

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Walton J. McLeod, IV, Circuit Court Judge

RECEIVED

Aug 14 2023

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DEZMON MONTI PRINCE,

APPELLANT

APPELLATE CASE NO. 2023-000817

ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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(803) 734-1330

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in considering inflammatory and prejudicial crime scene videos during appellant's sentencing hearing in the case.

1

STATEMENT OF THE CASE

Appellant Dezmon Monti Prince pled guilty to assault and battery of a high and aggravated nature and assault and battery by a mob, second degree, during the May 2022 term of the Lexington County General Sessions Court before Judge Walton J. McLeod, IV, and was sentenced to imprisonment for an aggregate fourteen-year term.

Appellant appealed. This brief follows.

STANDARD OF REVIEW

“In criminal cases, the appellate court sits to review errors of law only. State v. Vick, 384 S.C. 189, 682 S.E.2d 275 (Ct. App. 2009) (quoting State v. Wilson, 345 S.C. 1, 545 S.E.2d 827 (2001)). The appellate court is “bound by the trial court’s factual findings unless they are clearly erroneous” Id (quoting Wilson, supra). The reviewing court “does not re-evaluate the facts based on its own view of the preponderance of the evidence, but simply determines whether the trial court’s ruling is supported by any evidence.” State v. Slocumb, 412 SC 88, 770 S.E.2d 436 (Ct. App. 2015) “A sentence will not be overturned absent an abuse of discretion when the ruling is based on an error of law or a factual conclusion without evidentiary support.” In re M.B.H., 387 SC 323, 326, 692 S.E.2d 541, 542 (2010).

ARGUMENT

The trial judge erred in considering inflammatory and prejudicial crime scene videos during appellant's sentencing hearing in the case.

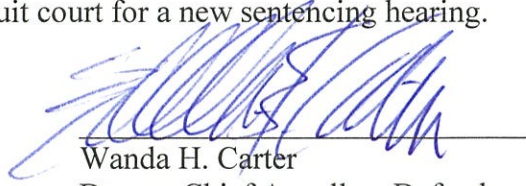
At the plea proceeding, the solicitor presented crime scene videos along with the factual presentation of appellant's cases. The solicitor described an event on August 29, 2021, involving an incident between appellant and Stanley Dustin Crumpton in Lexington County. Also, there was another incident involving appellant and Antonio Williams inside a jail that occurred on November 11, 2021. R. 6, l. 23 – p. 8, l. 19. The jail incident video was described as a “savage beating.” R. 9, lines 9 -19. After viewing the solicitor's videos, the trial judge commented that the videos were “truly awful” and added that “it's tough to put into words,” and that he (trial judge) was “trying to evaluate how this plea would have gone without the videos.” R. 20, lines 3-13.

In State v. Franklin, 267 S.C. 240, 226 S.E.2d 896 (1976), the Court held that a sentencing judge must not act on surmise or suspicion, but rather give serious consideration to any information material to punishment, including a defendant's record, and impose sentences with insight and understanding in order to achieve the fair administration of justice. However, the videos here were so inflammatory that seeing them meant that the prejudicial value outweighed the probative value despite the rule that a sentencing judge may review relevant material in a case prior to sentencing a defendant. Undoubtedly, the extreme prejudicial nature of the videos in this case certainly had an adverse impact on the sentencing judge, and allowed him to view appellant in a far more negative light than had no videos been shown to him.

The trial judge erred in considering the inflammatory and prejudicial crime scene videos prior to sentencing appellant in the case.

CONCLUSION

Based on the foregoing argument, counsel for appellant requests that appellant's sentence be vacated and his case remanded to the circuit court for a new sentencing hearing.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of August, 2023.

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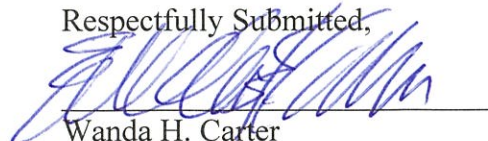
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Dezmon Monti Prince states:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Walton J. McLeod, IV, which was held on May 25, 2022, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Dezmon Monti Prince.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 14th day of August, 2023.

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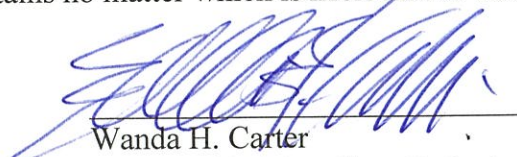
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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) Guilty Plea Transcript dated May 25, 2022
- (2) Indictments

I certify that this designation contains no matter which is irrelevant to this appeal.



Wanda H. Carter
Deputy Chief Appellate Defender

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ATTORNEY FOR APPELLANT

This 14th day of August, 2023.

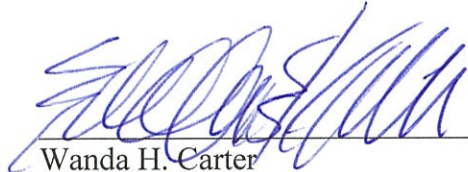
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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and 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.”



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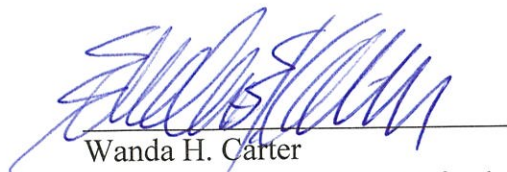
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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon William M. Blich, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Dezmon Monti Prince, #388017, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 14th day of August, 2023.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT