

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM YORK COUNTY
Court of General Sessions

Daniel D. Hall, Circuit Court Judge

Case No(s): 2020-GS-46-02880

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NOV 04 2024
SC Court of Appeals

The State of South Carolina,

Respondent.

v.

John DiGeronimo

Appellant.

STATEMENT PURSUANT TO RULE 203(d)(1)(B)(iv)

Appellant pled guilty on August 14 2024 and was sentenced on October 21, 2024. Undersigned counsel files this appeal at the request of Appellant and pursuant to In re Anonymous Member of the Bar, 303 S.C. 306, 400 S.E.2d 483 (1991). Pursuant to Rule 203(B)(iv), the issues to be raised on appeal is whether the trial court abused its discretion when it imposed the sentence on the Appellant.

The undersigned do not have a good faith basis to believe that this issue is properly before the Court of Appeals, and the undersigned did not object to the sentence or file a motion to reconsider the sentence. Nevertheless, the undersigned consulted with the Appellant about his right tot appeal and after consultation with the Power of Attorney, the undersigned has filed the instant appeal at their request pursuant to *Frazer v. South Carolina*, 430 F.3d 696, (4th Cir 2005).

Date: October 31, 2024



Gary Lemel
Chris Wellborn
Attorneys for Appellant
P.O. Box 11784
Rock Hill, SC 29731

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF YORK

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STATE VS.

INDICTMENT/CASE#: 2020-GS-46-02880

JOHN DIGERONIMO

NOV 04 2024
SC Court of Appeals

AW#: 2020A4610100176

AKA:

Date of Offense: 09/14/2017

Race: W Sex: M Age: 64

S.C. Code §: 16-03-0655(B)(2)

DOB: SS#:

CDR Code #: 0397

JAIL

Address:

City, State, Zip:

DL# * SID# SC02393137

ORIGINAL

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

Defendant Pro Se

In disposition of the above indictment comes now the Defendant who WAS CONVICTED OF or PLEADS

TO: Criminal Sexual Conduct with a Minor, Second Degree (NMT 20 years)

In violation of § 16-03-0655(B)(2) of the S.C. Code of Laws, bearing CDR Code # 0397

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.

The State's Position is:

None
 Negotiated and Agreed Upon Sentence: ___ Years, ___ Months, Probation for ___ Years, ___ Months;
 Negotiated and Agreed as to Charges Only
 Recommended and Agreed Upon Sentence: ___ Years, ___ Months, Probation for ___ Years, ___ Months;

ATTEST:

/s T. Matthew Hogge 100126
Solicitor SC Bar #

/s Christopher A. Wellborn 11914
Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Cent

for a determinate term of 20 Hours/ Days/ Months/ Years Time Served

Home Detention Program(HIP) MH Evaluation and Compliance Batterer's Treatment
 Domestic Abuse Counseling Drug Court Drug Program Alcohol Program Inpatient Facility
 Hold Until Bed Space Available Mental Health Court Balance Suspended with Drug Court
 Other: _____

Judicial Review _____ Days/ Months

Youthful Offender Act not to exceed _____ Days/ Months/ Years

Deferred sentence til October 21, 2024 Page 1 of 3

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2024 OCT 22 AM 11:04
CLOCK IN TIME
CANCELLED
ANGIE M. RYANT
CLERK OF COURT
YORK COUNTY, SC

And/ Or to pay a fine of \$ _____ ;
provided that upon the service of _____ Hours/ Days/ Months/ Years Time Served

- Home Detention Program(HIP) MH Evaluation and Compliance Batterer's Treatment
- Domestic Abuse Counseling Drug Court Drug Program Alcohol Program Inpatient Facility
- Hold Until Bed Space Available Mental Health Court Balance Suspended with Drug Court
- Suspended To Batterer's Treatment
- Other: _____

And/ Or a payment of \$ _____ ; plus costs and assessments as applicable*

the balance is suspended with probation for _____ Months/ Years

- Suspended During Probation Suspended During Drug Court Suspended During Batterer's Treatment
- Other: _____

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. 1692 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. Section 922 and §16-25-30 it is unlawful for a person convicted of a violation of Section §16-25-20 or §16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

Defendant has 10 days to apply for Home Detention Program or this will convert to an active sentence.

