made it clear on the record at the initial hearing
22 that we were pleading straight up to the charges and that there
23 was -- it wasn't based on any type of negotiation.

24 THE COURT: Let's wait for the translator first.

25 ATTORNEY LIZZI: Nothing further, Your Honor.

1 THE COURT: All right. But you agree, Mr. Lizzi, that the
2 recommendation was 15 to 20; is that --

3 ATTORNEY LIZZI: Correct, Your Honor.

4 THE COURT: And I certainly understand -- I practiced a lot
5 of criminal law -- that the new structure that they have in
6 Colleton County there is somewhat unusual, as far as it pertains
7 to the rest of the state, with having the same position whether
8 you go to trial or whether you plea.

9 And I also understand and took into consideration the fact
10 that your client took full responsibility for this situation and
11 didn't press forward for a trial. Having said that -- I'll let
12 her translate.

13 And having said that, I was -- and still am not a fan, or I
14 don't prescribe to the notion that anyone should be punished for
15 exercising their right to a trial. That's just who I am.

16 I also wanted to just clarify -- and one of the reasons I
17 agreed to hear this motion was just to let everybody know that I
18 judge and base my sentence upon -- with no regard to this
19 defendant's nationality or immigration status. I know it was on
20 the record that he would be deported from this country after he's
21 satisfied any sentence that the Court gave him.

22 And, as such, I just view my job in this situation as a
23 judge is to administer justice; and I don't think considering any
24 of that and what may or may not happen, which is certainly out of
25 this Court's control, would be fair to either side.

1 So I really wanted to take this opportunity to let everybody
2 know that, that I just didn't consider that at all in my ruling
3 in the benefit of the state or in the benefit of your client,
4 Mr. Lizzi.

5 As I said, prior on the record, this is a horrible situation
6 that no one intended to happen and no one ever wants to find
7 themselves in. And I remember very well the presence of the
8 defendant's family and the fact that he has a family and that he
9 doesn't have any criminal history that we know of. And I also
10 remember, very well, the statements of the victim's family and
11 their position.

12 But what I am willing to do is take this under
13 consideration. And I'll be happy to let you know what my
14 decision is in a very timely manner.

15 ATTORNEY LIZZI: Thank you, Your Honor.

16 ATTORNEY EVANS: Thank you, Your Honor.

17 THE COURT: Is there anything further from anyone?

18 ATTORNEY EVANS: Not from the state.

19 (Defendant speaks.)

20 THE INTERPRETER: I would like to say something if I cannot
21 -- if I can.

22 THE COURT: Is there any objection to that, Mr. Evans?

23 ATTORNEY EVANS: Not from the state.

24 THE COURT: Mr. Lizzi?

25 ATTORNEY LIZZI: No objection, Your Honor.

1 THE COURT: All right.

2 (Defendant speaks.)

3 THE INTERPRETER: So I would like to say to the Judge that
4 it was a cruel accident, but I did -- I did plead guilty because
5 I was guilty with alcohol in the blood.

6 (Defendant speaks.)

7 THE INTERPRETER: So I would like to say that as a result of
8 the accident I'm not doing very well; and I'm not getting any
9 attention; and my back is very -- my back is in a lot of pain.
10 And so I would like, if I could, the sooner I could get out, I
11 would be able to have that treatment.

12 (Defendant speaks.)

13 THE INTERPRETER: So I was wondering if you could possibly
14 sign an order for deportation, and I would go to my country, and
15 then I would be able to have my back treated and get better.

16 THE COURT: Anything further?

17 (Defendant speaks.)

18 THE INTERPRETER: That's all I would ask; that's all.

19 THE COURT: Anything further, Mr. Lizzi?

20 ATTORNEY LIZZI: No, Your Honor.

21 THE COURT: Mr. Evans?

22 ATTORNEY EVANS: No, Your Honor, other than to say that
23 obviously you don't have the power to sign an order of that
24 nature.

25 THE COURT: All right. Well, I appreciate everybody's

1 patience today. I'm sorry for the trouble that this forum here
2 has caused, technically, anyway. I didn't know. I figured that
3 if we all traveled here, there would be some problem that we
4 couldn't do it anyway, so I thought I'd try this route. And,
5 well, anyway, we got it done. And I appreciate everybody's
6 patience and participation. And I'll be happy to let you know my
7 ruling very soon.

