

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County
Court of General Sessions

Paul Burch, Circuit Court Judge

Case No. 2012-210570

RECEIVED

SEP 30 2013

SC Court of Appeals

THE STATE

vs.

Respondent,

WILLIE RITTER

Appellant.

SECOND REVISED RECORD ON APPEAL

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INDEX

Order of The Hon. Paul Burch, dated March 5, 20121-7

Guilty Plea Transcript, dated July 20, 2009,
pp.1-32. 8-39

Sentencing Hearing Transcript, dated September 21, 2009,
pp 1-2; pp.29-37;. 40-51

Motion Hearing Transcript, dated October 31, 2011,
pp.1-17 52-69

Motion to Reconsider, dated September 25, 2009 70

Certificate of Counsel71

Proof of Service72

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

STATE OF SOUTH CAROLINA

v.

WILLIE RITTER,
Defendant.

IN THE COURT OF GENERAL SESSIONS
FIFTH JUDICIAL CIRCUIT

CR. NO. 2007-GS-40-4465

ORDER DENYING DEFENDANT'S
MOTION TO VACATE GUILTY PLEA AND
MOTION TO RECONSIDER SENTENCING.

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On October 31, 2011, the Court heard Willie Ritter (Defendant's) Motion to Reconsider Sentencing and Motion to Vacate the Guilty Plea. Present at the hearing were Fifth Circuit Assistant Solicitor Luck Campbell, for the State, and William Bertram Von Herrmann, for the Defendant. The Court denies Defendant's motions.

Procedural Background

On July 20, 2009, Defendant entered a plea of guilty to one count of Homicide by Child Abuse before Judge Paul Burch. At the time of his plea, he was represented by Attorney Jan Strifling, of Columbia.

At the guilty plea, Judge Burch advised the Defendant of the constitutional rights he was waiving, and discussed with the Defendant his privilege against self-incrimination, rights to a jury trial, and right to confront his accusers. Judge Burch also questioned the defendant about the facts surrounding the crime and the punishment that could be imposed.

Judge Burch then deferred sentencing pending the receipt of sentencing memorandums from counsel and a presentence investigation. On September 21, 2009, Judge Burch sentenced the Defendant to twenty years.

On September 25, 2009, Defendant, by and through his attorney Jan Strifling, moved that the Court reconsider the sentence imposed on the Defendant September 21, 2009.

On December 8, 2010, the Court ordered that William B. von Herrmann be substituted as counsel of record for the Defendant, and relieved Jan Strifling.

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The Court heard Defense's Motion to Reconsider Sentencing on October 31, 2011. At the hearing, the Defendant also moved to vacate the guilty plea. A Motion to Vacate the Guilty Plea was never submitted in writing; rather, the motion was made on the record at the October 31, 2011, hearing.

Defendant's Motion to Reconsider

Sentencing was imposed by Judge Burch on September 21, 2009. The Motion to Reconsider was timely filed by Defendant on September 25, 2009.

The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion. *State v. Smith*, 276 S.C. 494, 498, 280 S.E.2d 200, 2010 (1981). A judge or other sentencing authority is to be according 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. *Wasman v. United States*, 468 U.S. 559, 563, 104 S.Ct. 3217, 82 L.Ed.2d 424 (1984).

Defense has failed to present any new or enlightening information regarding sentencing. The Court has once again considered all information that may determine proper sentencing, and finds that, given the facts and circumstances and lack of any new perspective, the original sentence of twenty years was appropriate. Thus, Defendant's Motion for Reconsideration is DENIED.

Defendant's Motion to Vacate Guilty Plea

The Defendant failed to file a Motion to Vacate the Guilty Plea in writing within ten (10) days after the imposition of sentence. Instead, the Defendant made its Motion to Vacate during the hearing for the previously filed Motion to Reconsider at the October 31, 2011, hearing in open court with a court reporter present.

Rule 4(a) of the SC Rules of Criminal Procedure is as follows: "An application to the court for an order shall be by motion which, unless made during a hearing or trial in open court with a court reporter present, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion." Rule 4(a), SCRCrimP.

000002

Also, "Except for motions for new trials based on after-discovered evidence, post trial motions shall be made within ten (10) days after the imposition of the sentence... The time within which to make the motion shall not be affected by the ending of a term of court or departure of the judge from the circuit, and the circuit judge shall retain jurisdiction of the action for the purpose of hearing and disposing of the motion if not heard and disposed of during the term..." Rule 29(a), SCRCrimP.

Defendant's motion was not a motion for new trial based on after-discovered evidence. Defendant's post-trial motion was not made within ten (10) days of September 21, 2009. The motion to vacate was not timely filed, and thus the Court does not have the authority to decide Ritter's motion to vacate.

In *State v. Warren*, Appellant Warren appealed guilty pleas to burglary in the first degree and attempted armed robbery. *State v. Warren*, 392 S.C. 235, 236, 708 S.E.2d 234, 235 (2011). After sentencing, Warren filed a timely motion to withdraw her pleas. *Id.* She then later amended her post trial motion to request reconsideration of her sentence, specifically abandoning the motion to withdraw her plea. *Id.* Warren argued to the SC Court of Appeals that the circuit court erred in finding it was without authority to consider her untimely motion to reconsider the sentence. *Id.* The Court of Appeals affirmed the circuit court's finding that her motion to reconsider was not timely filed, and found that her motion to reconsider her sentence, like the motion to withdraw a guilty plea, was subject to the ten day time period prescribed in Rule 29. *Id.* 392 S.C. at 240, 708 S.E.2d at 236. The Court of Appeals concluded that because the motion was filed more than three years after imposition of the sentence, Warren's motion was not timely, and thus was denied. *Id.*

The case at hand is distinguishable from *Warren* in that here, Defendant never filed a motion to vacate or amended its motion to reconsider. Rather, Defendant's motion to vacate was made October 31, 2011. In *Warren*, the Defendant filed a timely motion to withdraw pleas and, over three years later, moved to amend to seek a reconsideration of sentence. Per *Warren*, both motions to reconsider and motions to vacate are subject to the ten day time period in Rule 29. *Id.* Defendant obviously did not comply in the case at hand. Further, the Court in *Warren* concluded that despite efforts to amend, supplement, or convert her original post trial motion, because it was filed more than three years after imposition, her motion was not timely. *Id.* Similarly, Defendant's motion was filed over two years after the imposition of sentencing. Regardless of any assertions to withdraw the motion to reconsider and replace it with the motion to vacate, to amend the motion to reconsider,

000003

or to simply move to vacate in addition to reconsider, Defendant's motion to vacate is clearly untimely, leaving the Court without authority to hear it.

Even if the Court were to entertain Defendant's motion to vacate, it would still be denied:

"The withdrawal of a guilty plea is generally within the sound discretion of the trial judge." *State v. Riddle*, 278 S.C. 148, 150, 292 S.E.2d 795, 796 (1982). A trial judge should not accept a guilty plea without an affirmative showing that it was intelligent and voluntary. *Boykin v. Alabama*, 395 U.S. 238, 241, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969). Also, to intelligently and voluntarily enter a plea of guilty, all that is required is that a defendant have a full understand of the consequences of his plea and the charges against him. *Simpson v. State*, 317 S.C. 506, 508, 455 S.E.2d 175, 176 (1996). The record in a guilty plea proceeding must establish the factual basis for the plea. *LoPiano v. State*, 270 S.C. 563, 569, 243 S.E.2d 448, 451 (1978); *State v. Armstrong*, 263 S.C. 594, 598, 211 S.E.2d 889, 891 (1975). When a trial judge accepts a guilty plea, he "is free to use any appropriate procedure for determining the accuracy of the guilty plea. The judge must be certain that the defendant understands the charge and the consequences of the plea and that the record indicates a factual basis for the plea." *Armstrong*, 263 S.C. at 598, 211 S.E.2d at 891. "All that is required before a plea can be accepted is that the defendant understand the nature and crucial elements of the charges, the consequences of the plea, and the constitutional rights he is waiving, and that the record reflect a factual basis for the plea." *Rollison v. State*, 346 S.C. 506, 511, 552 S.E.2d 290, 292 (2001).

State v. Rikard, 371 S.C. 295, 300-301, 638 S.E.2d 72, 75 (2007).

Ritter argues that his guilty plea should be vacated. This argument is based on the recent S.C. Supreme Court decision *State v. Abel Jacobs*, handed down July 25, 2011, in which the Supreme Court affirms the circuit court's decision that a sentence for burglary in the first degree cannot be suspended under the language of S.C. Code 24-21-410. *Jacobs*, 393 S.C. 584, 713 S.E.2d 621 (2011). In *Jacobs*, Appellant pled guilty to burglary in the first degree. *Id.* The circuit court found that a sentence for burglary 1st was not suspendable under S.C. code 24-21-410 and sentenced Appellant to fifteen years. *Id.* On appeal, Appellant argued that a sentence for the conviction of first degree burglary is suspendable because the burglary statute does not expressly prohibit suspension. *Id.* The Supreme Court held "the trial court lacked the authority to suspend the sentence for first degree burglary; state gave the trial judge the discretion to suspend a criminal sentence in favor of probation unless the seriousness of the crime warranted a penalty of death or life imprisonment..." *Id.*, 393 S.C. at 587, 713 S.E.2d at 622.

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§ 24-21-410 states:

After conviction or plea for any offense, except a crime punishable by death or life imprisonment, the judge of a court of record with criminal jurisdiction at the time of the sentence may suspend the imposition or the execution of a sentence and place the defendant on probation or may impose a fine and also place the defendant on probation. Probation is a form of clemency.

S.C. Code Ann. § 24-21-410 (Supp. 2010). Ritter argues that like burglary 1st, the penalty for homicide by child abuse is punishable by death or life imprisonment, and thus, per *Jacobs*, a sentence for homicide by child abuse is not suspendable.

The *Jacobs* case does not change the characterization of Ritter's guilty plea as freely, voluntarily, or intelligently made. The record clearly reflects that both Ritter and his attorney understood the nature of the charge, the consequences of the plea, and the constitutional rights he was waiving, and that a factual basis was made by the Solicitor. The following exchange occurred between Judge Burch and defendant:

The Court: The indictment alleges that in Richland County on or about May 18th, 2007 that you caused the death of a child under the age of 11, that is Javon Simpson, ten months old, while committing child abuse or neglect, and that the death occurred under circumstances manifesting an extreme—extreme indifference to human life in violation of South Carolina code section 16-3-85(A)(1)(B)(1) of our code of laws, 1976 as amended. For that particular offense, the maximum possible penalty is up to life imprisonment with a minimum sentence of 20 years. However, that is not what we term a mandatory minimum sentence. The—we will have further discussion about that in a few minutes, but for right now I'm advising you of—when I say it's not a mandatory minimum sentence, that means that the minimum sentence portion of the statute can be suspended, as I understand the law. Now, have you got any questions about this charge?

The Defendant: No, sir.

Moreover, shortly thereafter, Defendant's lawyer, Jan Strifling, confirmed Ritter's understanding at the plea when he stated to the court:

Attorney Strifling: So we—we also enter this plea, Your Honor, with the understanding that the Court, as you have stated, believes that the statute under which my client is pleading is a suspendible statute. In other words, he's facing 20 to life, and Your Honor can give him a suspended sentence, you know, give him some committed sentence which you can suspend all or part of it. Now that's not to say that there has been any discussion of a sentence. In other words, as to what, if any, suspended sentence you give. There is no agreement with the Solicitor's Office. There is no agreement with your Honor. We have not discussed it, and so while—while the condition that I stated seem to be what we have agreed to, there

000005

is no—we did not discuss it with Mr. Ritter in his plea that if he did this, he would get this...

The Court: Thank you.

The clarification of sentencing for burglary 1st in *Jacobs* does not change the status of Ritter's plea. "The correct penalty is the one in effect at the time of sentencing, even if the penalty is repealed while the appeal is pending." *State v. Varner*, 310 S.C. 264, 265, 423 S.E.2d 133 (1992). "Thus, a criminal defendant receives the benefit of punishment mitigated by legislative amendment only when the amendment becomes effective before sentence is pronounced." *Id.* Clearly, the *Jacobs* decision was handed down well after the imposition of sentencing for Ritter. As of September 21, 2009, the Court had yet to speak on the possibility of a suspended sentence on crimes punishable by death or life imprisonment. Therefore, the subsequent clarification of the law does not affect sentencing.

At sentencing, Ritter had a full understanding of the consequences of his plea. He was advised of the mandatory minimum, the maximum, and the possibility of suspension. The Court considered a suspended sentence at Ritter's sentencing, as *Jacobs* had yet to be decided. Still, the Court did not impose a suspended sentence. Sentencing is not and was not affected by the subsequent decision that a penalty involving death or life imprisonment is not suspendable.

Ritter also argues that the Court should grant his motion to vacate based on *State v. Roddy*. *Roddy*, 339 S.C. 29, 32, 528 S.E.2d 418, 420 (2000). However, *Roddy* is distinguishable from the case at hand. In *Roddy*, Respondent entered a guilty plea and instead of receiving the negotiated plea, he received one that was more severe. *Id.*, 339 S.C. at 32, 528 S.E.2d at 420. Roddy appealed, argued that he thought the plea negotiations were binding and was unaware the judge could deviate. *Id.* The Supreme Court held "Defendant's guilty plea was knowing and voluntary, where plea judge explained the maximum sentence for each offense and defendant acknowledged that he understood the maximum sentence for each charge, defendant admitted that his guilty plea was not induced by any promises from his attorney that he would get concurrent sentences, defendant knew that his negotiated plea was not binding, defendant acknowledged that judges had option of sentencing him to either concurrent or consecutive time, and respondent's counsel stated that they merely 'hoped' the plea judge would accept the state's recommendation." *Id.* 339 S.C. at 34, 528 S.E.2d at 421.

The respondent in *Roddy* entered his guilty plea with negotiations. Even with the negotiations, his plea was deemed knowing and voluntary. Ritter's plea was entered without negotiations or recommendations, and

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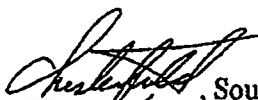
according to the record, he understood this fact. Further, in accordance with *Roddy* and in review of the record, even if it had been negotiated, his plea was still voluntarily and knowingly made. Ritter acknowledged at the plea hearing that he had been made no promises as to sentence.


As Ritter's plea was voluntarily, knowingly, and intelligently made, the motion to vacate would be denied.

Defendant's Motion to Vacate Guilty Plea is DENIED.

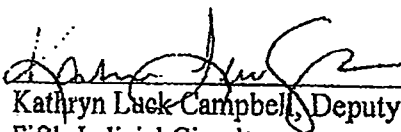
Defendant's Motion to Reconsider Sentencing is DENIED.

AND IT IS SO ORDERED.


South Carolina
This 5th day of March, 2012


The Honorable Paul Burch
Presiding Judge, Fourth Judicial Circuit
Court of General Sessions

I SO MOVE:


Kathryn Lack Campbell, Deputy Solicitor
Fifth Judicial Circuit

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STATE OF SOUTH CAROLINA)

County of Richland)

) COURT OF GENERAL SESSIONS
) 07-GS-40-4465
)

THE STATE OF SOUTH CAROLINA,)

vs.)

) TRANSCRIPT OF RECORD
)

WILLIE RITTER,)

DEFENDANT,)

July 20, 2009
Columbia, South Carolina

BEFORE:

THE HONORABLE PAUL BURCH, JUDGE.

APPEARANCES:

VANESSA C. SHIPLEY, ASSISTANT SOLICITOR
Attorney for the State

JAN S. STRIFLING, ESQ.
Attorney for the Defendant

KAREN TRACY
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 MS. SHIPLEY: May it please the Court, Your Honor.

2 THE COURT: Yes.

3 MS. SHIPLEY: Your Honor, I'm Vanessa Shipley with
4 the Richland County Solicitor's Office. Standing before
5 you is Willie Ritter. He is represented by Jan Strifling
6 from the private bar.

7 Your Honor, Mr. Ritter was charged back on May 18,
8 2007 with homicide by child abuse. The State was prepared
9 to call his case for trial today. His attorney has
10 indicated he wishes to plead guilty at this time.

11 THE COURT: Thank you, Solicitor.

12 Mr. Ritter, I need your age.

13 THE DEFENDANT: Yes, sir. I'm 65.

14 THE COURT: And where are you from?

15 THE DEFENDANT: Here in Columbia, South Carolina.

16 THE COURT: You're a resident of Richland County?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Your education?

19 THE DEFENDANT: Master's degree in Education;
20 Commanding General Staff, United States Army.

21 THE COURT: And with that said, you are retired
22 military?

23 THE DEFENDANT: Yes, sir.

24 MR. STRIFLING: Retired Colonel.

25 THE COURT: Mr. Ritter, have you discussed the charge

1 that the State has presented against you with your
2 attorney and also discussed with him your jury trial
3 rights?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you understand all of his advice at
6 this time?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: All right. I'm going to go over these
9 charges with you. If you have any questions, please ask
10 me to pause, and we'll let your attorney respond to any
11 questions you have. Then if you have any questions of me,
12 you just let me know.

13 The indictment alleges that in Richland County on or
14 about May 18th, 2007 that you caused the death of a child
15 under the age of 11, that is Javon Simpson, ten months
16 old, while committing child abuse or neglect, and that the
17 death occurred under circumstances manifesting an
18 extreme -- extreme inference to human life in violation of
19 South Carolina code section 16-3-85(A)(1)(B)(1) of our
20 code of laws, 1976 as amended.

21 For that particular offense, the maximum possible
22 penalty is up to life imprisonment with a minimum sentence
23 of 20 years. However, that is not what we term a
24 mandatory minimum sentence.

25 The -- we will have further discussion about that in

1 a few minutes, but for right now I'm advising you of --
2 when I say it's not a mandatory minimum sentence, that
3 means that that minimum sentence portion of the statute
4 can be suspended, as I understand the law.

5 Now, have you got any questions about this charge?

6 THE DEFENDANT: No, sir.

7 THE COURT: And how do you plead to this charge?

8 (Pause).

9 THE DEFENDANT: I'm guilty.

10 THE COURT: Do you understand by entering a plea of
11 guilty that you waive your constitutional right to a jury
12 trial?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: If you had a jury trial, the State would
15 have to prove your guilt beyond a reasonable doubt and
16 convince 12 jurors unanimously of your guilt. In other
17 words, all 12 would have to vote to convict you in order
18 to find you guilty. Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: If you have a trial, you could
21 cross-examine the State's witnesses and put up your own
22 defensive witnesses. Do you understand that?

23 THE DEFENDANT: Yes, I do.

24 THE COURT: You also understand that you could
25 testify at your own defense, but you would also have a

1 constitutional right not to testify. If you didn't, it
2 couldn't be held against you, and I would even tell the
3 jury that. That's your fifth amendment right under the
4 United States Constitution. Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand that you are presumed
7 innocent and that presumption would stay with you
8 throughout any trial? It would only end if a jury
9 convicted you.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And if a jury did convict you, you would
12 have a right to appeal, just as you can appeal a guilty
13 plea, as long as you file a notice of appeal within ten
14 days of sentencing?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Of course, you've got -- it's a little
17 more difficult nowadays to appeal a guilty plea because
18 you have got to meet further requirements, but the basic
19 bottom line rule about that is you have got to file a
20 notice of appeal within ten days of sentencing.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You understand that you're giving up your
23 right to remain silent by entering this plea?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Are you satisfied with your attorney's

1 advice and services in this matter?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Has he answered all of your questions?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Has he contacted everybody you asked him
6 to contact, if any?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. Any problem with representation?
9 We need to talk about it now.

