

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

FILED

2023 MAY 16 PM 4:49

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

LISA H. COMER
CLERK OF COURT
LEXINGTON SC

Walton J. McLeod, IV, Circuit Court Judge

Indictment Nos. 2021-GS-32-01705 & 2021-GS-32-01706

RECEIVED

MAY 19 2023

SC Court of Appeals

The State,

Respondent,

v.

--Dezmon Monti Prince,

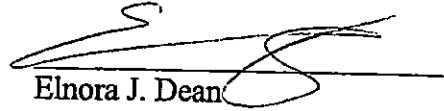
Appellant.

RULE 203(d)(1)(B)(iv) EXPLANATION

Pursuant to Rule 203(d)(1)(B)(iv), the undersigned asserts that Appellant's appeal of his guilty plea is pursuant to Appellant's Motion to Reconsider Sentence whereby Appellant alleged that the Court failed to consider the mitigating factors in this case when issuing the Court's sentence. The Court ruled on the Motion to Reconsider Sentence without a hearing and the Order Denying Motion to Reconsider is a part of this record.

Respectfully submitted,

May 16, 2023



Elnora J. Dean
P.O. Box 7961
Columbia, South Carolina 29202
(803) 733-1800
Attorney for Appellant

0-20 415

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE#: 2022 - GS - 32 - 01705

Dezmon Montl Prince

AKA:

AW#: 2021A3210202828

Race: Black Sex: M Age: 20

Date of Offense: 8/29/2021

DOB: _____ SS#: _____

S.C. Code §: 16-03-0600(B)(1)

Address: _____

CDR Code #: 3411

City, State, Zip: _____

RECEIVED SENTENCE SHEET

DL#* _____

SID# _____

MAY 19 2023

*CDL Yes No CMV Yes No Hazmat Yes No

SC COURT of Appeals CONVICTED OF CRIME LEADS

In disposition of the above indictment comes now the Defendant who was

TO: Assault / Assault & Battery of a High & Aggravated Nature

In violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

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

(CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST:

Solicitor

103254

SC Bar #

Defendant

Attorney for Defendant

12211
SC Bar #

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

for a determinate term of 14 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. 243 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 VS. Dezmon Monti Prince INDICTMENT/CASE#: 2022 - GS - 32 - 01705

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 SCOPPPS

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	\$100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$100
§56-5-2995 (DUI Assessment)	\$12	\$12
§56-1-286 (DUI Breath Test)	\$25	\$25
§14-1-212 (Law Enforce. Funding)	\$25	\$25
§14-1-213 (Drug Court Surcharge)	\$150	\$150
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$41
§50-21-114 (BUI Breath Test Fee)	\$50	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$40
3% to County (if paid in installments)	TBD	\$
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$125.00

Clerk of Court/Deputy Clerk: Melinda Jones
 Court Reporter: Melinda Jones

Presiding Judge: Walt J. ...
 Judge Code: 2765
 Sentence Date: 5-28-2022

STATE VS. Dezmon Monti Prince INDICTMENT/CASE#: 2022 - GS - 32 - 01706

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)				\$ _____
§14-1-211 (A)(2)(DUI Surcharge)		\$100		\$100
§56-5-2995 (DUI Assessment)		\$100		\$100
§56-1-286 (DUI Breath Test)		\$12		\$12
§14-1-212 (Law Enforce. Funding)		\$25		\$25
§14-1-213 (Drug Court Surcharge)		\$25		\$25
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$150		\$150
§50-21-114 (BUI Breath Test Fee)		\$41		\$41
§56-5-2942(J) (Vehicle Assessment)		\$50		\$50
3% to County (if paid in installments)		\$40/ea		\$40/ea
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees		TBD		\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		\$500		\$500
		TBD		\$ _____
		TOTAL		\$ 125.00

Clerk of Court/Deputy Clerk:
Court Reporter:

Melinda Jones

Presiding Judge:
Judge Code:
Sentence Date:

Walt J. ...
2765
5-25-2022

FILED

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

2022 JUL 20 AM 12:47

IN THE COURT OF GENERAL SESSIONS

INDICTMENT NUMBER: 2022GS3201705-06

THE STATE,

LISA M. GOMER
CLERK OF COURT
LEXINGTON, SC

vs.

DEZMON MONTI PRINCE,

ORDER DENYING MOTION TO RECONSIDER

Defendant.

The Defendant pled guilty to one count Assault and Battery of a High and Aggravated Nature and one count of Assault and Battery by Mob-2nd degree on May 25, 2022. Present at the hearing on behalf of the State was Luke Pincelli and present on behalf of the Defendant was Elnora Dean. The Defendant was sentenced to 14 years in the South Carolina Department of Corrections. On June 3, 2022, the Defendant filed a Motion to Reconsider Sentence. The State filed a Motion in Opposition of Defense's Motion to Reconsider on June 17, 2022.

