

State Of South Carolina

County Of Richland

State Of South Carolina,

Respondent,

vs.

Deante Withich,

Defendant.

Honorable Circuit Court Judge

County Of General Sessions

Motion To Correct Or Modify Sentence

14-65-40-02277

Hearing Requested

S.C. Code Ann. Sec. 17-25-326

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SC Court of Appeals

Please Take Notice, defendant above-named hereby moves this court for an order Pursuant to South Carolina Code Ann. Sec. 17-25-326(cum. supp. 21) modifying order for sentence this court imposed on the 30th day of March, 2016, by the Honorable R. Terrell Cothran, in this court for a term of 20 years.

Defendant above-named herein believes that based on facts set forth herein-below he is entitled to relief on the following grounds:

1) Mental Evaluation

First Cause

Defendant contends that he was denied a Blair hearing to determine his competency to stand trial or competence during commission of crime.

Second Cause

Counsel informed court of mental evaluation conducted (Tr. PG 5) line 1-25) but failed before Guilty Plea to request a hearing and or seek order requesting hearing

Third Cause

Since counsel was aware of my mental illness and the reports, his failure to request a evaluation denied defendant his right to a fair Proceeding.

Fourth Cause

Plea counsel was clearly on notice, not only from reports but counsel own interactions (Tr. PG 6) lines 1-2) that defendant comprehension level was functioning at the level of a second grade level.

Fifth Cause

Defendant evaluation reveals he would not be able to understand the proceedings against him, or the serious of charges and or waiver of trial rights. Ramirez v. State, 419 S.C. 141 (2017)

Sixth Cause

The Possibility is real defendant was incompetent at time of Plea, based on report and counsel mitigation at Plea hearing (Tr. PG 5-7)

2) Invalid Juvenile Waiver

First Cause

Defendant was sentenced March 30th, 2016, two years after Aiken v. Byars, 410 S.C. 534 (2014) and case should have been guided by Aiken sentencing

Second Cause

Guilty Plea transcript is void of court or counsel for both sides applying 2 USC (5) factors under Aiken when imposing sentence on defendant.

Third Cause

Despite counsel citation of *Roper v. Simmons*, which is cited by Aiken. At no time did counsel ask court to apply Aiken which was applicable to defendant.

Fourth Cause

Similarly the Police not court made determination, of serving arrest warrant on the defendant as an adult. When Aiken requires family court adjudicate defendant, and not the state as done herein

Fifth Cause

This rule is substantive since it prohibits the State from criminalizing certain conduct or prohibits punishment for a class of defendants because of status or offense.

Sixth Cause

Aiken new rule is applicable because in case at bar a significant risk defendant stands convicted of an act that punished him the law prohibits.

3) Prior Difficulties/Self-Defense

First Cause

Under *State v. Clinkscales*, 231 S.C. 650 (1957); *State v. Braxton*, 343 S.C. 629 (2001) evidence that the accused had prior difficulties is admissible.

Second Cause

Evidence exist that according Ronnie Pinkston, Alex broke into defendant home and a fight ensue as a result of this (Exhibit A)

Third Cause

On day in question, Alex when driving off attempted to hit defendant with his vehicle and in so doing defendant fired at car. (Ex. A. P. 63)

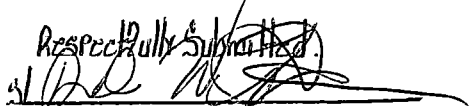
Fourth Cause

Under the Castle doctrine under South Carolina Code Ann. Sec. 16-11-440 (Cum. Supp. 21) the defendant would be justified in using force.

7th Cause

The Castle doctrine is predicated on the absence of aggression or fault of defendant part in bringing on difficulty.

Wherefore, it is prayed court grant motion

Respectfully Submitted,

Donte Williams / Pro Se

Date: 25 day of October, 2022

Joejetta Woods (girlfriend of Donald)

McCoy interviews her trying to see what she may know; she either truly knows nothing or is great at acting like she doesn't.

McCoy states that he believes Alex some, but not a lot. McCoy does not believe this was a random act by Toot. Joe agrees and says that Alex looks sneaky; that Alex was always threatening Toot; always trying to sell stuff he would steal from the FedEx truck he worked on.