10 THE DEFENDANT: Yes, sir, I understand.

11 THE COURT: You're satisfied with his service?

12 THE DEFENDANT: I -- I'm satisfied.

13 THE COURT: Has anybody promised you anything, held
14 out any hope of reward or threatened you in any way in
15 order to get you to enter this plea?

16 THE DEFENDANT: No, sir.

17 THE COURT: Are you under the influence of any drugs,
18 alcohol or medication whereby it could be affecting your
19 understanding at this time?

20 THE DEFENDANT: No, sir.

21 THE COURT: Do you have any mental or physical
22 problems or conditions that might be affecting your
23 understanding in any way?

24 THE DEFENDANT: No, sir.

25 THE COURT: Have you ever been found mentally

1 incompetent by any authority?

2 THE DEFENDANT: No, sir.

3 THE COURT: You presently understand what you're
4 doing?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You understand me up to this point?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Are you entering this plea of your own
9 free will and accord?

10 THE DEFENDANT: Yes, I am.

11 THE COURT: And do you have any questions at this
12 time?

13 (Pause).

14 THE DEFENDANT: Not for you, sir.

15 THE COURT: I find that this plea is freely,
16 voluntarily and intelligently entered into, and you have
17 had the services of a competent attorney with whom you
18 tell me you're satisfied. Therefore, the plea is
19 accepted.

20 MS. SHIPLEY: May it please the Court, Your Honor.

21 Your Honor, just for the record, I wanted to
22 introduce you to the mother of Javon Simpson. Her name is
23 Sophia Simpson, if you could please stand.

24 She is present in the courtroom today, Your Honor.
25 Also seated at the State's table are the investigators

1 that investigated the case with the Columbia Police
2 Department, Investigator Thomas and Investigator Reese.

3 Your Honor, this incident happened back on May 18th,
4 2007. Ms. Simpson was -- had just enrolled her
5 ten-month-old baby into the Ritter Daycare Center. The
6 center is located at 1833 Columbia College Drive here in
7 Richland County.

8 On the third day that the baby was picked up by the
9 defendant, who was driving a van through his daycare
10 company, and he was the operator and director for the
11 daycare, it was about 7:20 that morning that Ms. Simpson
12 remembers the defendant coming to her house.

13 She loaded her child into a car seat. We have the
14 car seat here, into the backseat of the defendant's van
15 directly behind the driver's side.

16 She indicated that the way she had enrolled her child
17 was through the A.B.C. program of D.S.S. for indigent
18 mothers.

19 Your Honor, that is a voucher system program which
20 basically allows the defendant to be compensated at a
21 higher rate for taking these type of parents, children,
22 in.

23 Your Honor, the defendant -- the routine was for him
24 to then go back, pick up some more infants of that same
25 age, take them back to the daycare center and then leave

1 to go pick up another load of children. He would go,
2 break it down by neighborhoods, according to his
3 employees.

4 This load was -- of children was at approximately
5 7:20 a.m., and we believe that he would have then arrived
6 at the Ritter Daycare Center about ten minutes later. In
7 fact, he indicated to law enforcement that he had picked
8 up one more child and then driven to the daycare center.

9 According to the witnesses that worked for him, all
10 eight that we had subpoenaed to testify pretty much
11 indicated that there was no set individual with --
12 assigned with the duty to assist him in unloading
13 children.

14 It was sort of as if he would pull up and honk the
15 horn for the infants, whoever was available would go and
16 assist him.

17 D.S.S. regulations are very clear that the driver of
18 the vehicle is at no time allowed to be counted as one of
19 the individuals required to unload children.

20 In this case, we -- we don't know who assisted the
21 defendant in unloading the children. Regardless, Your
22 Honor, after this load of children were picked up,
23 infants, the defendant was the driver and responsible for
24 the van and ended up parking the van in the parking lot
25 directly in front of the daycare and it -- no shade or

1 anything like that, and according to the D.S.S.
2 regulations, a sweep is supposed to be conducted of the
3 vehicle to make sure there are no more children left in
4 the vehicle after they had been transported.

5 Also, a log is supposed to be kept anytime a child is
6 picked up, the date and time of that pickup is supposed to
7 be documented by the driver. There is also a requirement
8 that the date and time be written down on the same log
9 when the children are taken to the daycare and dropped
10 off.

11 Your Honor, in this case, that was not done. We
12 interviewed every daycare worker that worked there. One
13 of them even indicated that the logs were available, the
14 forms were available in the -- in the facility. They just
15 were never used.

16 The defendant does have a history of infractions for
17 this, violations of this, where D.S.S. wrote him letters
18 citing him for these kind of violations and ordering him
19 to correct them or else they threatened to revoke his
20 license.

21 Your Honor, at that point what happens is from about
22 7:30 that morning, the defendant's routine is then just to
23 remain at the premises until it's time to go pick up the
24 after school children, the school age children.

25 About two o'clock in the afternoon, that was his

1 routine. He would leave the daycare center to go pick up
2 the school age children.

3 I've got a map right here, Your Honor. If you need
4 any assistance, I'm going to just mark a couple of
5 addresses.

6 The first school -- we know that the defendant left
7 his daycare center, which is located right over here on
8 Columbia College Drive. We know that he picked up one
9 child by the name of Marcus Callahan about 2:20 in the
10 afternoon.

11 Your Honor, this is about ten -- a ten-minute drive
12 away from the daycare center. The John P. Thomas school
13 address, just for the record, is 6001 Weston Avenue.

14 Marcus Calhoun, Your Honor, indicated that when he
15 got on the van, there was another child, school age child,
16 on the van, and that child said something to the effect
17 of, "Oh, what a pretty baby."

18 At that point, Marcus Callahan indicates -- and he's
19 eight years old, Your Honor, indicated that the defendant
20 came to a -- a fast halt in the parking lot, jumped out of
21 the driver's side of his van, opened up the driver's side
22 of where the child was, and I've got a photograph to --
23 I'll just bring you all three, Your Honor, opened up the
24 rear of his van.

25 You'll note on that van it's a 2002 Ford Windstar.

1 The doors on the -- for the rear of the vehicle open on
2 both sides.

3 Your Honor, that is not the van in question. This is
4 a similar van, and that is the actual car seat that was
5 used in the case. This was for demonstrative purposes for
6 trial.

7 Your Honor, you'll see how clearly evident it is that
8 there is a car seat there, and there is a third photograph
9 that you'll look at is the actual vision of the driver.

10 If you were to be seated in the driver's seat, what
11 you would see when you look into the rearview mirror right
12 behind you, you can see about -- almost a half of a car
13 seat in the back right behind the driver's seat.

14 Anyhow, Your Honor, the defendant -- it was brought
15 to his attention that the child was there in the van
16 because of another school age child indicating, "What a
17 beautiful baby".

18 According to Marcus Callahan, the eight year old, the
19 defendant gets out, removes the baby from the car seat and
20 puts the baby up to his ear to hear if he's breathing.

21 Mr. -- the child also indicated that he saw the
22 defendant check for pulses. Then he put the baby back
23 into the car seat, and Marcus Callahan indicated that
24 instead of going straight to the Richland Memorial
25 Hospital which is located right there, they go pick up

1 another child by the name of De'Andray over at the Arden
2 Elementary School, which is just very close proximity,
3 Your Honor.

4 From there, rather than calling 911, all the
5 employees would testify the defendant carries his cell
6 phone at all times.

7 At no time is there a record of the defendant calling
8 911. At no time does he go to the hospital with this
9 child. Rather, he goes and picks up this other child and
10 then takes Marcus and the other child and the dead baby in
11 the car to the Ritter Daycare Center, which is located,
12 again, on Columbia College Drive.

13 According to the E.M.T.s, when eventually they are
14 called, it's about a three-minute drive from this location
15 to the Ritter Daycare Center to the Richland Memorial
16 Hospital. So it was just close, close proximity. We
17 would have presented this evidence to go to his state of
18 mind as an extreme indifference towards human life.

19 Your Honor, at that point when the defendant arrives
20 at the school, it's nap time for the infants, and the
21 routine is you don't honk the horn. You might wake up all
22 the infants. So typically, the school-age kids get off of
23 the van by themselves. They're old enough, and they go up
24 to the daycare center, ring the doorbell, and the daycare
25 worker comes and opens the door for them.

1 In this case, Your Honor, that particular occasion
2 the defendant honked his horn. So at that time, a woman
3 by the name of Kim Phillips happened to be around the
4 vicinity.

5 She was actually waiting on the school-aged children,
6 and she opens the door, and the defendant apparently just
7 comes up to her and says, "We have a situation."

8 She follows him to the van, which is parked right
9 outside, and she sees the school-aged kids getting off and
10 she talks to them.

11 The next thing she knows, she is walking back into
12 the building, and the defendant hands her Javon Simpson
13 and says, "You check and see if he's okay."

14 At that point, Kim Phillips is just totally
15 distraught to see a dead infant in her arms unexpectedly.
16 She takes the child to another daycare worker by the name
17 of Katherine Brown-Bush, who is familiar with performing
18 C.P.R. on infants.

19 At that point, Ms. Bush immediately starts C.P.R.,
20 first in Mr. Ritter's office and eventually takes him to
21 the infant room and puts him on the changing table so she
22 could perform C.P.R. there.

23 As she is performing C.P.R., she instructs Wendy
24 Glenn, another daycare worker, to call 911, and that is
25 done. That's the first time anyone calls 911. That's at

1 like 2:45 in the afternoon, some 45 minutes after
2 Mr. Ritter gets into the van to go pick up the school aged
3 kids.

4 Your Honor, at that point E.M.S. advises them to
5 continue C.P.R. and the ambulance is en route. As I
6 indicated earlier, it took the ambulance three minutes to
7 get to the Ritter Daycare Center from the hospital.

8 When they arrived, they tried everything they could
9 for this child. I want to bring to your attention that
10 the child had been in air conditioning in the defendant's
11 vehicle since about 2:20, 2:00, 2:20.

12 When they brought him into the daycare center, it's
13 air conditioned inside of the daycare center. Wendy Glenn
14 says that after efforts to resuscitate the child were
15 fruitless, she was trying to confront him and changed his
16 clothing and even put a cold wet towel on him because he
17 was so hot, and his cloths were drenched in sweat. That
18 would have cooled him off a little bit, as well.

19 When he is presented to the Richland Memorial
20 Hospital, about ten minutes of -- of three o'clock that
21 afternoon, his core temperature was 104.6 degrees.

22 Dr. Nathaniel Jonathan Stewart, John Stewart, was the
23 doctor that was the attending for that day. He indicated
24 that the child -- they had no idea what was wrong with
25 this child.

1 They hadn't gotten the full history of what was wrong
2 with this child. In fact, when the ambulance leaves, law
3 enforcement arrives. At first an employee tells law
4 enforcement that they found the baby in the crib.

5 Well, apparently that was because the defendant had
6 told this employee to lie to the police and say that they
7 found the baby in the crib.

8 Of course, that didn't take long for the medics to
9 realize it was not possible or the ambulance -- or the --
10 the police that arrived. Eventually, Your Honor, the
11 staff is separated by all of law enforcement when they
12 arrive, and it's very chaotic.

13 All of the daycare workers are extremely distraught,
14 and they began -- their -- the police come and begin their
15 investigation.

16 Your Honor, the defendant had -- when he dropped the
17 child off, he leaves to go pick up more kids. He does not
18 remain on the premises.

19 When he does return to the premises, he makes contact
20 with Investigator Thomas -- or rather Mr. Thomas makes
21 contact with him. When he makes contact with Investigator
22 Thomas, he indicates to him that he was not there at the
23 incident location when it occurred; that it happened at
24 the daycare, but he was not there.

25 He also indicated to a Corporal Howell with the

1 Columbia Police Department that he was not there when it
2 happened. Again, insinuating that this took place at the
3 daycare center when it happened in the van, and that he
4 was not there. Well, it's his van.

5 Eventually, Your Honor, another investigator by the
6 name of Ida Menendez was -- the defendant left again
7 during the investigation to go do payroll and then was
8 instructed by Investigator Kevin Reese to come back; that
9 he was not allowed to leave.

10 When he comes back, Investigator Reese asks
11 Investigator Menendez to keep an eye on him so he won't
12 leave again, and she sits with him in his office.

13 He has a wall in his office with a bunch of Army
14 awards and certificates. So she just starts engaging him
15 in conversation about his military background because she
16 is retired Army, as well.

17 She indicated that he seemed extremely proud of his
18 accomplishments. She asked him a little bit about his
19 daycare, and he indicated -- told her about the history of
20 the daycare, how he had founded the daycare. Then the
21 last thing he said, and the only time he got emotional,
22 Your Honor, is when he says something to the effect of,
23 "No one will remember me for all the good that I've done
24 because of this."

25 Eventually, Your Honor, Investigator Reese introduces

1 himself to him at his office and asks him what exactly,
2 you know, happened today. That is the time that
3 Mr. Ritter says, "I picked the child up at 7:20. His
4 mother put him in the car. The baby was asleep, wasn't
5 making any noise. I drove the baby -- I picked up another
6 child, then drove to the daycare center, and I don't
7 know -- I don't remember removing the child from the van,
8 nor do I remember anyone else removing the child from the
9 van." That is the first time law enforcement hears that
10 the child had, indeed, been left in the van.

11 The other employees, Your Honor, did tell the police
12 that at one point Mr. Ritter asked Investigator Thomas if
13 he could have a moment with his staff because they were so
14 distraught so he could calm them down.

15 Well, Investigator Thomas allowed that, and
16 apparently what occurred, according to all of the daycare
17 workers, is the defendant shuts the door behind him and
18 tells them not to speak to the police.

19 So when the investigators were trying to conduct
20 their investigation, they -- they encounter a little bit
21 of a problem, but eventually, all of the daycare workers
22 came forward and were very truthful and honest with the
23 fact that the baby had, indeed, been left in the van all
24 day.

25 Your Honor, the degree of temperature out there that

1 day, at about two o'clock in the afternoon, was 75
2 degrees, and according to Dr. Clay Nichols, the forensic
3 pathologist in this case, the core temperature inside of a
4 vehicle, interior temperature, increases 40 degrees after
5 about an hour. This child had remained in there for
6 approximately seven hours.

7 So as I indicated earlier, when the child is
8 presented to the hospital, his core temperature is 104.6.
9 Eventually, the child -- basically, he was declared dead
10 moments after he was admitted at the emergency room, and
11 Javon then had an autopsy scheduled the next day.

12 Dr. Nichols' findings are that the child suffered
13 from cardiac arrest due to hyperthermia after being left
14 unattended in the vehicle.

15 I beg the Court's indulgence, Your Honor.

16 (Pause).

17 Other statements, Your Honor, that Mr. Ritter made,
18 according to the witnesses, is Madeline Thompson indicated
19 she worked in the one- to two-year-old section, and she
20 overheard the defendant say around 8:15, 8:30, "I'm
21 missing a baby."

22 Tammy Brown, who actually was the infant daycare
23 worker that day, asked the defendant where Javon was
24 because it was his third day. According to Ms. Brown, he
25 ignored her. Other statements that I think that are

1 relevant -- I believe I've covered all of them, Your
2 Honor.

3 Your Honor, we met extensively with D.S.S. in this
4 case. In fact, this is a case where D.S.S. tried to do
5 the right thing. They tried to shut him down on two
6 separate occasions prior to this.

7 The defendant was able to win appeals and get back
8 into operation. The State would have asked the Court to
9 consider admitting only prior violations that he was cited
10 with that day.

11 There's several more, a box, five volumes of
12 notebooks, but in -- for purposes -- we didn't want to
13 insult the Court's intelligence by seeking just random
14 prior violations.

15 We thought that the relevant ones were the five that
16 he was cited for that day. One of them would have been
17 D.S.S. regulation 114-504, and that's dealing with,
18 "Children shall be supervised at all times by qualified
19 personnel."

20 The prior violations, just for that one, was
21 November 2nd, '99, a child was found unresponsive in the
22 bathroom; August 16th, 2002, a child was left alone in the
23 office area; three infants were left alone in the
24 classroom area, and a caregiver was observed sleeping in
25 the infant room.

1 The defendant did acknowledge these deficiencies in a
2 letter written, responding to them that he would correct
3 them, on December 17th, 2002.

4 The next violation for which he was cited that day
5 was, "A child shall not be left unattended in a vehicle."

6 On August 14th, 2001, the defendant -- there was an
7 infant found unsupervised in a van, and he was cited for
8 that, as well. Barbara Stevenson was prepared to testify
9 to that.

10 Another regulation that he violated that day is
11 failing -- that children shall be supervised directly
12 during the boarding and unboarding of children entering
13 and exiting vehicles.

14 On May 25th, 2004, the defendant was cited with not
15 maintaining ratios while transporting children. He failed
16 to have at least two staff members on the van when there
17 were nine more kids.

18 The next regulation that he violated that day was
19 114-505, and it was the one that requires a written
20 transportation log to account for the loading and
21 unloading of children at every location.

22 Your Honor, on January 20th of '98, he was cited for
23 failing to maintain a log; June 23rd, '98, another
24 citation for failing to keep a log, and lastly, July 24th,
25 2003, cited for not having a log. Then again, all of the

1 daycare workers indicated that he -- that was not his
2 practice at the time of this incident.

3 Lastly, the last violation was failing to notify
4 D.S.S. for the death or injury of a child. Your Honor,
5 the defendant failed to notify D.S.S. in this case,
6 obviously, but also in the past he had failed to notify of
7 injury to the children requiring medical attention, which
8 requires the same notification procedures.

9 The A.B.C. program, as I indicated to you, Your
10 Honor, the defendant voluntarily enrolled to be an A.B.C.
11 participant at an enhanced level. They referred to it as
12 level (b). As a result, he is compensated at a higher
13 rate.

14 According to their calculations, since 2001 when he
15 enrolled to be a member of the A.B.C. program, he has
16 earned \$496,000.

17 I bring that to your attention because it's the
18 State's position that for him, this was a business. Javon
19 Simpson was merely inventory that he forgot, didn't give
20 this child the benefit of -- even what Budweiser delivery
21 people at least document what inventory they were dropping
22 off and logging off. That was not done for Javon Simpson,
23 Your Honor. That's why I wanted the Court to be aware
24 that this was a business for this man.

25 Your Honor, as indicated in chambers, he has a

1 bounced check, and that is the extent of his prior record.
2 And, Your Honor, we're going to allow -- or ask the Court
3 to allow the mother of the child to speak at sentencing,
4 if that's okay with the Court.

5 THE COURT: That will be fine.

6 MS. SHIPLEY: Thank you, Your Honor. That's all the
7 State has at this time.

8 THE COURT: I'll be glad to hear both now and then.

9 MR. STRIFLING: Thank you, Your Honor. Let me
10 just -- since we're just at the plea stage at this point,
11 some of the -- some of the material that Ms. Cooper has --
12 has stated, we agree with. Some of it we don't agree
13 with. Some of it we think is relevant. Some is not
14 relevant, we think.