8 (Defendant speaks in Spanish.)

9 THE INTERPRETER: Thank you.

10 THE COURT: All right. Thank you all very much.

11 (End of Transcript of Record)

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CERTIFICATE OF REPORTER

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3 I, Cathy J. Provost, Official Court Reporter for the
4 Fourteenth Judicial Circuit of the State of South Carolina, do
5 hereby certify that the foregoing is a true, accurate and
6 complete Transcript of Record of the proceedings had and evidence
7 introduced in the trial/proceedings of the captioned case,
8 relative to appeal, in the Court of General Sessions for Colleton
9 County, South Carolina, on the 29th day of September, 2021.

10 I do further certify that I am neither of kin, counsel, nor
11 interest to any party hereto.

12
13 Date: January 30, 2022

14
15 /s/ Cathy J. Provost
16 Cathy J. Provost, RMR
17 Official Circuit Reporter
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10/18/21, 2:43 PM

2019 GS 15-00353 State vs. Vincente Pinada Garcia

From: hsdeberryj@sccourts.org,
To: revans@scsolicitor14.org, lizzlaw@aol.com,
Cc: hsdeberrylc@sccourts.org,
Subject: 2019 GS 15-00353 State vs. Vincente Pinada Garcia
Date: Mon, Oct 18, 2021 2:30 pm

Good Afternoon,

I hope all are well. After careful consideration pursuant to Defendant's Motion to Reconsider the sentence imposed, the court denies the motion and the sentence stands as given. I took all factors and issues under advisement in order to give all affected parties a fair and complete reconsideration. If there are any questions or other matters that need to be addressed in this matter please let me know.

Thank you,

Judge H. Steven DeBerry, IV

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

42  
WITNESSES

DOCKET NO. 2019GS1500353

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

SCHP *everett*

The State of South Carolina  
County of Colleton

Defendant

COURT OF GENERAL SESSIONS

March Term 2020

I  
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2019A1510100196

THE STATE

vs.

Vincente Pineda Garcia

ACTION OF GRAND JURY

*True Bill*

Indictment For

Driving Under the Influence, Death Results

SC Code: 56-5-2945(A)(2)

CDR Code: 0395

Defendant

*James B. Gandy*  
Foreperson of Grand Jury

Date: *3/12/2020*

Witness:

VERDICT

Foreperson of Petit Jury

Date:  
INDICT

C.C.C. PLS. and G.S.

2020 MAR 12 AM 10:40

COLLETON COUNTY  
GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF COLLETON )

INDICTMENT  
2019GS1500353

At a Court of General Sessions, convened on March 12, 2020, the Grand Jurors of Colleton County present upon their oath:

**Driving Under the Influence, Death Results**

That in Colleton County, South Carolina, on or about March 30, 2019, the Defendant, Vincente Pineda Garcia, did, while under the influence of alcohol, drugs, or both, drive a motor vehicle and while driving the motor vehicle Vincente Pineda Garcia did commit an act forbidden by law or neglected a duty imposed by law in the driving of the motor vehicle and this act or neglect proximately caused death to **MINOR** all in violation of Section 56-5-2945(A)(2), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



---

Solicitor

1 year - 25 years and  
\$10,100<sup>44</sup> - \$25,100

Recommendation 9  
15 - 20 years ✓

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF COLLETON

STATE

VS.

INDICTMENT/CASE#: 2019GS1500353

Vincente Pineda Garcia

AW#: 2019A1510100196

AKA:

Date of Offense: March 30, 2019

Race: H Sex: M Age: 45

DOB: 1976 SS#:

S.C. Code §: 56-5-2945(A)(2)

Address:

CDR Code #: 0395

City, State, Zip: Ladson, SC 29456

DL#\* SID#

SENTENCE SHEET

\*CDL Yes  No  CMV Yes  No  Hazmat Yes  No

In disposition of the above indictment comes now the Defendant who was  CONVICTED OF or  PLEADS

TO: Felony driving under the influence, death results

In violation of § 56-5-2945(A)(2) of the S.C. Code of Laws, bearing CDR Code # 0395

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  § 17-25-45

(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:

Reed Q Evans

79925

Vincente Pineda Garcia

Ch. P. H.