McCoy tells Joe that the video from the apartment complex shows that Donald and Deante arrive at 1:47 am; 30 minutes after the incident happens. Shows that Donald is driving and Deante is in the passenger seat of the white BMW.

McCoy keeps asking what she heard them talk about and Joe says they don't talk around her and when they get on their cell phones and talk they go to other rooms.

McCoy wanted to know why they took 10 minutes to answer the door when the police arrived and Joe says it wasn't 10 mins; that she went to get Donald and her son was scared. McCoy keeps asking about the brothers hiding at her house and she says they are always there and sometimes Deante would come and see the children and stay. Joe mentions that Donald raised Deante since their father left when Deante was 2 years old.

off and throwing up gang signs; said that Alex belongs to the Royal 90 and that his dad is a blood; said that dad is a blood and he is the real deal that he could call in some favors from the gang members in California and that there is a hit out on Donald and Deante and he is worried that Joe is going to get caught in the middle of it. That Donald called somebody he trusted and told them that they shot and killed somebody; said that they know it was Toot that shot the gun, that they are getting everybody's phone records. Talks about that they are making examples of everyone and giving life sentences and even death penalties. Tells Joe she can help herself if she answers his questions.

McCoy talks about the search warrant for her house; said that we don't have to have the search warrant in our hand, as long as it is signed by a Judge, it could be sitting on somebody's desk. Mentions that he would have done things differently since there were children in the house. Apparently Joe was upset about the police being there in the first place and said they never produced a warrant.

McCoy talks about they know that Donald's only involvement was that he was driving his brother away from the scene; said "that can be overlooked, that's not a big deal, it is but it's not". McCoy states "Alex may have done something to deserve or warrant this"

Apparently due to the search of Joe's apartment and the finding of weed, she is being evicted (broke the lease-no drug policy); McCoy tells her he can talk with them about it, sometimes they listen to them. She says it's too late for that; it's been done.

Joe mentions that if they (gang members find her and kill her), it don't matter, I need to die anyway; I've been needing to die. Mentions that she has been suicidal and depressed for a long time.

McCoy says that Toot hadn't really been involved; was trying to stay away from Alex; I don't think Toot meant to; he may not even meant to shoot anybody, it could have been a warning shot, I know they weren't trying to shoot her, that was an accident. States that bullets travel in an elliptical pattern.

McCoy states that Alex may have did something to cause Toot to do this; you can kill somebody and it not be murder; Alex could be responsible for her death.

McCoy goes back to how he don't believe Alex because Alex denies belong to a gang, but his FB shows him holding guns and representing the Royal 90

Items we might need to look into

Cell phones records that were subpoenaed
GSR from the victim
GSR, fingerprints and DNA from the BMW

SLED lists the victim as a black female; she's white; could they make other mistakes

Statement of

Ronnie Pinkston
6820 Dual Drive
Columbia, SC 29203

Made at
Columbia, South Carolina, this 10/08/2013, at 1133, in the presence of Inv. Williams of the Richland County Sheriff's Department.

I, Ronnie Pinkston, understand that I have the right to remain silent. Anything I say can be used against me in court. I have the right to talk to a lawyer for advice before you ask me any questions, and to have a lawyer with me during any questioning. If I cannot afford a lawyer, one will be appointed for me before any questioning, if I wish. If I decide to answer questions now, without a lawyer present, I still have the right to stop answering at any time. I also have the right to stop answering at any time until I talk to a lawyer.
Do make the following statement:

Questions: Inv Williams
Answers: Ronnie Pinkston

Q: What knowledge do you have in regards to vehicle break ins?

A: A few months back my cousin Anthony Canada started coming around with a lot of items that I knew were stolen. He would have cellphones, Ipads for sell. Anthony never told me everything he took but he would tell me about those particular items and always have them for sell. When he got the items Anthony would sell them to "Toot" and "Boo Boo". One day he confessed to me that he went over by "Jet Night Life" and hit a Dodge Charger that he got an Ipad out of. He didn't give me any specific details into how many vehicles he hit but he did tell me about that one.

