

From: Christopher E. Russell #0929
Greenville County Detention Center
20 Mc Gee Street
Greenville S.C. 29601

RECEIVED

JAN 05 2023

S.C. SUPREME COURT

TO: THE SOUTH CAROLINA SUPREME COURT
1231 Gervais Street
Columbia S.C. 29201

RE: Appellate Case No. 2017-002256, Lower
Case No. 2016-CP-23-03282: RESENTENCING
HEARING/Convey a favorable plea offer.

Resentencing Hearing.

Two defendants were arrested for the same crimes as charged, Co-defendant Antonias Williams testified at defendant Christopher Russell trial revealing he was caught Red Handed. He plead guilty to a lesser offense and received a sentence of (13) thirteen years imprisonment.

Both defendants were convicted under a theory of liability/hand of one, band of all to existing sentencing procedures, which made no distinction between defendants, whose crimes were committed as an unlawful act.

Conspirators is proof they intended to act

together for their shared mutual benefit within the scope of the conspiracy charged, both were convicted of disseminating the exact same material, which makes no differential treatment, indicating a failure to treat similarly situated defendants equally.

Accordingly defendant sentence - Appellate Court vacated the judgment and Supreme Court remitted and remanded this case for further factual determination of law.

RESENTENCING HEARING - relied heavily on an lapsed expiration March 2011 sentence recommendation, refusing state offered (straight up with the mandatory minimum (10) ten years extended during defendant trial February 13, 2013 prior to jury's verdict NEW recommendation in exchange for defendant admitting his guilt.

Trial counsel testified at PCR hearing April 19, 2017 to this plea recommendation, which trial counsel rendered defendant decision to express his preference for a sentence comparable to Co-defendant who pled guilty.

The sentence imposed upon a Co-defendant for the same offense and upon other for similarly situated offense are entitled to due process of law.

The judicial discretion gives serious

consideration for defendants admitting their guilt, and must apply the relevant legal principles and the state has a legitimate interest in encouraging the entry of guilty pleas, trial counsel failed to protect Client interest to communicate this significantly lower sentence offer from prosecution.

As a general Rule the mere disavowal of wrongful intent cannot remove the taint inherent in the Resentence commentary especially since the record reflects an appropriate basis for defendant disparate sentence is "one who extends a guilty plea has extended a substantial benefit to the state and deserves to have a substantial benefit extended to him in return: *Gajdos* (462 NE 2d at 1025)

The United States Supreme Court has held (*Corbitt* 439 US at 219, 99 Sct at 497, 58 LEd 2d at 474) The plea may obtain for the defendant not (348 SC 391) only the possibility or certainty of a lesser penalty than the sentence that could be imposed after a verdict of guilty, but also of a lesser penalty than that required to be imposed after a guilty verdict by a jury (219-20, 99 Sct at 497-98, 58 LEd 2d at 474-75)

For those who plead guilty the fact itself is a

Constitutionally permissible consideration in sentencing a consideration that is not present when one is found guilty by a jury, defendant willingness to admit guilt may be a proper factor justifying more lenient sentencing.

The Supreme Court has unequivocally recognized the constitutional propriety of extended leniency in exchange for a plea of guilt.

Dispositional concessions are properly granted of defendant who plead guilty since the public interest in the effective administration of criminal justice is served.

Conclusion

The judicial power shall extend to all cases in law and equity arising under the Constitution and the bill of rights (IN FORCE). The right of the people to be secure in their person shall not be violated without due process of law.

If for any reason this cannot be done by coroporation that judicial and Aministers informing the right principal in support of a legal jurisdiction.

Your help concerning this written petition of a criminal judgment consisting of the Resentencing Hearing plea bargain recommendation will be very grateful. I would like to thank you in advance for your time and patience.

Table of Authorities Cases

State v Brouwean 550 SE 2d 915, 346 SC 375
(SC app 2001)

Aiken v. Byars 410 SC 534, 765 SE 2d 572 (SC 2014)

Castro v. State 417 SC 77, 789 SE 2d 44 (SC 2016)

Corbitt v New Jersey 439 US 212, 99 Sct 492 58 LE 2d
466 (1978)

Gaydos v State 462 NE 2d 1017 (ind 1984)

~~Respectfully submitted~~

~~Christopher E. Russell~~
Christopher E. Russell #092
defendant

This ~~12~~nd day of January, 2023

Enclosure
cc: Filed