64325

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Correction  County Detention Center,

for a determinate term of 17 days/months/years/Time Served  Youthful Offender Act not to exceed \_\_\_ years

and/or to pay a fine of \$\_\_\_; provided that upon the service of \_\_\_ days/months/years/Time Served and or payment

of \$\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for \_\_\_

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

CONCURRENT or  CONSECUTIVE to sentence on: \_\_\_\_\_

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC. 892 days/months

To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE v. Vincente Pineda Garcia

INDICTMENT/CASE#: 2019GS1500353

**SPECIAL CONDITIONS:**

**PTUP** after \_\_\_\_\_ months/years

**And Other Terms Listed Below:**

- Substance Abuse Counseling       Completion of GED       Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp       No Contact with Victim       Domestic Violence Intervention Program
- Mental Health Counseling       May serve W/E beginning: \_\_\_\_\_
- Sex Offender Registry pursuant to S.C. Code § 23-3-430       Public Service Employment \_\_\_\_\_ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- Other: \_\_\_\_\_

**RESTITUTION:**     **Deferred**     **Def. Waives Hearing**     **Ordered**

Total \$ \_\_\_\_\_ plus 20% fee: \_\_\_\_\_ \$ \_\_\_\_\_

Payment Terms: \_\_\_\_\_  Set by SCDPPPS

Recipient: \_\_\_\_\_

**\*Fine:**

| Fine may be pd. in equal consecutive weekly/monthly pmts. of              | \$ _____ | Beginning | _____ | \$ _____                           |
|---------------------------------------------------------------------------|----------|-----------|-------|------------------------------------|
| §14-1-206 (Assessments 107.5%)                                            |          |           |       | \$ _____                           |
| §14-1-211 (A)(1)(Conv. Surcharge)                                         |          |           |       | \$100 \$ <u>100.00</u>             |
| §14-1-211 (A)(2)(DUI Surcharge)                                           |          |           |       | \$100 \$ _____                     |
| §56-5-2995 (DUI Assessment)                                               |          |           |       | \$12 \$ <u>12.00</u>               |
| §56-1-286 (DUI Breath Test)                                               |          |           |       | \$25 \$ _____                      |
| §14-1-212 (Law Enforce. Funding)                                          |          |           |       | \$25 \$ <u>25.00</u>               |
| §14-1-213 (Drug Court Surcharge)                                          |          |           |       | \$150 \$ _____                     |
| §34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs) |          |           |       | \$41 \$ _____                      |
| §50-21-114 (BUI Breath Test Fee)                                          |          |           |       | \$50 \$ _____                      |
| §56-5-2942(J) (Vehicle Assessment)                                        |          |           |       | \$40/ea \$ _____                   |
| 3% to County (if paid in installments)                                    |          |           |       | TBD <del>\$ 3.75</del> <u>4.11</u> |

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

§ 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

**TOTAL** ~~\$ 128.75~~ \$ 141.1

Clerk of Court/Deputy Clerk: *Sherry Provost*  
 Court Reporter: *Cathy Provost*

Presiding Judge: *N. Steven DeBry Jr.*  
 Judge Code: *12-971*  
 Sentence Date: *9/10/2021*

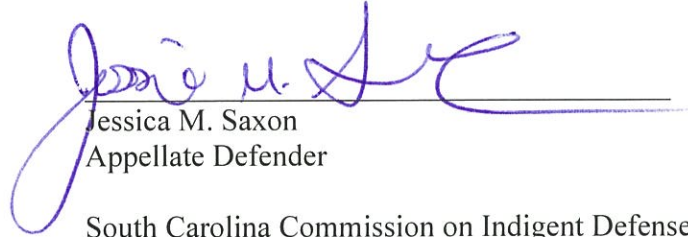
Jun 30 2022

SC Court of Appeals

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Jessica M. Saxon  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 30th day of June, 2022.