15 Some of it may be relevant at sentencing but not
16 during a trial, but we do -- we do -- we do agree,
17 however, that for what it's worth, Mr. Ritter does
18 acknowledge, obviously, that he picked little Javon up,
19 and that when he brought the child to the daycare center,
20 the other three children got off the van. Javon did not
21 get off the van.

22 I think that -- again, this goes to mitigation, so I
23 don't really want to get into that. I think that it was a
24 mistake by Mr. Ritter. I think he felt that the other
25 people who came to open the door -- the door doesn't open

1 from the outside, which is why they have to lock so --
2 which is why they have to honk.

3 So somebody had to come out. I think he -- he was --
4 he misapprehended what happened. Clearly, that's -- that
5 is enough to meet the test of the statute, in my judgment.

6 Some of the other stuff, the after -- after situation
7 where he was taking the children back, we dispute some of
8 the issues -- some of the testimony with regard to the
9 pick up, but by and large that's accurate.

10 I will say, Your Honor, that we have engaged a
11 forensic psychiatrist, Dr. Harold Morgan, who has
12 diagnosed my client as being schizoid, and without going
13 into a whole lot of detail, we don't think it's a mental
14 defense. We didn't -- we don't suggest that it is.

15 We didn't bring it as a mental defense but -- and not
16 even by way of excuse but maybe by way of explanation.
17 Schizoid personality people are the equivalent of mildly
18 autistic children.

19 They don't interact with people very well. They
20 don't -- they have the same -- they don't have the same
21 expression of emotions that you and I and Ms. Cooper,
22 people in this courtroom have.

23 So some of what he did seems pretty cold and
24 calculating, and as Ms. Cooper points out, delivering of
25 a -- delivering of a case of beer to an establishment was

1 simply his way of dealing with things. Again, I don't
2 want to get into a dispute about that.

3 I see Ms. Cooper is taking notes over there. If she
4 wants to challenge that, that's certainly fine, but I
5 think it's for sentencing.

6 I'm just pointing out at this juncture we believe
7 that what we -- what we do concede is that the evidence
8 that we believe is not controverted, that we do not intend
9 to controvert, the evidence that there is no way to
10 controvert, would be enough for a jury to find extreme
11 indifference to human life. That being said, that's why
12 we're entering the plea. So I would certainly hope that
13 we can get him back in all of these issues again when the
14 sentencing comes.

15 I did request, and I think Your Honor has agreed to
16 the presentence report on Mr. Ritter before -- before he
17 is sentenced.

18 We have discussed the bond situation. As I
19 understand it, the Court is willing to allow Mr. Ritter to
20 stay out pending sentencing so long as the bonding company
21 agrees to that.

22 I have spoken to someone named Tommy at the A.B.C.
23 Bonding Company. He says that that's -- that's correct,
24 he will do that. I didn't ask him to come over here. I
25 just did that within the last five or ten minutes.

1 If we could -- I'll be glad to get him on the
2 telephone for Your Honor or clerk or however you want to
3 do that to confirm that, that part of it.

4 So we -- we also enter this plea, Your Honor, with
5 the understanding that the Court, as you have stated,
6 believes that the statute under which my client is
7 pleading is a suspendible statute.

8 In other words, he's facing 20 to life, and Your
9 Honor can give him a suspended sentence, you know, give
10 him some committed sentence which you can suspend all or
11 part of it.

12 Now, that's not to say that there has been any
13 discussion of a sentence. In other words, as to what, if
14 any, suspended sentence you give.

15 There is no agreement with the Solicitor's Office.
16 There is no agreement with your Honor. We have not
17 discussed it, and so while -- while the conditions that I
18 stated seem to be what we have agreed to, there is no --
19 we did not discuss with Mr. Ritter in his plea that if he
20 did this, he would get this.

21 So it's simply that ability is there for Your Honor,
22 and I think that's the -- that's his understanding, and I
23 think that he would agree that -- that there is sufficient
24 evidence for a jury to find an extreme indifference, and
25 therefore, convict him under the statute, and the rest, of

1 course, is simply my understanding of the -- would be the
2 terms of this plea agreement.

3 Thank you. Thank you, Ms. Cooper, as well.

4 THE COURT: Thank you.

5 MS. SHIPLEY: Your Honor, and what I was jotting down
6 is I didn't want to forget to ask the Court that the State
7 reserves the right to refute the schizoid defense that he
8 says he alluded to earlier.

9 MR. STRIFLING: Sure.

10 MS. SHIPLEY: Thank you, Your Honor.

11 THE COURT: Okay. Counsel, I'll need you to assist
12 the Clerk's Office. We need to, at least, verbally
13 confirm with the bondsman that he will continue on until
14 sentencing can be completed.

15 Do we have anybody from Probation and Parole?

16 MS. SHIPLEY: No, sir. I can run and get them,
17 though.

18 Thank you.

19 MR. STRIFLING: Well, Judge, Elizabeth Cook, who is
20 an investigator, a former police officer, is here to help,
21 if that would be all right.

22 MS. SHIPLEY: Your Honor, would you like Ms. Tull to
23 call the bonding company right now while we wait?

24 (His Honor nods in the affirmative).

25 MR. STRIFLING: I think a person named Tommy is

1 there.

2 (Pause).

3 THE CLERK: Yes, sir.

4 THE COURT: All right. Counsel, let's discuss this
5 at the time of sentencing.

6 I will be back in the circuit on August 31st for
7 Kershaw General Sessions, over in Camden, and then I will
8 be back here on September 21st for another term of General
9 Sessions here in Columbia, so that's our two options.

10 MS. SHIPLEY: Out of an abundance of caution, Your
11 Honor, probably the latter date just to make sure that the
12 report is concluded.

13 MR. STRIFLING: That's fine with me, Judge.

14 MS. SHIPLEY: Okay. September 21st. Well, I'm not
15 going to give your client any more notice.

16 MR. STRIFLING: No.

17 MS. SHIPLEY: If he doesn't show up, there will be a
18 bench warrant.

19 MR. STRIFLING: We'll be in court that Monday, I
20 guess.

21 MS. SHIPLEY: Monday the 21st.

22 THE COURT: Should there be a schedule change, I'll
23 get back with both of you.

24 MR. STRIFLING: Thank you, Your Honor.

25 THE COURT: We'll decide where we have to go.

1 MS. SHIPLEY: Thank you very much, Your Honor.

2 MR. STRIFLING: Thank you, Your Honor.

3 THE COURT: Thank you all. Anything else before
4 we...

5 MS. SHIPLEY: No, sir. That's all from the State,
6 Your Honor.

7 MR. STRIFLING: Your Honor, I filed and have given
8 Ms. Cooper a --

9 MS. SHIPLEY: It's Shipley.

10 MR. STRIFLING: Sorry.

11 MS. SHIPLEY: That's all right.

12 MR. STRIFLING: -- a sentencing memorandum, and I'll
13 forward one to you, if that would be all right that I've
14 done. I may -- I may actually do some more --

15 THE COURT: If you'll provide that, also, to
16 Probation and Parole.

17 MR. STRIFLING: Yes.

18 THE COURT: Do we have them?

19 THE BAILIFF: She's coming. She's coming.

20 MR. STRIFLING: I don't have a copy of it, but I'll
21 deal with it.

22 THE COURT: Mr. Ritter.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you have a passport?

25 THE DEFENDANT: No, sir.

1 THE COURT: Okay.

2 MS. SHIPLEY: They're upstairs finishing paperwork
3 for Judge Cooper. Ms. Tull has agreed to forward all
4 paperwork.

5 THE COURT: That would be fine. If the Clerk's
6 Office will just notify them we need a presentence
7 investigation and also any sentencing recommendation they
8 have.

9 MR. STRIFLING: Thank you.

10 MS. SHIPLEY: Thank you very much, Your Honor.
11 That's all from the State.

12 MR. STRIFLING: Thank you, Ms. Shipley. You did a
13 good job.

14 THE COURT: All right. Mr. Ritter, stay in touch
15 with your attorney because we may have schedule changes as
16 things develop.

17 THE DEFENDANT: Yes, sir.

18
19 (Whereupon, the proceedings were concluded.)
20
21
22
23
24
25

STATE OF SOUTH CAROLINA)	GENERAL SESSIONS
)	
County of Richland)	2007-GS-40-4465
)	
)	
THE STATE,)	
)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
WILLIE RITTER,)	
)	
DEFENDANT,)	

September 21, 2009
Columbia, South Carolina

BEFORE:

THE HONORABLE PAUL BURCH, JUDGE.

APPEARANCES:

VANESSA C. SHIPLEY, ASSISTANT SOLICITOR
Attorney for the State

JAN STRIFLING, ESQ.
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

CERTIFICATE OF REPORTER

38

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1 will say, Judge, that it would be simple to say that
2 this was such a terrible accident that he should get a
3 substantial punishment, and anything substantial is
4 going to be a life sentence for Mr. Ritter with his
5 age and health.

6 I would ask the Court for a reasonable sentence
7 that will allow him to reflect on what has happened,
8 which is now the situation that he has put in place
9 failed. Of course, with that he accepts
10 responsibility, but I would ask the Court to give him
11 a light at the end of the tunnel.

12 Because --- not only for what he has done with
13 that, but what he could mean to the community in the
14 future. Certainly, he deserves to be punished, but
15 with all due respect, I, members of the community that
16 have come forward and Mr. Ritter, asks the Court for
17 some light at the end of the tunnel, some ability to
18 come back, be a member of this community again.

