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**Jan 13 2025**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

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THE STATE,

RESPONDENT,

V.

JAYLEN S. WILSON,

APPELLANT

APPELLATE CASE NO. 2023-001555

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ANDERS BRIEF OF APPELLANT

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**STATEMENT OF ISSUE ON APPEAL**

Did the circuit court err denying appellant's motion for reconsideration of his sentence where appellant, seventeen at the time of his arrest, relied on representations of defense counsel regarding sentencing pled guilty without negotiation or recommendation, and was subsequently sentenced to an aggregate term of sixty years' imprisonment?

## STATEMENT OF THE CASE

In November 2021 a Lexington County grand jury indicted appellant for murder, kidnapping, and possession of a weapon during the commission of a violent crime. R. 428-431; 434-435. In June 2022, appellant was indicted for criminal conspiracy. R. 432-433. Co-defendants Nazareth Nicolle Sanchez-Peralta (Peralta) and Treveon Nelson (Nelson) were also charged. Sanchez-Peralta was tried. Nelson pled guilty.

On May 22, 2023, appellant pled guilty as indicted without negotiation or recommendation before the Honorable Debra R. McCaslin. R. 1. Willie Brunson represented appellant. R. 1. Solicitor Rick Hubbard, III and deputy solicitor Suzanne Mayes prosecuted for the state. R. 1. Judge McCaslin deferred sentencing appellant until the end Peralta's trial and Nelson's guilty plea. R. 19, ll. 7-10.

Appellant and his co-defendants were sentenced by Judge McCaslin on August 28, 2023. R. 21-385. Peralta was sentenced to an aggregate term of sixty-five years' imprisonment. R. 375, ll. 8-10. Nelson was sentenced to an aggregate term of sixty years imprisonment. R. 370, ll. 7-23. Appellant was sentenced to concurrent terms of sixty years' imprisonment for murder, five years' imprisonment for criminal conspiracy, and five years' imprisonment for possession of a weapon during the commission of a violent crime. R. 384. 364, ll. 3-14.

On August 30, 2023, defense counsel filed a motion to reconsider appellant's sentence and a motion for a new trial. R. 386-387. On September 28, 2023, Judge McCaslin heard appellant's motions and co-defendant, Peralta's motion to reconsider her sentence. R. 388-425. Judge McCaslin denied appellant's motions. R. 406, ll. 17-23; 427.

This appeal follows.

### STANDARD OF REVIEW

“In criminal cases, the appellate court sits to review errors of law only.” *State v. Vick*, 384 S.C. 189, 197, 682 S.E.2d 275, 279 (Ct. App. 2009)(quoting *State v. Wilson*, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001)). The appellate court is “bound by the trial court’s factual findings unless they are clearly erroneous.” *Id.* (quoting *Wilson*, 345 S.C. at 5-6, 545 S.E.2d at 829). 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 S.C. 88, 91, 770 S.E.2d 436, 438 (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 S.C. 323, 326, 692 S.E.2d 541, 542 (2010).

## ARGUMENT

The circuit court erred denying appellant's motion for reconsideration of his sentence where appellant, seventeen at the time of his arrest, relied on representations of defense counsel regarding sentencing pled guilty without negotiation or recommendation, and was subsequently sentenced to an aggregate term of sixty years' imprisonment.

### **Relevant facts**

On April 5, 2021, Sanaa Amenhotep was reported missing. R. 9, ll. 3-5. On April 28, 2021, Amenhotep's body was found in a wooded area in Leesville. R. 10, ll. 10-13. Peralta, Nelson, and appellant were arrested and charged with Amenhotep's murder.

Right before appellant's trial was to begin, he pled guilty without recommendation or negotiation. R. 1-19. During the guilty plea the state alleged appellant was involved in the murder of Amenhotep. The state claimed Amenhotep was last seen with co-defendant Peralta on the night she went missing. R. 9, ll. 6-11. Peralta told police her boyfriend Treveon Nelson and appellant were also involved. R. 9, ll. 19-23; 10, ll. 1-9. The state claimed appellant and Nelson both shot Amenhotep and the guns were later found at appellant's house. R. 10, ll. 1-9; 14, ll. 5-8; 15, ll. 6-22. Additionally, bedding found with the body of Amenhotep matched bedding found in appellant's home. R. 15, l. 23—16, l. 10.

The three co-defendants were sentenced during an August 28, 2023, hearing before Judge McCaslin. R. 21. At the sentencing hearing defense counsel told the court appellant was seventeen at the time of his arrest. R. 211, ll. 16-17. Counsel told the court after appellant moved from rural Lee County to Richland County, he began using drugs and spending time with the wrong crowd. R. 214, ll. 7-19. Counsel said appellant had been gainfully employed and was attending Columbia High School. R. 212, ll. 2-9. Appellant had no prior convictions and had

never been arrested. R. 215, ll. 7-10.

At the conclusion of the hearing the court sentenced appellant to an aggregate term of sixty years' imprisonment. R. 384, ll. 3-14.

Defense counsel filed a motion to reconsider sentence and motion for new trial. 386-387. On September 28, 2023, the court heard appellant's motions along with co-defendant Peralta's motion for reconsideration. R. 388-425.