Defendant argues that the court should reduce the sentence in light of the mitigating circumstances and information obtained after the hearing. Defendant outlines the mitigating circumstances to include the fact that he was 19 at the time of the incident, that his only prior record includes a curfew violation during the early period of the Covid-19 pandemic, and that the Defendant was eligible for a sentence under the Youthful Offender Act.

The Defendant contends that the State failed to inform the Court at the plea of the co-defendants prior record. The co-defendant was sentenced to 12 years on April 18, 2022 before the Honorable Debra McCaslin for the charges of Assault and Battery by Mob 2nd Degree, Assault and Battery by Mob 3rd Degree, and Attempted Armed Robbery. The Defendant argues the Court was not made aware of the co-defendants prior convictions from 2018 which include Unlawful Carrying of a Pistol, Distribution of Methamphetamine-1st Degree, and Possession with the Intent to Distribute Sch. I, II, III or Flunitrazepam or Analogue. In 2018, the co-defendant was sentenced by the Honorable Walton J. McLeod to a 6-year sentence suspended to 3 years' probation under the Youthful Offender Act. In 2019, the co-defendant pled

guilty to two counts Possession of less than one gram of meth. or cocaine base, 1st offense and was sentenced to 3 years in the South Carolina Department of Corrections. He was on probation for these charges at the time of this incident. Defendant argues the Court was not able to consider this information during the plea.

The State argues that the sentence imposed was appropriate and that the Court was made aware of the Defendant's youthful age and minimal prior record at the hearing. Additionally, the State argues that the Court was informed that the co-defendant was sentenced to 12 years for his plea in this case.

In criminal cases, post-trial motions must be made within ten days after imposition of the sentence, the sole exception being a motion for new trial based on after-discovered evidence. Rule 29, SCRCrimP. The authority to change a sentence rests solely and exclusively within the discretion of the sentencing judge. State v. Smith, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981). A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed. State v. Hicks, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008).

In light of all the facts and circumstances, this Court finds that the sentence imposed is appropriate under the circumstances and that the sentence is not altered by the arguments made in Defendant's Motion. In addition, this Court finds that Defendant's Motion for Reconsideration of Sentence is appropriately adjudicated based upon the written submission from each party and without oral argument pursuant to Rule 29(a), SCRCrimP.

IT IS SO ORDERED.

July 20, 2022
Lexington, South Carolina



Walton J. McLeod, IV
Presiding Judge
Eleventh Judicial Circuit

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON)

FILED 11TH JUDICIAL CIRCUIT

Case No(s); 2021A3210203398 and 2021A3210202828

2022 JUN -3 AM 9:01

State of South Carolina,

Plaintiff,

v.

Dezmon Monti Prince,

Defendant

LISA M. COMER
CLERK OF COURT
LEXINGTON SC
MOTION TO RECONSIDER SENTENCE

TO: THE HONORABLE WALTON J. MCLEOD, IV & LUKE PINCELLI, ASSISTANT SOLICITOR, ELEVENTH JUDICIAL CIRCUIT

NOW COMES the Defendant, Dezmon Prince, by and through his attorney,

Elnora J. Dean, respectfully requesting this Honorable Court to reconsider the sentence imposed at a guilty plea hearing on May 25, 2022.

IT APPEARS that the Defendant pled guilty to Assault and Battery of a High and Aggravated Nature which carries a maximum penalty of 20 years and Assault and Battery by Mob 2nd Degree which carries a minimum sentence of 3 years and a maximum sentence of 25 years. The Court imposed a sentence of 14 years of which Defendant must serve 85%.

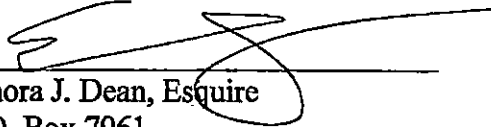
IT FURTHER APPEARS that the Defendant is requesting that the Court reconsider the 14-year sentence imposed on May 25, 2022 and consider a lesser sentence, taking into consideration the mitigating factors that exist in this case. Mitigating factors to consider in this case include but are not limited to the Defendant was 19 years old at the time of the incidents, Defendant's prior record was only a curfew violation during the early period of the Covid-19 pandemic in September 2020, and the Defendant has never been placed on probation or served time at the department of corrections.

IT further APPEARS that the State in its argument to the Court informed the Court that the co-Defendant received a 12-year sentence for the Assault and Battery by Mob 2nd Degree charge without informing the Court that the co-Defendant has a prior record from 2018-2019 that includes drugs and guns, and the co-

Defendant was on probation at the time of the relative offense. In addition, the investigator stated that the Defendant has a history of violence which is inaccurate based upon a review of the Defendant's prior record.

THEREFORE, the Defendant respectfully requests that a hearing is scheduled regarding the request for reconsideration.

Respectfully Submitted,



Elnora J. Dean, Esquire
P.O. Box 7961
Columbia, South Carolina 29202

June 2, 2022