19 I think if he's allowed to do that, he will
20 continue to be a help to the community. Thank you.

21 THE COURT: Counsel?

22 MS. SHIPLEY: Your Honor, if I may just respond
23 and allow Ms. Simpson --- her name is Sophia Simpson.
24 That is the name of --- the mother of this child, and
25 the child's name is Javon Simpson. They have names.

1 Your Honor, if I could let her to speak last,
2 because of course, her opinion is the most important
3 opinion in this entire courtroom. She is the one that
4 has suffered the greatest loss of anyone in this
5 courtroom.

6 Your Honor, I was listening to Mr. Strifling talk
7 about how I painted a picture to Your Honor when he
8 pled guilty. I just want Your Honor to know that I
9 don't know Mr. Ritter. I'm simply relaying to the
10 Court the facts of case. That is exactly what I did
11 on July 20th when I explained to you that when he
12 discovered this child, he continued to drive with the
13 baby in his car, after he had taken the baby out of
14 his car --- car seat, put the baby up --- Javon, up to
15 his ear to hear if the baby was breathing.

16 He then puts the baby back in the car seat and
17 continues to drive to pick up other children while he
18 was three minutes away from Richland Memorial Hospital.

19 He also carries his cell phone with him. Not at
20 any time did he call 911, nor did he take the baby to
21 the hospital.

22 Instead, he takes the baby to the day care center.
23 He is a Lieutenant Colonel in the Army. He is
24 supposed to be a leader.

25 Instead, he abandoned Javon with the coworkers or

1 the staff of Willie Ritter Day Care Center. He left
2 it to them. In fact, he told one of the witnesses,
3 one of the ladies that worked there, Ms. Katherine
4 Brownly, that, "Here, you take care of this
5 situation." He said that to one of the ladies that
6 worked there, and then he leaves.

7 That is not an example of leadership. That is
8 not an example of remorse. That is an example of
9 trying to get away from something you know you did
10 wrong.

11 Your Honor, he then returns to the day care
12 center and makes contact with one of the officers and
13 tells the officer that he wasn't there when the
14 incident happened, trying to make it sound like it
15 happened at the day care center, inside of the day
16 care center.

17 He instructed a --- or told an employee, another
18 staff member, "You tell the police you found Javon in
19 the crib in the infant room," to try to cover-up that
20 the baby had been left for seven hours in the van.

21 He also then --- not only did he lie by saying he
22 wasn't there during the incident, he instructed his
23 staff not to cooperate with these investigators,
24 Investigator Reese and Investigator Thomas. He told
25 them not to talk to the police.

1 Those are actions of a culpable state of mind,
2 Your Honor, a state of mind that does reek of extreme
3 indifference to human life.

4 As a result, Ms. Simpson has suffered a loss that
5 no one in this courtroom, not even Your Honor, can
6 replace, but you can give her justice, Your Honor. We
7 would respectfully request that you sentence him to 20
8 years.

9 Ms. Simpson, please read your statement to the
10 Judge.

11 THE MOTHER: I just would like to say that it's
12 --- it's been two years, four months, three weeks, and
13 three days since the last time I held my baby. It's
14 been really hard these last couple of years, a lot of
15 decision making.

16 I just also would like to thank everybody that
17 had everything to do with today, all your sweat and
18 tears in this. I just want to appreciate --- I just
19 want to say that I appreciate that.

20 Javon will be missed by family and friends, but
21 most of all by his mother.

22 And to Mr. Ritter, I do forgive you because God
23 forgave me ---

24 UNIDENTIFIED WOMAN: Amen.

25 THE MOTHER: --- so I forgive you, and I just

1 wanted to --- just an apology.

2 I appreciate that. That's all I really wanted.

3 UNIDENTIFIED WOMAN: You got it.

4 THE MOTHER: That's all I really wanted. If you
5 had showed any type of sympathy that day, you probably
6 wouldn't even be here, because it's not about the fact
7 that he's not here.

8 What you did to why he's not here, it's no help,
9 but God does everything for a reason. So I also would
10 like to say that God doesn't make no mistakes, and
11 hopefully he won't make one today.

12 MS. SHIPLEY: Thank you, Your Honor.

13 THE COURT: Anything from law enforcement?

14 THE INVESTIGATOR: No, Your Honor.

15 THE INVESTIGATOR: No, Your Honor.

16 THE COURT: First of all, I want to thank all of
17 you that came today taking part in this sentencing
18 procedure, both for Colonel Ritter and also the
19 victim's family.

20 I appreciate you're coming and the comments that
21 you have given to me. I don't mind telling you in all
22 my years on the bench, this is probably one of the
23 most difficult matters that I've been faced with
24 handling.

25 I also want to thank counsel, both for the State

1 and the defense in their presentations to the Court,
2 including the follow-up briefs. It gave me some
3 guidance on this hearing. I also want to thank
4 Probation and Parole for the intensive presentence
5 investigation that they completed for the Court.

6 I want all of you to understand the particular
7 law that is involved in this case, this hybrid type of
8 law compared to what most of us attorneys and judges
9 are used to, having practiced and presided over the
10 years.

11 Our law of homicide, of course, evolved from the
12 old English common law, was divided, basically, into
13 three different areas: That of murder, which we all
14 know in most states is the premeditated homicide where
15 plans were made.

16 In this State, it's a homicide that involves
17 malice aforethought. A lesser-included offense of
18 that is voluntary manslaughter where you have homicide
19 that involved heat of passion, heat of anger, and then
20 the lesser of the three was involuntary manslaughter
21 where you have the death by negligence, as it is
22 sometimes said, carelessness.

23 The legislature has drawn up this particular law,
24 pretty well disregarded the old law as we know it, and
25 I --- from what I've researched about it, it seems

1 like the justification for their enhancement of this
2 particular law is because of the innocence and
3 vulnerability of a child that becomes a victim, as
4 well as child advocacy groups met with the various
5 panels over at the legislature coming up with this
6 very strict law that has unusual teeth to it as far as
7 punishment.

8 We all know what the law is about suspended
9 sentences, but I also know what the legislature came
10 up with in stating their minimum sentence.

11 Colonel Ritter, I know probably in the past ---
12 well, I don't know that, but I would --- I would think
13 that you have probably been involved in the
14 court-martial panel in proceedings where you possibly
15 had to sit as a judge or possibly as a witness or
16 whatever.

17 I want you to know that if you had that
18 experience, then you know the dilemma I find myself in
19 trying to figure out an appropriate punishment.

20 We all have to remind ourselves, whether we are
21 the judge or whether we are the jury, it's a standard
22 principle of law we have to go by.

23 We don't go by what we think the law should be.
24 We have to go by what the law is. I'm going to be
25 very open and honest with you. I came in here from

1 these initial reports from both sides after I reviewed
2 this situation in total whereby Colonel Ritter, you
3 ignored several warnings by the State about the way
4 you were handling those children in that van.

5 If you had just used the check-off list which you
6 had available, this wouldn't have come about. As in
7 the military --- and you should know better than any
8 of us in here --- that if our military is going to be
9 successful in defending this country, you got to
10 follow the rules and regulations and follow orders.
11 You should have done that here, because as I said, if
12 anybody should have known to follow the rules, it was
13 you.

14 I realize on the mitigating side of that
15 situation, you probably got in the business after your
16 retirement. It was a lot more complicated than you
17 originally thought maybe was there. Anytime you're
18 dealing with other people's welfare and livelihood,
19 especially children, you've got to follow the rules.

20 I also took notice of the fact that you didn't
21 immediately respond to the child's needs when you
22 discovered there was a crisis at hand, and worst of
23 all, you tried to pass it on to the other workers.

24 So I'm going to tell all of you up front: I am
25 going to give a lesser sentence than I first thought

1 that I would today because I wanted to hear everybody
2 involved.

3 The fact that all of you came, and especially the
4 victim's mother that we all ---

5 UNIDENTIFIED WOMAN: Amen.

6 THE COURT: --- paid strict attention to and
7 taking into account her forgiveness, her presentation.

8 I'm coming off of what I was going to originally
9 do, but I'm going to follow the recommendation of the
10 State. The sentence is that Mr. Ritter be confined to
11 the State Department of Corrections for a period of 20
12 years.

13 UNIDENTIFIED WOMAN: Jesus.

14 THE COURT: He's going to get credit for any jail
15 time he had. Also, because of his health and age, I'm
16 going to recommend specialized placement for him.

17 Hopefully, the Department of Corrections has a
18 place for him where he will be able to assist the
19 State in some ways that will be beneficial.

20 I thank everybody for being here and taking part,
21 those that did, and good luck to you, Colonel.

22 MS. SHIPLEY: Thank you, Your Honor.

23 MR. STRIFLING: Thank you.

24 (Whereupon, the proceedings were concluded.)
25

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

COURT OF GENERAL SESSIONS
2007-GS-40-04465

STATE OF SOUTH CAROLINA

-vs-

WILLIE RITTER

:
:
:
:
:

TRANSCRIPT OF RECORD

MONDAY, OCTOBER 31, 2011
SUMTER, SOUTH CAROLINA

B E F O R E:

THE HONORABLE PAUL M. BURCH, JUDGE.

A P P E A R A N C E S:

LUCK CAMPBELL, ASSISTANT SOLICITOR
ATTORNEY FOR THE STATE

WILLIAM B. VON HERRMANN, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DIANNE A. RUTLEDGE
CIRCUIT COURT REPORTER

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E X H I B I T S

No.		ID	In Ev
C-1	Sentence Sheet and Transcript of Plea		17

1 MS. CAMPBELL: May it please The Court.

2 THE COURT: Okay.

3 MS. CAMPBELL: Your Honor, we're here today with The
4 State versus Willie Ritter. He was charged in Richland
5 County with homicide by child abuse. He came before you
6 for trial, Your Honor. He ended up pleading guilty back in
7 2007, September 2007. At that time he was sentenced to 20
8 years for homicide by child abuse by you at that time.
9 Subsequent to that his counsel then filed a motion to
10 reconsider the sentence. And we are here for purposes of
11 that this morning.

