

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of General Sessions

Brooks P. Goldsmith, Circuit Court Judge

Case No. 2013-001232

The State

Respondent

v.

John DeCarlo

Appellant

WRITTEN EXPLANATION
AS TO WHETHER ANY OBJECTIONS TO THE SENTENCE
WERE MADE ON THE RECORD DURING PLEA HEARING

In response to a letter from the Clerk of Court dated August 13, 2013, Counsel for Mr. DeCarlo hereby advises the Court that he argued to Judge Goldsmith during the plea hearing on the record that the Court had the inherent authority to suspend a portion of the sentence for Burglary First (S.C. Code Section 16-11-311) in his discretion. Counsel advises the Court that, to his recollection, he provided the Court at the time with a copy of State v. Jacobs, 393 S.C. 584, 713 S.E.2d 621(2011) and argued to Judge Goldsmith that Jacobs should be read strictly and restricted to its facts, which therein included a request to suspend a portion of the minimum 15

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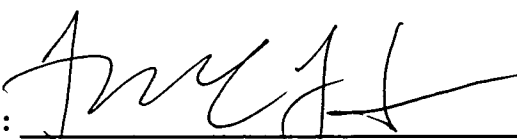
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SC Court of Appeals

year sentence and place Mr. Jacobs on probation. In our case, we urged Judge Goldsmith to examine the numerous mitigating factors set forth in the Psychological Evaluation of John DeCarlo performed by David R. Price, Ph.D., (submitted as a Court's Exhibit) and to give Mr. DeCarlo a sentence that would comport with the findings of Dr. Price, to include supervised home arrest and drug and alcohol counseling. Judge Goldsmith indicated on the record during the plea hearing, that he found the factors surrounding Mr. DeCarlo's earlier drug and alcohol abuse, along with physical abuse he suffered at the hands of his father, to be compelling, but said he was constrained by Section 16-11-311 and Jacobs to sentence Mr. DeCarlo to a minimum of 15 years in a South Carolina prison. He then entered that sentence.

Relying on memory, Counsel for Mr. DeCarlo does not believe that he made an objection to the sentence then handed down by Judge Goldsmith at the plea hearing.

Law Office of Thomas C. Taylor, LLC

By: 

Thomas C. Taylor
Attorney For The Defendant
P.O. Box 5550
Hilton Head Isl., SC 29938
843-785-5050
E-mail: tom@thomastaylorlaw.com

August 15, 2013
Hilton Head Island, South Carolina

CERTIFIED CIRCUIT
COURT MEDIATOR
ALSO ADMITTED
GEORGIA BAR

LAW OFFICE OF
THOMAS C. TAYLOR, LLC

22 BOW CIRCLE
SUITE A
HILTON HEAD ISLAND, SC 29928

TELEPHONE 843-785-5050
TELECOPIER 843-785-5030
www.thomastaylorlaw.com • tom@thomastaylorlaw.com

MAILING ADDRESS
P.O. BOX 5550
HILTON HEAD ISLAND, SC
29938

August 15, 2013

Via U.S. Mail

Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

**Re: State v. DeCarlo; Appellate Case No. 2013-001232; Reply to request of Court
dated August 13, 2013**

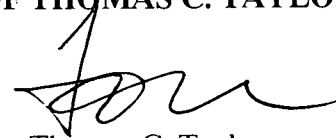
Dear Clerk Kitchings:

I enclose herein for filing, a response to the Court's letter of August 13, 2013 requesting an explanation as to whether any objections to the sentence were made on record during the plea hearing.

Please advise me if you have any questions. Thank you.

Yours very truly,

LAW OFFICE OF THOMAS C. TAYLOR, LLC



Thomas C. Taylor

TCT/dpt

cc: John DeCarlo
Duffie Stone, Solicitor, Fourteenth Judicial Circuit
Robert M. Dudek, Office of Appellate Defense, SCCID

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