SPECIAL CONDITIONS:

- PTUP .. after _____ Months/ Years Home Detention Program(HIP)

And Other Terms Listed Below:

- Conditional Discharge
- 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

See Attached Restitution Order

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine: \$ _____ Beginning \$ _____

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		\$ <u>100</u>
§14-1-211 (A)(2)(DUI Surcharge)		\$100		\$ _____
§56-5-2995 (DUI Assessment)		\$12		\$ _____
§56-1-286 (DUI Breath Test)		\$25		\$ _____
§14-1-212 (Law Enforce. Funding)		\$25		\$ <u>25</u>
§14-1-213 (Drug Court Surcharge)		\$150		\$ _____
§50-21-114 (BUI Breath Test Fee)		\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea		\$ _____
3% to County (if paid in installments)		TBD		\$ _____
Other Costs (As Authorized by Cost Code)*				\$ _____

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

\$500

§ 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TBD

TOTAL \$ 1250

Clerk of Court/Deputy Clerk: Angie Bryant
 Court Reporter: Shannon McGulberry

Presiding Judge: [Signature]
 Judge Code: 2753 Hall
 Sentence Date: August 14, 2024

*Sentence deferred til October 21, 2024
 Sentenced October 21, 2024 [Signature]*

Specify Other Costs*

<input type="checkbox"/>	Cost Code	Cost Description	Amount
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			
<input type="checkbox"/>			

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NOV 04 2024

SC Court of Appeals

MCKINNEY, TUCKER & LEMEL
ATTORNEYS AT LAW
Post Office Box 11784, Rock Hill, SC 29731
RETAINER AGREEMENT

Client: John DiGeronimo

Date: May 1, 2023

The undersigned does hereby retain **McKinney, Tucker & Lemel** as attorney in connection with State v. John DiGeronimo and does hereby agree to pay the sum of \$25,000.00 as a fixed fee retainer that is earned upon receipt for the first matter or set of charge(s) called for trial. Attorneys agree to do whatever is necessary in the defense on the charge(s) pending. In the event of additional trial(s), additional fees may be negotiated.

The undersigned agrees to pay the amount of \$12,500.00 on the retainer. **Balance of \$12,500.00 is to be paid the last week of July, 2023.** The undersigned agrees that these fees are reasonable given the nature of the charges involved in this case and are not subject to change based upon the final disposition of the matter.

Client agrees that attorney's representation is for the particular issue or charge as referenced above. The fee for attorney's services is not based upon the final outcome of this matter. Client agrees that the fixed fee quoted above is reasonable under these conditions.

In all events, and in addition to fees, the undersigned agrees to pay all costs of court proceedings. Costs are defined as filing fees, expert witness fees and any other necessary costs incurred or advanced by attorneys. This agreement terminates upon the conclusion of the case at the trial court level. Any appeal work and any separate court proceedings will be the subject of a separate arrangement.

In order for the attorney-client relationship to work effectively, information must be communicated in a timely manner. The client will be responsible for informing attorney of any changes in contact information. The client will receive copies of correspondence made on his or her behalf, and will be notified as progress is made. Court schedules and additional obligations may sometimes prevent attorney from being immediately available for phone calls and meetings not planned in advance. The client understands that scheduling an appointment to meet in person or scheduling a conference by phone will ensure the most efficient means of communication.

Client authorizes attorney to act on his behalf as is necessary to effectively represent client. Client acknowledges that a fixed fee is appropriate in this matter taking into account attorneys experience, the nature of the charge involved, the time and labor expected to be performed by the attorney and the customary fees charges for similar legal services.

This agreement may be terminated for substantial breach, misconduct, incapacity or negligence on attorney's part. In the event attorney is discharged for any other reason, without attorney's consent, attorney will be entitled to payment in full of all fees reasonably earned on the account. Client may be entitled to a refund of all or a portion of the advance fixed fee if the agreed upon legal services are not provided. Attorney may terminate this agreement and representation at any time on reasonable notice. In the event of such termination attorney shall be entitled to retain any fees reasonably earned during the course of the representation.

It is impossible to guarantee any results, but attorney will perform services to the best of their ability.

After my case is over for six (6) years, I authorize the destruction of my file.

Payment of the account is to be personally guaranteed by the signature appearing below.

AGREED AND ACCEPTED:

Edward DiGeronimo
Ed DiGeronimo

MCKINNEY, TUCKER & LEMEL

[Signature]