12 THE COURT: All right. Counsel.

13 MR. VON HERRMANN: Thank you, Your Honor, Bert Von
14 Herrmann for the defendant.

15 Your Honor, I provided a copy of several things to
16 both the state, as well as The Court. First of all, there
17 is a sentencing sheet where Mr. Ritter was sentenced to 20
18 years in the Department of Corrections, along with a motion
19 for reconsideration filed by the former counsel, Jan
20 Strifling, of the Richland County bar. It was properly
21 before The Court at that particular time.

22 Your Honor, I have also provided a copy of a
23 transcript of the record for the guilty plea that occurred
24 on that particular day, which was July 20 of 2009.

25 Your Honor, as part of the motion for reconsideration,

1 obviously, he has asked for a motion to reduce sentence or
2 a change in the sentence or alter the sentence.

3 What we are asking for, Your Honor, is in fact that
4 exactly, and that is to vacate the plea and send everyone
5 back in a position for which they would now be entitled to
6 -- they would be entitled to be in, had some of the law
7 been a little bit clearer at the time.

8 As The Court is quite aware, I'm sure, and having been
9 a prosecutor for quite some years and tried many of these
10 cases, it was our position or at least an unchallenged
11 position that we believe that the homicide by child abuse
12 statute could be suspended in spite of the fact that it did
13 carry the potential life in prison without parole.

14 There is, Your Honor, a statute -- statute 24-21-410
15 that in fact was pertinent and has actually prohibited the
16 suspended sentence. And while I'm not aware of any appeal
17 -- with regards to that, it does clearly state that
18 potential penalties with life in prison are not
19 suspendible.

20 Your Honor, to go one step further, the court
21 eventually -- somebody on the court did try to suspend the
22 sentence or actually was requested to suspend the sentence
23 and declined to -- in that particular case, Your Honor,
24 Judge Childs was appealed and the final court -- or Supreme
25 Court ruled in July 25, 2011 that in fact any case that

1 carries life in prison without parole or the death penalty
2 is a non-suspendible sentence.

3 And that really comes back to -- and there are rival
4 cases out here. Ms. Campbell handed me several of them,
5 I'm sure she handed to The Court several of them.

6 When The Court was taking the plea -- and I would
7 point The Court's attention to page 4 of the transcript,
8 The Court indicated to the defendant, for the particular
9 offense the maximum possible penalty is up to life in
10 prison with a minimum sentence of 20 years. However, that
11 is not what we mean as mandatory minimum sentence. We will
12 have further discussion about that in a few minutes. But
13 for right now, I'm advising you that when I say it's not a
14 mandatory minimum sentence, that means that the minimum
15 sentence portion of this statute can be suspended as I
16 understand the law.

17 Now, do you have any questions about this charge?

18 And The Court further indicates to him that it was a
19 suspendible sentence.

20 His attorney in fact, on page 27, indicates that, so
21 we also enter this plea, Your Honor, with the understanding
22 that The Court as you have stated believe the statute under
23 which my client is pleading is a -- excuse me -- is a
24 suspendible statute. In other words, he's facing 20 to
25 life, and Your Honor can give him a suspended sentence,

1 but now the guidance -- excuse me, by the legislature, but
2 also by the guidance we've been provided by the South
3 Carolina Supreme Court, that was an impossibility. He
4 could not have received a suspended sentence.

5 He is not -- Your Honor, certainly at 65 years old
6 would not have plead guilty knowing that there was no
7 chance that he could get less than 20 years. He expected
8 -- or at least expected the opportunity or a chance, and
9 didn't understand the consequences was that he was going to
10 get at least 20 years.

11 To ask this Court -- and this Court right now is bound
12 in my opinion -- and I believe as The Court indicted, at
13 least we talked about briefly in chambers, is bound now by
14 the most recent case which says it can't be suspended.

15 So the motion for reconsideration would essentially be
16 void. It would be of no value if we were not able to ask
17 you to vacate the sentence, which is essentially what we're
18 asking you to do, vacate the sentence, which would in turn
19 vacate the plea and allow us to go forward with his
20 chances.

21 You also have to understand, Your Honor, this man was
22 also engaged in a number of plea offers -- or a number of
23 plea negotiations and a plea offer to voluntary
24 manslaughter, for which he understood he could get zero to
25 30 years, while not suspendible, he could get the zero

1 give him some committed sentence for which you can suspend
2 all or part of it. Now, that's not to say there's been any
3 discussion of a sentence or any words as to what if any
4 suspended sentence you give.

5 Your Honor, it's our position that under every bit of
6 the case law that I have located -- and Robbie (phonetic)
7 versus the State of South Carolina, I believe, is
8 pertinent, it does quote the U.S. Supreme Court -- says,
9 that in order for a defendant to knowingly and voluntarily
10 plead guilty, he must have a full understanding of the
11 consequences of the plea. And it says to ensure the
12 defendant understands the consequence of the plea, the
13 Trial Court usually asks the questions of the defendant
14 about the facts and the punishment that can be imposed.

15 And they also, Your Honor, further quote some federal
16 law. And I've provided that in Boykin v. Alabama, that he
17 has to have a full understanding of the law, and that has
18 to be an accurate understanding of the law.

19 In his mind, he was 65 years old at the time. He
20 reasonably believed that there was an opportunity -- and
21 The Court had at least entertained and explained to him
22 that he had the possibility of getting a suspended
23 sentence.

24 In this particular case we know not only by the
25 statute that we have that has been provided by The Court,

1 years.

2 His mother was sick at the time and he rejected that.
3 Ultimately this plea came about on the eve of trial.

4 Your Honor, I just suggest that out of fundamental
5 fairness, out of the case law, and out of the fact that he
6 was, you know, obviously, inadvertently -- I don't believe
7 that there was any intent to be -- to be, I guess, misled
8 by The Court at all. I think it's something that was
9 routinely done. However, the problem is, that's not what
10 the law is. That's what a lot of us believed the law to
11 be, and I don't think he should be the one prejudiced by
12 maybe our misinterpretation of the law at this point.

13 Your Honor, we do respectfully request that this Court
14 allow him a bond, allow this plea, the sentence be vacated.
15 He's now spent 2 -- over 2 years in jail on charges, quite
16 frankly, Your Honor, that are a little suspect in nature
17 any way. But that's neither here nor there. I don't think
18 we even need to get into the facts. I think that the facts
19 can be dealt with at a later time. What we need to do is
20 deal with the fact that he did not fully understand the
21 consequences of his action. And if Your Honor needs, Mr.
22 Ritter is here. He is fully willing to testify to his
23 understanding of the plea.

24 And I appreciate Your Honor, and I would respectfully
25 request an opportunity to respond to the state and any

1 argument that they have.

2 THE COURT: Solicitor.

3 MS. CAMPBELL: Thank you, Your Honor. May it please
4 The Court, Your Honor. If I may approach. Having handed
5 up a copy of the sentencing sheet. This is a plea that
6 took place over 2 days. You took the voluntariness plea on
7 the first day. And then the second day you actually did
8 the sentencing.

9 In addition to that, Your Honor, I have a copy of the
10 motion that was filed by Jan Strifling back then to
11 reconsider the sentence. I also hand up State versus
12 Rickard, State versus Morton, and State versus Wolf, which
13 all address, I believe the issues in this case if you were
14 to entertain them.

15 First of all, Your Honor, we have a motion before you
16 today pursuant to the filings in the clerk of court's
17 office -- any motions that are out there are a motion to
18 reconsider the sentence. So then to ask in the alternative
19 to vacate the guilty plea itself, I do not believe would be
20 appropriate.

21 However, even if you were to entertain that motion and
22 consider it, Your Honor, the case upon which he relies
23 which I just was handed this morning and I just had an
24 opportunity to review briefly is a whole different
25 scenario. In that case it was a sentence that was promised

1 to this defendant. He was promised a negotiated sentence
2 of 15 years; that was what was held out to him, and the
3 judge deviated from the negotiations in that case, which is
4 not what is here.

5 If the record is clear, Your Honor, we would ask to
6 make the transcript -- if it's appropriate, Your Honor. I
7 just received it this morning. I haven't had a chance to
8 review it. However, in my little bit to review it, Your
9 Honor, the transcript, you went through this defendant's
10 entire -- all his rights, whether or not his plea was
11 voluntary is not a question, Your Honor.

12 You went through the fact that, yes, you thought it
13 could be suspendible, but you also represented to him very,
14 very clearly that he was facing 20 to life and that was the
15 sentencing range.

16 He acknowledged that.

17 There is nowhere in his argument that you didn't go
18 through all his rights with him.

19 In the cases that I've handed up to you, both in
20 Rickard and Morton, a defendant cannot just wipe the slate
21 off because he doesn't like the sentence he gets, if he's
22 not promised anything. If you will look at this
23 transcript, Judge, it's very clear that there were no
24 promises made to this defendant, that he's pleading guilty
25 straight up. And the sentencing could be suspended by you

1 was put in the record, however, he was facing 20 to life.
2 You fell well within those guidelines.

3 In addition to that, Your Honor, in the case of State
4 versus Wolf, that's the case which addresses the fact that
5 defense counsel represented to the defendant that he could
6 get less time than he actually could. They're saying it
7 wasn't an issue in that case as in this case, because he
8 was aware of the actual penalties that did exist in this
9 case.

10 Respectfully, Your Honor, we ask that you deny the
11 motion. We do not feel it is appropriate here to entertain
12 the motion. We find that there's no basis other than they
13 don't like the sentence, which clearly has been addressed
14 by the Supreme Court and the Court of Appeals, Your Honor,
15 to say that this plea was not voluntary.

16 And defense counsel cannot point out anything in the
17 transcript that would render it involuntary. Thank you.

18 THE COURT: Yes, sir.

19 MR. VON HERRMANN: Your Honor, just briefly. And I
20 don't think we need to belabor it. But State v. Wolf is
21 when defense counsel in and of itself misrepresented a
22 potential sentence. It was not on the Judge effectively or
23 inadvertently misrepresented or did represent to a
24 defendant that there is an alternative sentence that could
25 be offered.

1 In this particular case, quite frankly -- I mean,
2 certainly, we've got -- he was told on the record by the
3 Judge that it was a suspendible sentence and he could
4 potentially walk out of the courtroom that day.

5 We have his attorney doing it.

6 My assumption is that we also have a prosecutor who
7 has a duty to justice, that if she knew that that was not
8 the case -- and I know Ms. Shipley (sic) very well. And I
9 would whole-heartedly agree that if she knew or believed to
10 be any different from what this court said to Mr. Ritter,
11 she would have brought it to The Court's attention. No
12 question in my mind about that.

13 So we essentially have 3 people that have represented
14 or at least acknowledge that there is a potential that you
15 could walk out of here today at 65 years old, as opposed to
16 what we're faced with right now is 20 years.

17 You know, to mince words with vacating the plea or
18 vacating the sentence, Your Honor -- that in and of itself
19 allow the plea to be vacated. If we're going to mince
20 words over trying to get to justice -- and that's really
21 what we're talking about here is getting to justice. We're
22 not talking about mincing words as to whether or not
23 because he filed a motion to reconsider whether you can
24 then vacate his plea.

25 Your Honor, having been a law clerk and sat by a

1 judge, a judge can do an awful lot. And it's always in the
2 interest of justice. And, quite frankly, what we're asking
3 right now for, Your Honor, is something that this court has
4 the authority to do and absolutely, we believe, the
5 responsibility saying -- again, there is no -- we're not
6 saying that The Court intentionally ever misrepresented
7 anything. But that's not the question. He's still
8 prejudiced by the fact that the proposed potential penalty,
9 the consequences of his plea, which is what every case
10 she's handed up and I handed up was not the potential
11 consequences for which he pled.

12 And in our particular case, Your Honor, we believe
13 that the only proper thing to do is to set aside the plea.
14 If he comes back and he pleads later, then we know what the
15 plea is. We know what the consequences are.

16 If it goes to trial, he knows what the consequences
17 are.

18 But that day when he made that plea, he did not know
19 what the consequences were. He believed that it could be a
20 suspended sentence, that could potentially allow him to
21 walk out at 65 years old.

22 And I would point out, Your Honor, just as an aside,
23 that you were absolutely cognizant of his condition. They
24 put forth that he was diagnosed by a mental health expert
25 having some schitzofroid issues.

1 But even your recommendations were that he be
2 specially placed with health needs and history -- medical
3 history. So it's not that you weren't cognizant of his
4 situation in things -- although they were not raised as a
5 defense, those were just mitigating factors or issues.

6 But The Court was cognizant of his rights and
7 everything. And I believe The Court did do everything that
8 they could in their power to. Unfortunately, it is a
9 mistake. It is a mistake that is materially prejudicial to
10 my client. And we should go back to square-one, allow him
11 the opportunity to make the decision whether knowing that
12 this 20 years to life and there's no suspended sentence.
13 Let him make that decision, Your Honor. And that's all
14 that we are asking. Thank you, sir.

15 THE COURT: Yes.

16 MS. CAMPBELL: Respectfully, Your Honor, he makes his
17 argument for me. I mean, you did seek justice that day.
18 You rendered it. I ask you to take into consideration
19 everything put forward.

20 You went through his rights, to make sure it was
21 voluntary. He made a knowing and intelligent waiver of his
22 rights and he pled guilty to this.

23 We just ask that you abide by your decision you took
24 into consideration.

25 THE COURT: All right. There's no misrepresentation.

1 I mean, there's not a mistake as far as the transcript;
2 that was the understanding of most judges at that time that
3 that was what the law was. I remember that very well
4 because The State paper did a survey -- even attempted to
5 call several jurist to get their opinion on it. And I
6 mean, there wasn't any question about it at that time.

7 Of course, the law is all over the board. I don't
8 remember the particular statute. But I remember years ago
9 there's an obscure statute out there somewhere that I was
10 told that says that no matter what any other statute says,
11 the circuit judge still has the authority to suspend a
12 sentence. But I don't know whether that's true or not. I
13 just remember somebody making that statement at a class one
14 time.

15 But if I had suspended the sentence down somewhat -- I
16 don't think there's any question about that. The
17 Department of Corrections would have gone along with it,
18 whatever that particular sentence was, would probably not
19 even be questioned here today.

20 MR. VON HERRMANN: Your Honor, if I may, I actually
21 brought that issue up to Ms. Campbell on Friday. She
22 indicated that her circuit always would review those cases.
23 And had it been a suspended sentence, it would in fact been
24 appealed.

25 Now, I've known Ms. Campbell quite some time, and I

1 know that she would not misrepresent that. So, in fact, we
2 would have been here and perhaps the decision would have
3 been made different.

4 And, Your Honor, respectfully -- and, of course, not
5 to interrupt The Court. But, again, 24-21-410 speaks
6 clearly to if the potential sentence is life in prison. We
7 might have all been ignoring it or potentially we just
8 haven't been appealing it, because I've had it happen when
9 I was on the state's side. We did not appeal the judge's
10 decision. But had we done so, we might have had this
11 decision on February 25. Quite frankly, we'd have had this
12 hearing we're having a motion to reconsider 2 years later.
13 Had we had a year later or a year ago and they didn't
14 appeal it, then this Court would have had the opportunity
15 to reduce the sentence if they saw fit.

16 THE COURT: Well, I can't speak for them. I know what
17 was common practice back then. And there's been a lot of
18 discussion across the board about it. And I know -- I do
19 remember that The State paper was very actively involved in
20 researching that matter.

21 All right. If you all want to do proposed orders
22 within 10 days, please.

23 MS. CAMPBELL: Thank you.

24 MR. VON HERRMANN: Thank you, Your Honor.

25 THE COURT: Good seeing you all.

1 (Sentence Sheet and transcript of plea were marked
2 Court's Exhibit No. 1 at the conclusion of the hearing.)

3 --- End of transcript of record ---

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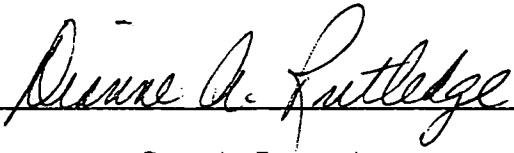
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1 I, the undersigned Dianne A. Rutledge, official court
 2 reporter for the Fifth Judicial Circuit of The State of South
 3 Carolina, do hereby certify that the foregoing is a true,
 4 accurate, and complete transcript of the record of the
 5 proceedings had and evidence introduced in the hearing of the
 6 captioned case, relative to appeal, in the Circuit Court for
 7 Richland County, South Carolina on the 31st day of October
 8 2011.

9 I do further certify that I am neither of kin, counsel,
 10 nor interest to any party hereto.

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August 16, 2012



 Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

GENERAL SESSIONS

STATE OF SOUTH CAROLINA

CR. NO. 2007-GS-40-4465

MOTION FOR
RECONSIDERATION OF
SENTENCE

JEANETTE W. McBRIDE
C.C.P. & G.S.

2009 SEP 25 AM 11:24

RICHLAND COUNTY
FILED

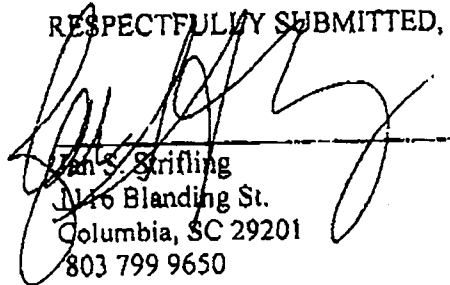
v

WILLIE RITTER

The defendant, by and through the undersigned attorney, pursuant to Rule 29(a) of the South Carolina Rules of Criminal Procedure, hereby moves the court for the reconsideration of the sentence imposed on the defendant on September 21, 2009.

This motion is based on the instant motion, subsequent matters to be presented, and matters to come before the court at a hearing on the motion.

RESPECTFULLY SUBMITTED,


Jan S. Grifling
1140 Blanding St.
Columbia, SC 29201
803 799 9650

September 25, 2009

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THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County
Court of General Sessions

Paul Burch, Circuit Court Judge

Case No. 2012-210570

RECEIVED

SEP 30 2013

SC Court of Appeals

THE STATE

vs.

Respondent,

WILLIE RITTER

Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

9/26/2013, 2013

William B. von Herrmann
216 Elm Street
Conway, South Carolina 29526
(843) 488-1030
Attorney for Appellant

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County
Court of General Sessions

Paul Burch, Circuit Court Judge

Case No. 2012-210570

RECEIVED

SEP 30 2013

SC Court of Appeals

THE STATE

vs.

Respondent,

WILLIE RITTER

Appellant.

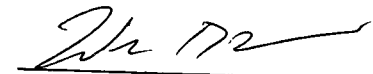
PROOF OF SERVICE

I, William B. von Herrmann, certify that I have served the Record on Appeal on Respondent by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

David Spencer, Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211

I further certify that all parties required to be served have been served.

This 27 day of Sep, 2013



William B. von Herrmann
216 Elm Street
Conway, SC 29526
(843) 488-1030
Attorney for Appellant