Q: What have you heard about or know about your cousin about car break-ins?

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: [Signature]
Witness: _____

Signed: [Signature]

This is to certify that I have read or have read to me the foregoing statement consisting of ___ pages and a true copy has been given to me this ___ day of _____.

Sworn to and subscribed before me
This 8 day of October

Signed: [Signature]

[Signature]
Notary Public for South Carolina
My commission expires 10/20/19

A: What he does is he will call someone trying to get a ride to a location. If he can't get a ride he will con someone to going to the club. Once they are at the club he will leave them and go to work breaking into cars. He has tried to get me to go with him a few times to do the break-ins but I already know his motives and know that he is going to break into the cars.

Q: Have you ever road with Anthony or anyone else to do any car break-ins?

A: No sir

Q: Have you ever seen Anthony attempt to break into any cars?

A: Yes one time about a month ago we went to Jet and I saw him walking towards a car as though he was going to break into it and I told he to stop and he did so

Q: How long has Anthony been breaking into cars?

A: several months

Q: How many times has Anthony told you about the car break-ins?

A: several times but again once I start asking details he gives me the deer in the head like look

Q: Where would Anthony sell the stolen items?

A: he would sell the stuff to people in Greenview

Q: Have you ever bought anything stolen from Anthony?

A: One time him and smokey tried to sell me a laptop but I did buy it cause it had a lock on and when I opened it there was a picture of an man in the army

Q: What is smokey's real name?

A: Deshaun

Q: Has smokey helped Anthony with any car break-ins that you know of?

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: 

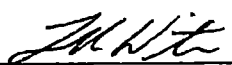
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Signed: 


Notary Public for South Carolina
My commission expires 10/20/19

My commission expires _____ Page 2

A: I don't know I just go by what I hear in the neighborhood. They call around and ask people to by items that they have.

Q: Who else have you heard is involved with the car break-ins?

A: Anthony, Deshaun, and Dwayne

Q: Did you know that the car you were riding in was stolen?

A: no sir

Q: Have you heard about Anthony, Deshaun, or Dwayne selling guns?

A: I heard of Dwayne selling them

Q: Who does Anthony hang around with?

A: Jacboi, Ratchet, Beans, Deshaun, Troy, Bo round

Q: What information do you know about the shooting that happened at the stand?

A: I heard the shooting started over Alex supposedly breaking into "Toot" and Boo Boo house. A fight broke out at the stand between the Bloods and the Crips and Alex and his girlfriend tried to drive off. Once he was driving away Toot pulled a gun and started shooting at the vehicle hitting the girl. So Alex drove faster and stopped at the Obama Store were she was already dead.

Q: What do you know about the gun that was used?

A: All I know that Anthony was trying to get the gun in order to sell it and make money.

Q: Did you hear what type of gun was used to kill the girl?

A: no sir

Q: Did Anthony ever find the gun?

A: I don't know

Q: To the best of your knowledge who has the gun that was used?

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: [Signature]

Signed: [Signature]

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of ___ pages and a true copy has been given to me this ___ day of _____.

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Signed: [Signature]

[Signature]
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NY CORP.

A: From what I heard Boo Boo, they said that Anthony was trying to get in touch with Boo Boo to get the gun

Q: Do you have anymore information about the shooting or the car break-ins?

A: Anthony told me that he needed to use the phone to call me one day and Anthony told me that Boo Boo was crying on the phone saying that he wanted to come home and that he had nothing to do with it, it was all Toot. They were laughing on the phone bragging about the shooting until they found out that the girl got shot and killed. That is when Boo Boo put everything on Toot according to Anthony.

Q: What does Anthony spend the money on that he makes from selling the items from the break ins?

A: Clothes and shoes

Q: Where you present when the phone call was made to Boo Boo?

A: yes sir

Q: Is everything is this statement the truth to the best of your knowledge?

A: yes sir

Q: Is there anything else you need to add to this statement?

A: no sir

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: [Signature]

Signed: [Signature]

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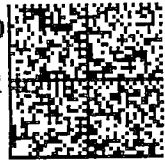
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[Signature]
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Columbia, South Carolina 29201

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