Defense counsel asked the court to reconsider appellant's sentence or in the alternative allow appellant to withdraw his guilty plea. R. 395, ll. 10-18. Counsel argued the court should consider reducing appellant's sentence to less than thirty-five years' imprisonment. R. 396, ll. 4-6. Counsel contended that a conversation was held off the record, in chambers, where the court represented to counsel that if appellant pled guilty, he would "not receive a sentence that was much more over the minimum." R. 392, l. 11—393, l. 11. He told appellant this and in reliance of the court's assurance to counsel appellant pled guilty. R. 393, l. 12—394, l. 9. Counsel also argued appellant's sixty-year sentence was the functional equivalent of a life sentence. R. 394, ll. 18-23. He contended appellant pled guilty, waiving his right to a jury trial, "because the representations were made to him that he would get a sentence of not much more than the minimum." R. 394, l. 17—395, l. 18.

The court denied appellant's motions. The court clarified it told defense counsel "this [was] not a minimum case and [the court] was not inclined to give a life sentence." R. 405, ll. 10-12. The court declared,

[T]hose lawyers who've appeared in front of me know thirty is certainly not on my agenda in any case on murder. It never has been. If I give a thirty-year sentence, it is not because of me it's because somebody negotiated it. This judge doesn't give thirty. I can't think of one case that I've given thirty on other than what has been negotiated. Usually, my starting range is forty-five. I take

murder serious. It is the most serious crime this state has. This was a fifteen-year-old child and these are children who killed her in the most horrendous way. So please don't thin[k] that this is a minimum sentence at all.

R. 406, ll. 5-16.

### **Discussion**

Initially, the plea court failed to consider the hallmark features of youth in sentencing appellant in this case. *See Aiken v. Byars*, 410 S.C. at 543, 765 S.E.2d at 576-77 (The South Carolina Supreme Court observed: “*Miller* is clear that it is the failure of a sentencing court to consider the hallmark features of youth prior to sentencing that offends the Constitution.”).

“The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion.” *State v. Hicks*, 377 S.C. 322, 325, 659 S.E.2d 499, 500 (Ct. App. 2008) (citing *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.” *Id.* (citing *Wasman v. United States*, 468 U.S. 559, 563, 104 S.Ct. 3217, 82 L.Ed.2d 424 (1984)).

In a criminal prosecution, punishment of the offender is recognized as a proper motivation for a sentencing trial judge. *State v. Fletcher*, 322 S.C. 256, 471 S.E.2d 702 (Ct.App.1996). However, another legitimate interest at sentencing is the defendant's prospect for rehabilitation and restoration to a useful place in society. *State v. Tucker*, 324 S.C. 155, 478 S.E.2d 260 (1996). *See also* 24 C.J.S. Criminal Law § 1460 (rehabilitation is considered to be one purpose of sentencing).

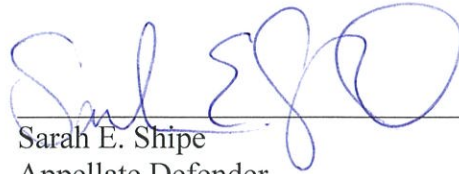
The sentencing court failed to consider all the information before it during sentencing. Appellant had no prior record. Appellant was only seventeen years old at the time of his arrest.

Appellant chose to take responsibility for his actions by pleading guilty and not putting the Amenhotep family through another trial. Additionally, appellant was a productive member of society attending high school and working at a restaurant. *State v. Tucker*, 324 S.C. 155, 478 S.E.2d 260 (1996). *See also* 24 C.J.S. Criminal Law § 1460 (rehabilitation is considered to be one purpose of sentencing).

Counsel represented to appellant that while he would not receive a minimum sentence he would not be sentenced to much more than thirty years' imprisonment. Appellant relied on that representation when he decided to plead guilty. Appellant should be resentenced and his mitigation should be properly considered along with his age at the time of arrest.

**CONCLUSION**

By reason of the foregoing argument, appellant's sentence should be vacated, and this case remanded for resentencing.



Sarah E. Shipe  
Appellate Defender

ATTORNEY FOR APPELLANT

This 13th day of January, 2025.

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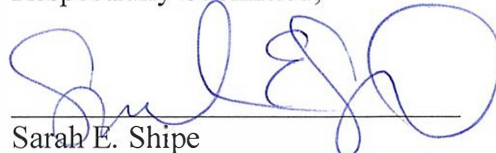
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Jaylen S. Wilson states:

1. She is 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 guilty plea before Judge Debra R. McCaslin, which was held on May 19, 2023, 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 Jaylen S. Wilson.

Respectfully Submitted,



Sarah E. Shipe  
Appellate Defender

ATTORNEY FOR APPELLANT

This 13th day of January, 2025.

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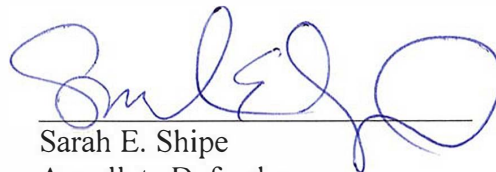
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**DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL**

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

- (1) True-billed indictment(s):
- (2) Transcript May 22, 2023, Transcript August 28, 2023, Transcript September 28, 2023
- (3) Motion for Reconsideration and Motion for New Trial
- (4) Order Denying Motion to Reconsider
- (5) Sentence Sheets

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



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This 13th day of January, 2025.

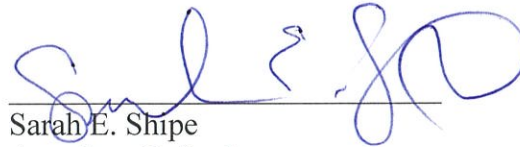
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**CERTIFICATE OF COUNSEL**

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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CERTIFICATE OF SERVICE

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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 Melody J. Brown, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Jaylen S. Wilson, #391863, at Tyger River Correctional Institution, 200 Prison Road, Upper Yard, Enoree, SC 29335-9308, this 13th day of January, 2025.



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