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Jan 16 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable Edward W. Miller, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JAQUIN DEVONTA DODD,

APPELLANT

APPELLATE CASE NO. 2023-000493

ANDERS BRIEF OF APPELLANT

WANDA H. CARTER
Deputy Chief Appellate Defender

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

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STATEMENT OF ISSUE ON APPEAL

The plea judge erred in accepting appellant's guilty pleas because the pleas were entered involuntarily as appellant was not told that the pleas waived his Sixth Amendment right to cross-examine his accusers in the case.

STATEMENT OF THE CASE

Appellant Jaquin Devonta Dodd pled guilty to accessory after the fact to attempted murder and conspiracy on February 4, 2019, at the Greenville County General Sessions Court before Judge Alex Kinlaw. A sentencing hearing was held before Judge Edward W. Miller on March 15, 2023. Appellant was sentenced to imprisonment for a period of ten years on the accessory conviction and five years on the conspiracy conviction. A sentencing reconsideration hearing was held in the case on June 16, 2023 before Judge Miller whereinafter appellant's ten year sentence on the accessory conviction was reduced to an eight-year sentence.

Appellant appealed. This brief follows.

STANDARD OF REVIEW

In criminal cases, the appellate court sits to review errors of law only. State v. Nesbitt, 411 S.C. 194, 768 S.E.2d 67(2015) (quoting State v. Jacobs, 393 S.C. 584, 713 S.E.2d 621 (2011)).

ARGUMENT

The plea judge erred in accepting appellant's guilty pleas because the pleas were entered involuntarily as appellant was not told that the pleas waived his Sixth Amendment right to cross-examine his accusers in the case.

At the plea proceeding, the solicitor apprised the plea judge of the facts of the case. Apparently, gunshots were fired from the occupants of a vehicle (in which appellant sat as a passenger) at passengers in another vehicle on February 7, 2018, in Greenville, South Carolina. The plea judge summarized the rights waived upon entering the guilty pleas as follows:

Court: [Y]ou're waiving your constitutional right to a trial. Do you want a trial on these offenses?

Appellant: No, Sir.

Court: You're waiving your constitutional right to remain silent as it relates to both these individuals.

Appellant: Yes, Sir.

Court: And you're waiving your constitutional right to confront any witnesses that you state may have against you.

Appellant: Yes, Sir. R. 6, 1.13-p. 7, 1.2.

In Boykin v. Alabama, 395 U.S. 238 (1969), the Court held that before a defendant's plea can be deemed voluntarily given, he or she must have been advised that the plea would waive the privilege against self-incrimination (Fifth Amendment), and the right to a jury trial (Sixth Amendment), and the right to confront one's accusers (Sixth Amendment). Additionally, the accused must be warned of the waiver of his right to cross-examine the witnesses against him (Sixth Amendment) if a guilty plea is entered in a case. Dalton v. State, 376 S.C. 130, 654 S.E.2d 870 (2007); Gaines v. State, 335 S.C. 376, 517 S.E.2d 439 (1999). In the case at bar, the plea

judge failed to advise appellant that his guilty pleas would waive his right to cross examine his accusers. Therefore, appellant's guilty pleas were unconstitutionally and involuntarily given.

CONCLUSION

Based on the foregoing argument, appellant's guilty pleas should be vacated and his case remanded to the lower court for a new proceeding.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 16th day of January, 2024.

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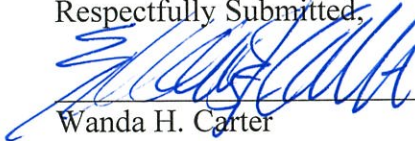
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jaquin Devonta Dodd 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 proceeding before Judge Alex Kinlaw, Jr., which was held on February 4, 2019, 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 Jaquin Devonta Dodd.

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

This 16th day of January, 2024.

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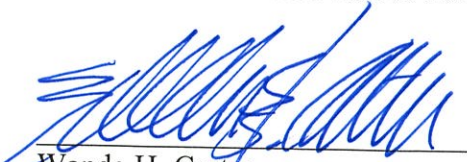
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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

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

- (1) Guilty Plea Hearing Transcript dated February 4, 2019
- (2) Indictments
- (3) Sentencing Hearing Transcript dated March 15, 2023
- (4) Sentence Sheets dated March 15, 2023
- (5) Motion to Reconsider dated March 17, 2023
- (6) Notice of Appeal dated March 24, 2023
- (7) Amended Motion to Hold Appeal in Abeyance dated March 31, 2023 And Remand for a Hearing on the Motion to Reconsider.
- (8) Amended Motion to Hold Appeal in Abeyance dated April 18, 2023 and Remand for a Hearing on the Motion to Reconsider
- (9) Motion to Update Court of Appeals on Appellant's Motion to Reconsider dated May 19, 2023
- (10) Sentencing Reconsideration Hearing Transcript dated June 16, 2023
- (11) Motion to Update Court of Appeals on Appellant's Motion to Reconsider dated June 19, 2023
- (12) Order Modifying Sentence dated July 19, 2023 and attached sentence sheets.
- (13) Motion to Update Court on Appeals on Motion to Reconsider dated July 31, 2023
- (14) Notice of Appeals dated August 7, 2023
- (15) Letter to Update Court of Appeals dated August 14, 2023

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



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
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ATTORNEY FOR APPELLANT

This 16th day of January, 2024.

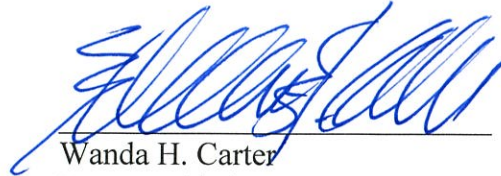
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CERTIFICATE OF COUNSEL

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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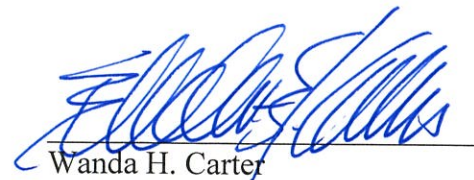
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CERTIFICATE OF SERVICE

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 Mark R. Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Jaquin Devonta Dodd, #390553, at Trenton Correctional Institution, 84 Greenhouse Road, Trenton, SC 29847, this 16th day of January, 2024.



Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT